

STATE OF FLORIDA

FLORIDA HOME FINANCE CORPORATION

AMERICAN OPPORTUNITY FOR  
HOUSING – REGENTS, LLC

Petitioner,

vs.

APPLICATION NO. 2006-016VW

FLORIDA FINANCE CORPORATION

Respondent.

**PETITION FOR VARIANCE  
FROM RULE 67-21.007 (10)**

AOH - Regents, LLC, a Florida 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 Regents Apartments, located in Duval County, Florida, the legal description of which is attached hereto as Exhibit “A” (the “**Project**”), hereby petitions the Florida Home Finance Corporation (the “**Corporation**”) for a variance from Rule 67-21.007(10), 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:

AOH - Regents, LLC  
7334 Blanco Road, Suite 200  
San Antonio, Texas 78216  
Attention: Mr. David Starr

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STATE OF FLORIDA

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

Jonathan S. Starr, Esq.  
Loeffler Tuggey Pauerstein Rosenthal LLP  
755 E. Mulberry Ave., Suite 200  
San Antonio, Texas 78212  
Telephone: (210) 354-4300  
Facsimile: (210) 354-4034

3. Petitioner has applied for 2006 Series Tax Exempt Multifamily Mortgage Revenue Bonds (“**TEMMRB**”) financing. This TEMMRB financing is being obtained to re-finance a portion of the \$15,996,000 in conventional financing used to acquire the Project. The financing structure for the Project will consist of a first mortgage loan from the Corporation for TEMMRB proceeds, which will be used, along with proceeds from the sale of a membership interest in Petitioner to an equity fund sponsored by PNC Bank, National Association (the “**Tax Credit Member**”), to repay existing financing on the Project, pay for rehabilitation of the Project, and pay transactions costs. The TEMMRB will not be credit enhanced and will be sold directly by the Corporation's underwriter to one or more institutional investors, although Petitioner believes the TEMMRB will likely be sold to a single institutional buyer. The TEMMRB loan closing for the Project is intended to take place on or before June 30, 2006.

**The Rule From Which Variance is Sought and Action Requested**

4. Petitioner requests a variance from Rule 67-21.007(10), Florida Administrative Code (the “**Developer Fee Rule**”) with regard to the payment of Developer Fees for the acquisition of and the qualified project costs attributable to the Project acquisition price. More specifically, Petitioner is seeking a variance from the requirement that the Developer Fee be limited to 4% of the cost of the building (excluding land). The Developer Fee Rule provides:

(10) Developer Fee shall be limited to 18 percent of Total Development Cost excluding land and, for rehabilitation, building acquisition cost. A Developer Fee on the building acquisition cost shall be limited to 4% of the cost of the building(s) exclusive of land cost.

**Statute Implement By The Rule**

5. The statute that the Developer Fee Rule is implementing is Section 420.507(4), (12), Florida Statutes.

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

6. By increasing the Developer Fee, this waiver would increase the eligible basis of the Project for purposes of calculating the available amount of Low Income Housing Tax Credits. This increase in credits would, in turn, increase the amount of cash invested by the Tax Credit Member, making more funds available for Project rehabilitation and for capitalized interest during the renovation.

7. The Petitioner has made application to the Jacksonville Housing Finance Authority for a subordinate loan in the amount of \$660,000 (the “City Funds”) to help fund costs of the Project not covered by the TEMMRB or Tax Credit Member Cash. The granting of this waiver would decrease the amount of City Funds required to complete the Project, thus freeing up a portion of these City Funds for other local housing initiatives. The granting of this waiver will also allow for equity to fund additional rehabilitation and capitalized interest that does not require repayment (as opposed to a loan), therefore, improving the overall future financial viability of the Project.

**Variance Will Serve the Underlying Purpose  
Of The Statute and Benefit the City of Jacksonville**

8. Petitioner believes that a variance of the Developer Fee Rule will serve the purposes of the Statute, which is implemented by the Developer Fee Rule. The additional Tax Credit Member Cash resulting from the waiver will provide a higher level of physical improvement to the Project, thus improving the overall stock of affordable housing, and it will also free up City Funds for other local housing initiatives.

9. 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 Developer Fee 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 Jacksonville could be sacrificed. In a market where several multifamily projects have converted to condominiums, the Regents Apartments remain a viable and high quality alternative for affordable housing.

#### **Type of Variance**

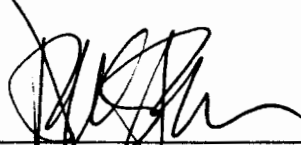
10. The Petitioner requests a variance of the Rules as set forth above such that 18% of the cost of the building (exclusive of land) be included in the Developer Fee on the Project.

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

AOH – REGENTS, LLC  
A Florida Limited Liability Company

BY: AMERICAN OPPORTUNITY FOR  
HOUSING, INC.,  
A Kansas Non-Profit Corporation,  
Its Sole Member

BY:



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DAVID STARR, PRESIDENT