

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: SHA ASSOCIATES, LTD.

FHFC Case No.: 2005-030 VW

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

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on October 14, 2005, pursuant to a Petition for Waiver of Rule 67-21.008(1)(g), Fla. Admin. Code (2002), (the "Petition"), filed by SHA Associates, Ltd., ("Petitioner") on September 14, 2005. Notice of the Petition was published in Volume 31, Number 38, 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 finds:

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

2. During the 2002 Universal Cycle, Florida Housing awarded an allocation of MMRB, Housing Credits and SAIL funds to Petitioner (under application #2002-135BS). Petitioner is the owner of Spring Haven Apartments, a 176-unit development located in Hernando County, Florida.

3. Rule 67-21.008(1)(g), Fla. Admin. Code (2002) states, in pertinent part:

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

...

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

M. J. O'Connor

/DATE:

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(g) Require the submission to the Corporation of an annual financial statement for the Development and for the Applicant if revenue from multiple projects is being pledged.

4. Petitioner requests a waiver of the requirement to submit audited financial statements above rule for the fiscal year 2004.

5. Section 120.542(2), Florida Statutes provides in pertinent part:

Variances 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.

6. As grounds for granting this waiver, Petitioner reports that due to financing closing delays, construction of Spring Haven Apartments was not completed in 2004, and units did not begin leasing until January, 2005. Petitioner states that a 2004 audited financial statement will not provide any useful information and will create unnecessary expense for Spring Haven Apartments.

7. The purpose of the underlying statutes, Sections 420.507, 420.508, and 420.5087 Fla. Stat., will be achieved by other means. These statutes authorize Florida Housing to provide affordable housing financing through the MMRB program and to adopt rules to administer the loans granted through the MMRB program. The financial reporting requirement of Rule 67-21.008(1)(g), Fla. Admin. Code, is imposed to assist Florida Housing in monitoring the financial capability and creditworthiness of entities to which MMRB loans have been granted and to monitor compliance with the key financial terms and conditions of such loans. In the instant case, Petitioner is able to provide other financial documentation which will provide the information to enable Florida Housing to monitor Petitioner's continued financial capability and credit worthiness and its compliance with the terms and conditions of the MMRB loan.

8. Moreover, not granting this waiver will create a substantial hardship for Petitioner, as the annual audited financial statements for the Spring Haven Apartments for fiscal year 2004, would provide no material information to Florida Housing and would cause unnecessary expense to Spring Haven Apartments.

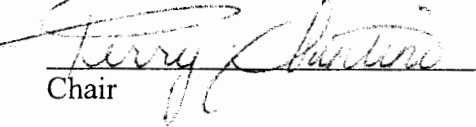
9. Refusing to grant this waiver under Petitioner's circumstances would also lead to unreasonable, unfair and unintended consequences which would violate the principles of fairness.

IT IS THEREFORE ORDERED:

The Petition for Waiver of Rule 67-21.008(1)(g), Fla. Admin. Code (2002), is hereby **GRANTED**. Petitioner shall not be required to submit audited financial statements regarding fiscal year 2004, but shall include information regarding fiscal year 2004 in its 2005 annual audited financial statement.

DONE and ORDERED this 14th day of October, 2005.

Florida Housing Finance Corporation

By: 

Chair

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN L. KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.