

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: NEW SINGELTARY SCATTERED
SITES LIMITED PARTNERSHIP

Case No. 2009-003VW

**ORDER GRANTING PETITION FOR WAIVER FROM SECTION 11 OF
THE 2007 QUALIFIED ALLOCATION PLAN**

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 or Variance from the 2007 Qualified Allocation Plan Requirements for Returning Housing Credit Allocations and For an Immediate Allocation of 2009 Housing Credits" ("the Petition") filed by New Singeltary Scattered Sites Limited Partnership, ("Petitioner") on February 9, 2009. Notice of the Petition was published on February 20, 2009 in Volume 35, Number 07, 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.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

William J. Harrell DATE: 3/13/09

2. During the 2007 Universal Cycle, Petitioner applied for and was awarded competitive low-income housing tax credits ("Housing Credits") in the amount of \$674,474 to finance the construction of Bradenton Village II Apartments (the "Development") located in Manatee County, Florida.

3. Rule 67-48.002(88), Fla. Admin. Code (2007), states in pertinent part:

"QAP" or "Qualified Allocation Plan" means, with respect to the HC Program, the 2007 Qualified Allocation Plan which is adopted and incorporated by reference...

4. Section 11 of the 2007 Qualified Allocation Plan, provides in pertinent part:

... where a Development has not been placed in service by the date required or it is apparent that a development will not be placed in service by the date required, such failure is due to circumstances beyond the Applicant's control, and the Applicant has returned its housing credit allocation in the last calendar quarter of the year in which otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of credits returned, and may allocate such housing credits to the Applicant for the year after the year in which the Development was otherwise required to be placed in service, provided the following conditions have been met...

5. Petitioner requests a variance from the above provision to allow Petitioner to return its 2007 Housing Credit Allocation now, rather than wait until the last calendar quarter of 2009, as required by the QAP, and to receive an immediate allocation of 2008 Housing Credits instead of an allocation in 2010, the year after

the current Placed-in-Service Date, in an amount not to exceed the amount of the returned Housing Credit Allocation.

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 contained in the Qualified Allocation Plan under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Due to economic circumstances including changes in the Federal Housing Administration rules regarding equity levels and escrow amounts, the Development's equity partner indicated an unwillingness to undertake the initial closing of the equity financing as the Development will not likely be able to meet the current Placed-in-Service date of December 31, 2009. Without an extension of the Placed-in-Service date, the equity partner will not proceed with the closing and the construction of the Development cannot commence. Further, Petitioner has expended in excess of \$125,000 on the Development to date and failure to receive the extension would result in a substantial hardship.

IT IS THEREFORE ORDERED:

The Petition for Waiver from the requirements of Section 11 of the 2007 Qualified Allocation Plan is hereby **GRANTED**, only to the extent that Petitioner shall be permitted to immediately return its 2007 Housing Credit allocation now, rather than wait to the last calendar quarter of 2009, waive the 2007 Qualified Allocation Plan's requirement that a Housing Credit Allocation cannot be reserved until the year after the Development's Placed-in-Service Date, and receive an immediate allocation of 2009 Housing Credits in an amount not to exceed the amount of the 2007 Housing Credit Allocation. It is contingent upon Petitioner providing (i) a copy of their executed and closed tax credit partnership agreement between the Petitioner and its tax credit investor and (ii) a copy of the notice of commencement, both by June 30, 2009 or their credits shall be deemed returned. The Placed-in-Service deadline shall be June 30, 2010.

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

Florida Housing Finance Corporation



By: 
Chair

Copies furnished to:

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

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.