

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Magnolia Landing Apartments, Ltd.

Case No. 2009-001VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14),
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 March 13, 2009, pursuant to a "Petition for Waiver from Rule 67-48.004(14), Florida Administrative Code (the "Petition"), filed by Magnolia Landing Apartments, Ltd. c/o The Gatehouse Group, Inc. ("Petitioner") on January 30, 2009. Notice of the Petition was published in Volume 35, Number 6, of the Florida Administrative Weekly. On February 9, 2009, Petitioner filed an "Amended and Restated Petition for Waiver from Rule 67-48.004(14), Florida Administrative Code ("Amended Petition). 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.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Deborah Harrell DATE: 3/13/09

2. During the 2008 Universal Cycle, Magnolia Landing Apartments, Ltd. (“Petitioner”) applied for and was awarded competitive low-income housing tax credits (“HC”) to finance a portion of the costs to develop Magnolia Landing (the “Development”) located in unincorporated Miami-Dade County, Florida. Magnolia Landing applied to build a 156-unit garden apartment development.

3. Rule 67-48.004(14), Fla. Admin. Code (2006), states in pertinent part:

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 the opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(i) Total number of units;

4. Petitioner has requested a waiver of the above Rule to permit a reduction in the total number of units from 156, as proposed in Petitioner’s original application, to 150 units.

5. As grounds, Petitioner states that the preliminary engineering and associated reports allowed for 156 units under the current design of the development. Subsequent reports have revised this figure downward to 150 units, based on Petitioner’s current site plan.

6. 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.

7. The Board finds that strict application of the above Rule, under these circumstances, would cause substantial hardship to Petitioner, in that the Petitioner will be required to redesign and re-engineer the development to accommodate the six units in question, incurring significant technological and financial hardship, as well as creating substantial delays in construction.
8. The Board also finds the granting of this waiver and the reduction of the total number of units shall result in a pro rata reduction of the Petitioner's tax credit allocation for this Development.

IT IS THEREFORE ORDERED:

The "Amended and Restated Petition for Waiver from Rule 67-48.004(14), Florida Administrative Code" is **GRANTED** to permit Petitioner to reduce the number of units in the Development from 156 to 150, with a corresponding reduction of its low income housing tax credit allocation. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 13th day of March, 2009.

Florida Housing Finance Corporation

By: 
Chair



Copies furnished to:

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Marc S. Plonskier
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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION, PURSUANT TO R. 28-106.201 OR 28-106.301, FLORIDA ADMINISTRATIVE CODE, WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.