

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Notre Dame Apartments, LLC

Case No. 2008-007VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE 67ER06-
27(14)(g), FLORIDA ADMINISTRATIVE CODE (2006)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on March 14, 2008, pursuant to a "Petition for Waiver or Variance of Rule 67ER06-27(14)(g) for the 2006 Rental Recovery Loan Program and Rule 67-21.003(14)(g) for the 2006 Multifamily Mortgage Revenue Bond Program to Change the Development Type in the 2006 Application¹" filed by Notre Dame Apartments, LLC ("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.

¹ Although Petitioner seeks a waiver of Rule 67-21.003(14)(g), F.A.C. (2006), its request is unnecessary, as Staff's research indicates that Petitioner received no award of Multifamily Mortgage Revenue Bonds. Thus, Petitioner's request for a waiver of the instant provisions Chapter 67-21 is ignored.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Sherry Dean DATE: 3-17-08

2. During the 2006 Rental Recovery Loan Program (“RRLP”) Cycle, Notre Dame Apartments, LLC, (“Petitioner”) applied for and was awarded an RRLP loan to finance the construction of Notre Dame Apartments, a 64-unit midrise development located in Miami-Dade County, Florida (the “Development”).

3. Rule 67ER06-27(14)(g), Florida Administrative Code (2006), 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. Those items are as follows:

...(g) Development Type;

4. 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.

5. In Petitioner’s original Application, Petitioner indicated that the Development would consist of six (6) stories and thus Petitioner selected “midrise” as its Development Type. However, subsequent architectural reports revealed that a twelve (12) story development would better utilize the development’s land and increase the viability of future affordable housing developments on the site and adjacent tracts. Therefore, Petitioner requests a waiver of Rule 67ER06-

27(14)(g), F.A.C. (2006) to allow it to change the Development Type from midrise to highrise, while preserving the same total number of units.

6. Petitioner's requested change in the Development Type would confer no unfair advantage to Petitioner relative to other applicants. Petitioner's requested change will not affect the total number of units in the Development or cause any zoning issues.
7. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner has demonstrated that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Permitting this change in Development would also serve the underlying purpose of the statute.

IT IS THEREFORE ORDERED:

The Petition for a waiver of Rule 67ER06-27(14)(g) Florida Administrative Code (2006) is hereby **GRANTED**, to allow Petitioner to change the Development Type from midrise to highrise.

DONE and ORDERED this 14th day of March, 2008.

Florida Housing Finance Corporation

By: Lynn M. Sully
Chair

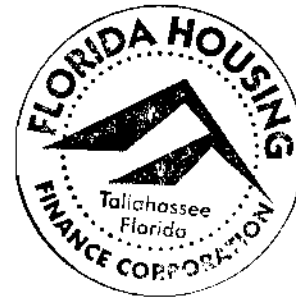
Copies furnished to:

Wellington H. Meffert II
General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Derek Helms
Multifamily Loans Administrator
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Lynn C. Washington, Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131

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.