

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: MLF 2, LTD.

Case No. 2012-050VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(i),
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 September 7, 2012, pursuant to a "Petition for Waiver from Rule 67-48.004(14)(i)'s Restriction on Changing the Total Number of Units for its MLF Towers Development," filed by MLF 2, Ltd. ("Petitioner") on August 8, 2012. Notice of the Petition was published in Volume 38, Number 33, 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 2011 Universal Cycle, Petitioner successfully applied for an allocation of Low Income Housing Tax Credits (HC) to finance the acquisition and preservation of MLF Towers (the "Development") located in Pinellas County,

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harvey /DATE: 9/10/12

Florida. As part of its application, Petitioner stated that the total number of units for the Development would be 146.

3. Rule 67-48.004(14)(i), Florida Administrative Code (2011), 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:

(i) Total number of units...

2. 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.

3. Petitioner requested a waiver of the above rule to decrease the number of units from 146 to 145 units. Petitioner provided in its application at Part III.A.6.c, that 145 units would receive PBRA rental assistance from U.S. Department of Housing and Urban Development. Petitioner also provided at Exhibit 35 to its application, that the Development would, “consist of 146 units (145 low income units and 1 unit for a Wellness Center).” Consistent with its

application, Petitioner proposes to reduce the Development by one unit, to convert it into a wellness center to provide an in-house home health provider service to the tenants.

4. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants.

5. 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. Petitioner noted in its application that one unit was intended to be used as a wellness center. Petitioner has further demonstrated that permitting this change in Development would also serve the underlying purpose of the statute. By granting the Petition, Petitioner will be able to provide needed housing in Pinellas County with a wellness center, a service needed by the tenants.

6. As a condition of approval of the Petition, Petitioner has agreed to receive a reduction of HC by .68% (1/146), of the requested amount of \$1,350,000. The amount of HC allocated will now be \$1,340,753.43.

IT IS THEREFORE ORDERED:

The Petition for a waiver of Rule 67-48.004(14)(i) Florida Administrative Code (2011) is hereby **GRANTED** , to the following extent: the number of units in the Development shall be reduced by one unit to 145 units. The amount of HC

requested by Petitioner shall be reduced by .68% (1/146), of the requested amount of \$1,350,000. The amount of HC allocated will now be \$1,340,753.43.

DONE and ORDERED this 7th day of September, 2011.



Florida Housing Finance Corporation

By: _____

Chair

Copies furnished to:

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

Kevin Tatreau
Director of Multifamily Development Programs
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Brian J. McDonough, Esq.
Stearns, Weaver, Miller, Weissler, Alhadeff & Sitterson, P.A.
150 West Flagler Street
Miami, Florida 33130

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.