

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Friendship Tower, Ltd.

Case No. 2011-002VW

**ORDER GRANTING WAIVER OF
RULE 67ER06-34(19), F.A.C. (2006)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on May 16, 2011, pursuant to a "Petition for Waiver from Rule 67ER06-34(19), F.A.C." filed by Friendship Tower, Ltd., ("Petitioner") on February 15, 2011. Notice of the Petition was published on February 25, 2011 in Volume 37, Number 08, 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.
2. During the 2006 Rental Recovery Loan Program (RRLP) application cycle, Petitioner applied for and was awarded low-income

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

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housing tax credits and \$5,024,813 in loan funds to finance the construction of Friendship Tower, a 92-unit high-rise development located in Miami-Dade County, Florida (the “Development”).

3. In 2007 Petitioner closed on its financing and executed a Land Use Restriction Agreement (LURA) which imposed various conditions and restrictions on the use of the property per the terms of the RRLP Program.

4. Per the terms of the LURA, twenty-five percent (25%) of the development units were set aside of Extremely Low Income (ELI) households. This is a higher percentage of ELI units than normally set-aside in Florida Housing funded developments.

5. Section 2.2(c) of the LURA provides, in pertinent part:

Additionally, Section 8 voucher holders may not be used to satisfy the ELI Set-Aside requirement of subparagraph 2.2(a) above, unless those households’ vouchers are paying rents only up to the ELI rent level.

6. Rule 67ER06-34(19), Fla. Admin. Code provides, in pertinent part:

All set-aside units shall be RRLP Rent-Restricted Units. A unit set aside at a particular income and rent level must house a tenant who satisfies the income requirement. Additionally, Section 8 voucher holders may not be used to satisfy the ELI Set-Aside requirement, unless those households’ vouchers are paying rents only up to the ELI rent level.

7. Petitioner requests a waiver of the above section of the 2006 RRLP Rules to permit Section 8 voucher holders to satisfy the ELI requirement and permit Petitioner to collect the fair market rent payable under such Section 8 voucher, so long as the tenant/Section 8 voucher holder household does not pay an amount greater than the ELI rent level. Petitioner also requests a LURA amendment reflecting the waiver.

8. 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.

9. The strict imposition of the above Rule in these particular circumstances competitively disadvantages the Development in relation to neighboring FHFC-financed developments not subject to RRLP provisions, particularly where the Development already provides a relatively deeper ELI set-aside (25%).

10. The above Rule is specific to the 2006 RRLP Program, and does not appear as a requirement in any other Florida Housing funding program.

11. The Board finds that a waiver is the appropriate relief and that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. The Board further finds that ensuring the financial viability of the Development serves the underlying purposes of Chapter 420, Part V, Florida Statutes.

IT IS THEREFORE ORDERED:

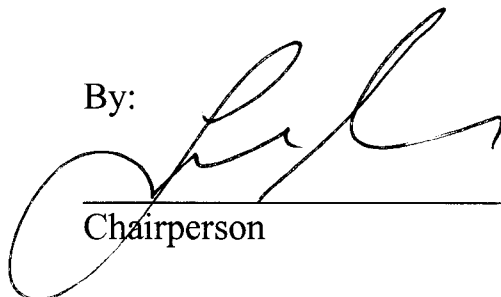
Petitioner's request for a waiver of the requirements of Rule 67ER06-34(19), Fla. Admin. Code (2006) is hereby **GRANTED** to: permit Section 8 voucher holders to satisfy the Development ELI requirements; to allow Petitioner to receive the fair market rent otherwise payable under a Section 8 voucher, provided that the tenant pay an amount no greater than the ELI rent level; and to amend the LURA to reflect the changes required by this Order.

DONE and ORDERED this 16th day of May, 2011.



Florida Housing Finance Corporation

By:



Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.