

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Community Connections
of Jacksonville, Inc.

FHFC Case No. : 2010-037VW

**ORDER GRANTING PETITION FOR VARIANCE FROM
RULE 9I-35.006(6), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on September 1, 2011, pursuant to an “Amended Petition for Waiver of Rule 9I-35.006(5) and 9I-35.006(5)(b), Florida Administrative Code,” (the “Amended Petition”). On December 9, 2010, Florida Housing Finance Corporation (“Florida Housing”) received a “Petition for Waiver/Variance of Rule 9I-35.006(5), Florida Administrative Code,” (“Petition”) from Florida Low Income Housing Associates, Inc. (“Petitioner”). Florida Housing received the Amended Petition on February 23, 2011¹. On December 23, 2010, the Notice of the Petition was published in Volume 36, Number 51, of the Florida Administrative Weekly. Florida Housing has received no comments regarding the Petition or the Amended Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors of Florida Housing (the “Board”) hereby finds:

¹ As the Amended Petition requested the same relief as the Petition, Notice in the FAW was not required.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrell /DATE: 9/2/11

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. During the 1994-1995 SAIL VII Cycle, Petitioner applied for and was awarded a State Apartment Incentive Loan (“SAIL”) loan (95S-045) to finance the rehabilitation of the Florence N. Davis Center, a family housing development located in Duval County, Florida (the “Development”). The Development has been operating as a homeless housing facility.

3. Petitioner and Florida Housing have been in negotiations regarding the Petitioner’s request to forgive all deferred interest accrued under the SAIL loan, to reduce the present interest rate to 0% and re-amortize the outstanding principal balance of the SAIL loan over an extended term of thirty-five years from the initial maturity date. Petitioner and Florida Housing have reached a tentative agreement to extend the loan.²

4. Rule 9I – 35.006(5), F.A.C. (1995), states:

(5) If, in its application, the Applicant agrees to a very low-income set-aside for a term longer than that required by law, the deferred SAIL interest due pursuant to Rule 9I – 35.006(10), F.A.C., shall be forgiven in an amount equal to the amount of interest due pursuant to Rule 9I – 35.006(10), multiplied by .05 multiplied by the number of years, not to exceed 15, that the very low-income set aside was extended beyond that required by law.

²Rule 9I-35.006(14) provides that Florida Housing “may renegotiate and extend the loan in order to extend the availability of housing for the target population.”

(b) Only interest which is in excess of the base interest rates specified in Rule Chapter 9I-35.006(4)(d), F.A.C. shall be eligible for forgiveness.

5. Petitioner requests a waiver from the rule in order to obtain forgiveness of the entire deferred SAIL interest and as a basis states the SAIL statutes now include a homeless set-aside and authorize SAIL loans for homeless developments to be made at an interest rate of zero to three percent, reduced from the 9% rate presently effective in the loan. *See*, Sections 420.507(22)(a)(1) and (2), 420.5087(3)(c) and 420.5087 (6)(a), Florida Statutes. The 2008 SAIL rule establishes a 0% interest rate on loans to developments that set aside at least 80% of the units for homeless residents. Rule 67-48.010(3)(a), F.A.C. (2009).

6. 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.

7. Recognizing the unique financial circumstances faced by homeless developments, granting this request for a waiver forgiving all deferred interest will serve the purpose of the underlying statute in that it will enhance the financial viability of the Development and thus ensure the continued availability of affordable housing to the homeless in this Development. Granting Petitioner's

request will also facilitate a new loan structure with Petitioner's SAIL loan interest at 0%, and with the principal balance amortized over a new thirty-five year term. Denial of the Petition would result in substantial hardship to the Petitioner in that the Development could not continue to operate as a homeless development without relief from the terms of the existing SAIL loan and the limitation on interest forgiveness as set forth in Rule 9I-35.006(5), F.A.C. (1995)

IT IS THEREFORE ORDERED:

The Amended Petition for waiver from Rule 9I-35.006(5) and 9I-35.006(5)(b), F.A.C. (1995) is hereby **GRANTED** to forgive all outstanding and deferred SAIL interest due on the loan with the waiver conditioned upon and subject to the closing of the loan modifications and extension in accordance with the proposal submitted by Special Assets contemporaneous herewith.

DONE and ORDERED this 1st day of September, 2011.



Florida Housing Finance Corporation

By: _____

Chair

Copies furnished to:

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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.