

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: GEORGIA APARTMENTS, LLC

FHFC Case No.: 2008-111VW
Application No.: 2007-081C

**ORDER GRANTING PETITION FOR WAIVER
OF RULE 67-48.0075(7)(a)(1)
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on January 23, 2009, pursuant to a “Petition for Waiver From Rules 67-48.004(1)(a) and 67-0075(7)(a)(1)” (sic)¹ (the “Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on November 24, 2008, from **GEORGIA APARTMENTS, LLC** (“Petitioner”). On December 12, 2008, the Notice of the Petition was published in Volume 34, Number 50, 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 Per the body of the Petition, the only relief requested relates to Rule 67-48.0075(7)(a)1, Florida Administrative Code.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrell / DATE: 1/26/09

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. During the 2007 Universal Cycle, Florida Housing awarded an allocation of Competitive Housing Credits (“HC”) and supplemental loan funds to Petitioner under application #2007-081C. Petitioner applied for HC to finance, in part, a Development known as Georgia Apartments, a 60-unit development in Miami, Miami-Dade County, Florida (the “Development”).

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

(2) 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.

4. R. 67-48.0075(7)(a)(1), Fla. Admin. Code states:

(1) The supplemental loan shall be (i) based on each ELI Set-Aside unit above the minimum ELI Set-Aside threshold requirement in the Universal Application instructions; and (ii) non-amortizing at 0 percent simple interest per annum over the life of the loan, with the principal forgivable provided the units for which the supplemental loan amount is awarded are targeted to ELI Households for at least 15 years.

5. Petitioner requests a waiver of the above Rule to allow Petitioner to forgo the automatic forgiveness that the supplemental principle loan balance receives under the Rule. In addition, Petitioner requests an

extension of the maturity date of the loan to 30 years from closing, and requested that the ELI restrictions to 10% of the units related to the supplemental loan be released 15 years after closing.²

6. The Board finds that failure to grant the waiver of the forgiveness provisions of the Rule will likely result in the Developer incurring substantial adverse tax consequences. In addition, the designation of the supplemental ELI loan as forgivable will likely cause the full amount of the loan to be deducted from the eligible basis for the Development, thereby reducing the Development's net tax credit.

7. Petitioner has also requested a thirty (30) year term for the supplemental loan. The Board finds that the loan should be extended, but to a date coterminous with senior financing, in accordance with previous waivers that have been granted regarding this Rule.

8. As the granting of Petitioner's requests will not affect Application scoring, Petitioner derives no unfair advantage over other applicants.

9. The Board finds that strict application of the above Rule under these circumstances will give rise to substantial hardship or otherwise violate the principles of fairness. Under the circumstances described in the

²This request does not relate to a specific Rule, but rather to the terms of the Land Use Restriction Agreement and Extended Use Agreement regarding this requirement. Accordingly, this request will be referred to staff for review.


Petition, granting these requests furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. This waiver of R. 67-48.0075(7)(a)(1), Fla. Admin. Code furthers this purpose.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Rule 67-48.0075(7)(a)(1), Fla. Admin. Code is hereby GRANTED to allow Petitioner to forgo the automatic forgiveness of the supplemental ELI principal loan balance, and to allow Petitioner to extend the maturity date at the end of the initial 15-year term, to a date coterminous with senior financing. Any other relief requested in the Petition is denied.

DONE and ORDERED this 23rd day of January, 2009.

Florida Housing Finance Corporation

By:  _____
Chairperson



Copies furnished to:

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

Debbie Blinderman
Deputy Development Officer
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Lynn 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 REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION, PURSUANT TO R. 28-106.201 OR 28-106.301, FLORIDA ADMINISTRATIVE CODE, WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.