

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: MILLENIA DEVELOPMENT GROUP, LLLP

FHFC Case No. : 2006-058VW

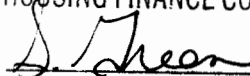
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**ORDER GRANTING PETITION FOR WAIVER FROM  
RULES 67-48.004(14)(j) and 67-48.004(14)(k), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on October 20, 2006, pursuant to a Petition for Waiver from Rules 67-48.004(14)(j) and 67-48.004(14)(k), Florida Administrative Code (2006), (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 19, 2006, from Millenia Development Group, LLLP ("Petitioner"). On September 29, 2006, the Notice of the Petition was published in Volume 32, Number 39, 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 2006 Universal Application Cycle Petitioner was awarded an allocation of Housing Credits for the construction of The Fountains at Millenia – Phase I, a 164-unit garden apartment development intended to serve the Family demographic to be located in Orange County, Florida (the "Development").
3. The Development, as submitted in the Petitioner's Application, reflects a total set-aside percentage of 88% with a total of 145 affordable units based on a total of 164 units. Subsequent to the completion of the final design and permitting process, Petitioner needs to eliminate two of the market rate units to enlarge the community room to make it more functional

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HOUSING FINANCE CORPORATION



/DATE: 10-23-06

for the residents. Petitioner is seeking to reduce the number of total units by two, from 164 to 162, while leaving the total number of affordable units unchanged at 145. Since the number of affordable units will not be reduced, the amount of Housing Credits will not be affected. As a result of the reduction in total units with the number of affordable units remaining unchanged, the Total Set-Aside Percentage will actually increase to 89%.

4. Petitioner requests a waiver from Rules 67-48.004(14)(j) and 67-48.004(14)(k), Florida Administrative Code (2006), which provide as follows:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

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(j) Total number of units;

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(k) With regard to ... HC ..., the Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application.

5. Specifically, Petitioner requests a waiver from these rules to permit (a) a reduction in the total number of units from 164 to 162, with the reduction to be applied to the market rate units, and (b) the resulting increase in the Total Set-Aside Percentage from 88% to 89%.

6. The changes sought by Petitioner will not adversely impact the Development or the delivery of affordable units. To the contrary, they will enhance an amenity within the Development available to all of the residents, without decreasing the number of affordable units that will be available to prospective tenants.

7. 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.

8. The granting of this request for waiver will serve the purpose of the underlying statute in that the number of affordable housing units available to prospective tenants will remain unchanged while providing residents an added benefit in the form of a larger community room within the Development. Denial of the Petition will violate principles of fairness in that strict application of the rules in this case will lead to an unreasonable and unintended result. The intent of the rules is to ensure that developers do not provide fewer units of affordable housing than the number set forth in their application. In this case the number of affordable units will remain the same as that set forth in Petitioner's Application.

**IT IS THEREFORE ORDERED:**

The Petition for Waiver from Rules 67-48.004(14)(j) and 67-48.004(14)(k), Florida Administrative Code (2006), is hereby **GRANTED** to permit (1) a reduction in total units from 164 to 162, with the reduction to be applied to the market rate units, and (2) the resulting increase in the Total Set-Aside Percentage from 88% to 89%.

DONE and ORDERED this 20th day of October, 2006.

Florida Housing Finance Corporation

By:   
Chairperson



**Copies furnished to:**

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Joint Administrative Procedures Committee  
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**NOTICE OF RIGHTS**

**A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.**