

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Harbor City Towers, LLLP,

FHFC CASE NO.: 2017-0016VW

ORDER GRANTING WAIVER OF RULE 67-48.004(3)(i)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 24, 2017, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on March 6, 2017, from Harbor City Towers, LLLP (“Petitioner”). Notice of the Petition was published on March 8, 2017, in Volume 43, Number 46, of the Florida Administrative Register. 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. Petitioner was selected to receive Competitive Low Income Housing Tax Credits under Request for Application (“RFA”) 2014-104 to assist in the acquisition and rehabilitation of Trinity Towers West, an 192-unit elderly housing development in Brevard County, Florida. Petitioner’s Application Number was

2014-378C (the "Application"). In its Application, Petitioner provided for total set-aside percentage of 95% of the 192 units as low-income, which resulted in 183 units being set aside as low-income.

3. Petitioner seeks a waiver from Rule 67-48.004(3)(j), Fla. Admin. Code.

4. Rule 67-48.004(3)(j), Fla. Admin. Code provides the following:

(3) For the SAIL, HOME, and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

(j) For the SAIL and HC Programs, the Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application...

5. Petitioner requests a waiver of the above Rule to allow a permanent change from 95% (183) of its units in the Development as low-income to 92.7% (178) of its units in the Development to be set aside for qualifying low-income tenants meeting the income limit. Petitioner asserts that the Development is currently occupied such that 178 units meet the definition of low-income tenants, and that 14 pre-existing tenants exceed the income limit. Petitioner is seeking to avoid evicting any of the 14 current tenants over the income limit by decreasing the total set-aside percentage from 95% (183 units) to 92.7% (178 units). Petitioner also asserts that the waiver saves the Development from loss of income until such time

that qualifying replacement tenants can be found as well as saving the cost of relocation expense that the Development would incur for evicting current tenants.

6. The Board finds that granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

7. 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.

8. Petitioner has demonstrated that strict application of the above Rule under these circumstances would constitute a substantial hardship and violate the principals of fairness. Petitioner has also demonstrated that the purpose of the underlying statute, which is to “encourage development of low-income housing in the state” (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

9. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner, and that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

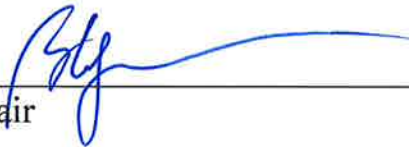
IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rule 67-48.004(3)(j), Florida Administrative Code is hereby **GRANTED** to allow a permanent change from 95% (183) of its units in the Development as low-income to 92.7% (178) of its units in the Development to be set aside for qualifying low-income tenants meeting the income limit.

DONE and ORDERED this 24th day of March, 2017.

Florida Housing Finance Corporation

By:


Chair

Copies furnished to:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

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.