

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: Oviedo Town Center Partners, Ltd.

Case No. 2008-001VW

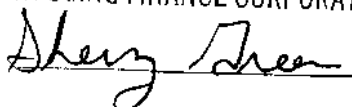
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**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14),  
FLORIDA ADMINISTRATIVE CODE (2007)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on May 2, 2008, pursuant to an "Amended Petition for Waiver from Rule 67-48.004(14), Florida Administrative Code (2007)" filed by Oviedo Town Center Partners, Ltd. ("Petitioner") on February 12, 2008. Notice of the Petition was published in Volume 34, 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 2005 Universal Cycle, Oviedo Town Center Partners, Ltd., ("Petitioner") applied for and was awarded State Apartment Incentive Loan ("SAIL") funds to finance a portion of the costs to develop Oviedo Town Center Apartments (the "Development") located in Seminole County, Florida.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

 /DATE: 5-2-08

3. Rule 67-48.004(14)(j), Florida Administrative Code (2007), provides in pertinent part:

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

...(e) Site for the Development

...(j) Total number of units

...(m) Funding Request (except for Taxable Bonds) amount

4. 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.

5. In Petitioner's original Application, Petitioner indicated that the Development would consist of 120 apartment community units. Subsequent delay in construction, though, was caused when the City of Oviedo would not issue permits because it wanted time to study the possibility of taking a portion of the site for a public right of way. As a result of the City's actions, Petitioner reduced the size of the site and the number of units during the study so the permits could be issued.

This reduced the Development by 14 units. The Development can now support 106 units. Therefore, Petitioner requests a waiver of Rule 67-48.004(14), F.A.C. (2007) to allow it to decrease the number of units in the Development from 120 to 106.

6. Approving the requested waiver serves the underlying purpose of Section 420.5087, Florida Statute and the SAIL Program by facilitating and stimulating affordable multi-family rental housing. Petitioner's request results from action by the City of Oviedo, through no fault of Petitioner.

7. Petitioner has demonstrated that failure to grant this Petition would give rise to substantial hardship in that Petitioner will be precluded from moving forward with constructing the Oviedo Town Center Apartments.

8. Since approval will fail to affect application scoring, Petitioner derives no unfair advantage over its competitors in an application cycle. Ultimately, 67-48.004(14) is used to prevent an applicant from changing certain key elements in its application after reviewing its competitors' applications. Such preclusion circumvents the possibility of an applicant gaining a competitive advantage. Under these circumstances, however, approving Petitioner's request fails to provide any such advantage.

9. The Board finds that strict application of the above Rules under these circumstances will give rise to substantial hardship. Thus, by strictly applying the

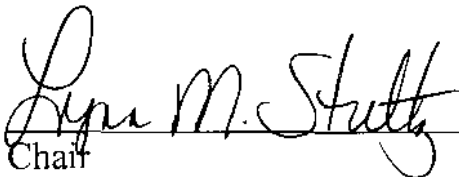
above Rules, Petitioner will fail to meet Respondent's purpose of providing affordable housing, through new construction, in an economical and efficient manner.

**IT IS THEREFORE ORDERED:**

The Petition for a waiver of Rule 67-48.004(14) Florida Administrative Code (2007) is hereby **GRANTED**, to allow Petitioner to decrease the number of units in the Development from 120 to 106 and reducing the total SAIL loan amount from \$3,000,000 to \$2,650,000.

DONE and ORDERED this 2nd day of May, 2008.

Florida Housing Finance Corporation

By:   
Chair

**Copies furnished to:**

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Joint Administrative Procedures Committee  
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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.**