

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: THE CORINTHIAN APARTMENTS, LTD.

FHFC Case No.: 2005-029VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE
67-48.004(14), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on October 14, 2005, pursuant to a "Petition for Variance/Waiver from Florida Administrative Code Rule 67-48.004(14)" ("Petition"). Florida Housing Finance Corporation ("FHFC") received the Petition on September 8, 2005, from The Corinthian Apartments, LTD. ("Petitioner"). On September 23, 2005, the Notice of the Petition was published in Volume 31, Number 38, of the Florida Administrative Weekly. FHFC has received no comment regarding the Petition. After review and consideration of the record, and being otherwise fully advised, the Board of Directors ("Board") of FHFC hereby finds as follows:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2004 Universal Application Cycle, Petitioner was awarded an allocation of low-income housing tax credits to finance the development of the Corinthian Apartments, a 144 unit four-story mid-rise with elevator development.
3. Rule 67-48.004(14), Florida Administrative Code (2004), states in pertinent part:

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HOUSING FINANCE CORPORATION

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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:

- (f) Development Type;
- (i) Total number of units;
- (l) Funding Request (except for Taxable Bonds) amount . . .

4. 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.

5. Due to rapid increases in construction costs, the cost of mid-rise construction has threatened the viability of the proposed complex. Petitioner seeks to redesign the development from a 144 unit four-story mid-rise complex to a 126 unit three-story garden-style apartment complex. Mid-rise construction is very inefficient compared to garden-style construction, due primarily to the fact that mid-rise construction requires the construction of corridors, stairwells, and elevators which yield a significant amount of gross square footage which does not pertain to actual residential units. By converting to a garden-style apartment product, Petitioner will be able to counteract the increase in construction costs.

6. Based on the latest analysis of construction costs by Petitioner, a 12.5% decrease in the total number of units and a change in design from mid-rise with elevator to garden-style results in an approximate 25% decrease in total square footage to be constructed, and approximately a 30% decrease in total construction cost per unit, with no appreciable decrease in average square footage of living area in the apartment units.

7. Petitioner submitted an application in FHFC's 2004 Universal Application Cycle for \$1,200,000 in annual tax credits to finance the development of The Corinthian Apartments. In recognition of the fact that Petitioner seeks to reduce the "total number of units" for The Corinthian Apartments from 144 to 126, Petitioner seeks to proportionately reduce its requested annual tax credits from \$1,200,000 to \$1,050,000, resulting in the return of \$150,000 in annual tax credits.

8. The project changes requested by Petitioner result from unforeseen circumstances (rapid rises in the cost of construction) outside of the Petitioner's control. Further, the proposed changes to The Corinthian Apartments would have had no impact on the application's scoring, thus providing Petitioner with no advantage over its competitors.

9. Moreover, not granting this waiver will create a substantial hardship for Petitioner. Unless the foregoing request is granted, construction of the Corinthian Apartment complex cannot move forward.

10. The purpose of the underlying statute is to encourage development of affordable housing. In allowing Petitioner to change the development type from mid-rise construction to garden-style construction, total number of units from 144 to 126, and tax credit amount from \$1,200,000 to \$1,050,000, FHFC will facilitate the development of multi-family rental housing that is affordable to families of limited means.

IT IS THEREFORE ORDERED:

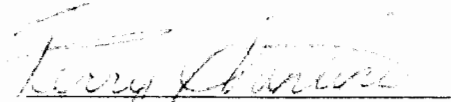
The Petition for Waiver is hereby **GRANTED** as to Rule 67-48.004(14)(f),(i), and (l), Florida Administrative Code (2004), to permit a change in the development type from mid-rise with elevator (4 stories) to garden apartment (3 stories); to permit a change in the total number of

units from 144 to 126 units; and to permit a change in the annual housing credit request amount from \$1,200,000 to \$1,050,000, with Petitioner to return \$150,000 in annual tax credits.

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

Florida Housing Finance Corporation

By:


Chairman

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

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 LUTHER KING, JR., BLVD., 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.