

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

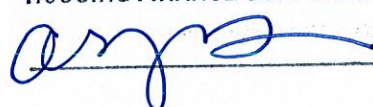
In Re: Lulav Square Apartments Limited Partnership

FHFC Case No.: 2013-025VW

**ORDER GRANTING PETITION FOR WAIVER
OF PART III.B.1.a and PART III.B.1.b OF THE 2011 UNIVERSAL
CYCLE APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on September 20, 2013, pursuant to a “Petition for Waiver of Section III (B)(1)(a) and Section III(B)(1)(b) of Instructions and Chapter 67-48” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on August 28, 2013, from Lulav Square Apartments Limited Partnership (“the Petitioner”). On August 29, 2013, the Notice of the Petition was published in Volume 39, Number 169, of the Florida Administrative Register. 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:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 09/23/13

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

2. During the 2011 Universal Cycle, Lulav Square Apartments Limited Partnership (“Petitioner”) applied for and was awarded an allocation of tax credits to finance the acquisition and rehabilitation of an elderly development known as Lulav Square (the “Development”) located in Miami-Dade County, Florida.

3. Rule 67-48.004(1)(a) Fla. Admin. Code (2011) provides, in pertinent part:

(a) The Universal Application Package or UA1016 (Rev. 2-11) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation’s Website under the 2011 Universal Application link labeled Instructions and Application, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-00703>, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the HOME and HC Program(s).

Part III.B.1.a. of the Instructions provides in pertinent part:

a. All Units in All Developments:

- Air conditioning with a minimum SEER rating of 14 (excluding buildings with central chiller system). Window air conditioning units are not allowed; however, through-wall air conditioning units with a minimum EER rating of 10 are permissible for rehabilitation units);

Part III.B.1.b. of the Instructions provides in pertinent part:

b. All Units in All Developments Except SRO:

- Full-size range, oven and Energy Star qualified refrigerator in all units;

4. Petitioner requested a waiver of the above Rules to allow it to utilize EER 12.9 split air conditioning systems in lieu of air conditioning systems with a SEER rating of 14 in the redevelopment units of the Development and allow for the use of a smaller 20-inch wide range in lieu of a full size range in the redevelopment units of the Development. As justification, Petitioner states that the use of EER 12.9 split air conditioning system significantly exceeds the requirement to use an air conditioner with a SEER rating of 14, alleviates the need for substantial revision to the rehabilitation plans and is a more efficient method of providing air conditioning. Petitioner also states that the use of a 20-inch range would provide more countertop space in an existing kitchen that was not designed for a full size range and that use of a full size range would require unnecessary electrical upgrades to accommodate the increased electrical load.

5. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants in the 2011 Universal Cycle.

6. 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.

7. The Board finds that strict application of the above Rule under these circumstances would violate the principles of fairness. Petitioner established that permitting these changes in Development would promote the use of energy-efficient air conditioning systems; provide more usable kitchen countertop space and provide a cost benefit to the low income residents. A denial of the requested waiver would result in a substantial hardship due to increased costs of installation and maintenance of less efficient air conditioners, and cause significant delay in rehabilitation to accommodate larger full size ranges.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Part III.B.1.a. and Part III.B.1.b. of the 2011 Universal Cycle Application Instructions, to allow Petitioner to

install split air conditioning systems with an EER rating of 12.9 in lieu of air conditioning systems with a SEER rating 14, in all units in the Development; and to allow Petitioner to install 20-inch ranges in lieu of full size ranges in all units in the Development is hereby **GRANTED**.

DONE and ORDERED this 20TH day of September, 2013.

Florida Housing Finance Corporation



By: _____

Chairperson

A handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to be the name of the Chairperson.

Copies furnished to:
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Joint Administrative Procedures Committee
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Tallahassee, Florida 32399-1300

NOTICE OF RIGHT TO JUDICIAL REVIEW

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.