

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Clear Harbor, Ltd.

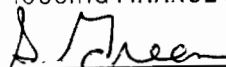
Case No. 2007-023VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE
67-21.008(1)(b), FLORIDA ADMINISTRATIVE CODE (2006)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on July 27, 2007, pursuant to a "Petition for Variance [from] Rule 67-21.008(1)(b), Florida Administrative Code (2006)" (the "Petition"), filed by Clear Harbor, Ltd. ("Petitioner") on June 25, 2007. Notice of the Petition was published in Volume 33, Number 27, 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:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2006 Supplemental Cycle, Petitioner applied for MMRB, SAIL, and non-competitive housing credits to finance the construction of Clear Harbor Apartments in Pinellas County, Florida (the "Development").
3. Rule 67-21.008(1)(b), Florida Administrative Code (2006), provides 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 stabilized occupancy, or conversion to permanent financing under the loan

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HOUSING FINANCE CORPORATION



DATE: 7/27/2007

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 in order to suspend the amortized payment of the Mortgage Loan for an additional 24 months beyond the 36 months prescribed by the Rule. Petitioner has negotiated loan terms with its permanent financing lender to allow time for rents to stabilize in the market prior to servicing the principal on the debt. To achieve this, Petitioner and its permanent financing lender have agreed to stabilize rents over a longer term to ensure the economic viability of the Developments and to ensure sufficient revenue for payment of taxes, insurance, principal and interest for the MMRB loan.

6. Petitioner has negotiated loan terms with its permanent financing lender to allow time for rents to stabilize in the market prior to servicing the principal on the debt. To achieve this, Petitioner and its permanent financing lender have agreed to stabilize rents over a longer term to ensure the economic viability of the Developments and to ensure sufficient revenue for payment of taxes, insurance, principal and interest for the MMRB loan.

7. The Board finds that strict application of the above Rule under these circumstances, where the Petitioner is attempting delay the start of the fully amortized payments to ensure the economic stability of the Development would cause substantial hardship to Petitioner and violate

the principles of fairness. Permitting this change in Development would also serve the underlying purpose of the statute.

IT IS THEREFORE ORDERED:

The "Petition for Variance [from] Florida Administrative Code Rule 67-21.008(1)(b)" is hereby **GRANTED** to permit Petitioner to delay the start of payment of the fully amortized mortgage payments for a period of up an additional 24 months beyond the 36 months prescribed in the Rule. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 27th day of July, 2007.



Florida Housing Finance Corporation

By: *Lynne M. Fullz*
Chair

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.