

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: THORNBURY RRH, LTD.


FHFC Case No.: 2007-004VW
Application No.: 2006-009C

**ORDER GRANTING WAIVER OF THE FEE SECTION OF THE UNIVERSAL
APPLICATION INSTRUCTIONS INCORPORATED BY REFERENCE IN
RULE 67-48.004(1)(a); and 67-48.007(6),FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on March 16, 2007, pursuant to a "Petition for Waiver of Compliance Monitoring Fees Imposed by Rule 67-48.007, Florida Administrative Code, and the Universal Application Instructions Adopted as Rules under Section 67-48.004(1)(a), Florida Administrative Code" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on January 29, 2007, from Thornbury RRH, Ltd., ("Petitioner"). On February 9, 2007, Florida Housing published the Notice of the original Petition in Volume 33, Number 06, 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 Universal Cycle, Florida Housing awarded an allocation of \$113,000 in Low Income Housing Tax Credits ("LIHTC") to Petitioner, for the acquisition and rehabilitation of an existing 48-unit apartment complex, Thornbury Apartments, located in Highlands County, Florida (the "Development").

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

3-19-07  /DATE. 3-19-07

3. The Development is financed in part through a United States Department of Agricultural Rural Development program (“USDA RD”) which provides a direct loan program for financing of multi-family housing. USDA RD and Florida Housing entered into an agreement to monitor compliance with the tax credit requirements of USDA RD borrowers. This agreement resulted in a reduced compliance monitoring fee imposed on USDA RD borrowers.

4. In 2001, the Annual Compliance monitoring fee for those developments with USDA RD funds was \$300.00 per development over the compliance monitoring terms, and the payment was discounted 2.75%. This reduced monitoring fee was inadvertently omitted from the 2006 Universal Application Instructions and rules.

5. Petitioner requests a waiver of Rules 67-48.004(1)(a) and 67-48.007(6), Fla. Admin. Code, as well as specific provisions of the incorporated 2006 Universal Cycle Application Instructions, to partially waive Annual Compliance monitoring fee and impose an Annual Compliance monitoring fee for the Development based on \$350.00 per development over the compliance monitoring term, 30 years, and the payment discounted at 2.75%.

6. Rule 67-48.004(1)(a), Florida Administrative Code (2006), states in pertinent part:

The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference...

The particular portions of the 2006 Universal Application Instructions which apply to this Petition state, in pertinent part:

7. Compliance Monitoring Fees:

b. HC:

(2) Annual Compliance monitoring fees - \$1,578 + \$9.00 per set-aside unit, for the full Housing Credit Extended Use Period collected at final allocation based on a quarterly payment stream discounted at a rate of 2.75%

Rule 67-48.007(6), Florida Administrative Code (2006), states in pertinent part:

The Corporation ... shall collect via check or money order the following fees and charges in conjunction with the ... HC Program:

(6) Compliance Monitoring Fees.

7. Section 120.542(2), Florida Statutes provides in pertinent part:

Variations 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. The Board finds that the Annual Compliance monitoring fee for Developments with USDA RD funds was inadvertently omitted from the 2006 Universal Application Instructions and said fee should be in the amount of \$350 per development over the compliance monitoring term with the payment discounted at 2.75%. Denial of these requested waivers would violate principles of fairness, in that requiring payment of the entire fee where monitoring is also being conducted by the USDA would result in an overpayment by Petitioner. Granting the Petition would serve the purpose of the underlying statute which provides for compliance and the collection of monitoring fees, and by ensuring that the affordable housing units are provided.

IT IS THEREFORE ORDERED:

The Petition for Waiver of Rules 67-48.004(1)(a), and 67-48.007(6), Florida Administrative Code (2006), and the Annual Compliance monitoring fee provisions of the 2006 Universal Cycle Application Instructions, is hereby **GRANTED**. Florida Housing shall impose an Annual Compliance monitoring fee for Thornbury Apartments based on \$350.00 per development over the compliance monitoring term, thirty (30) years, and the payment discounted at 2.75%.

DONE and ORDERED this 16th day of March, 2007.

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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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.