

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Cypress Cathedral, LLLP

FHFC Case No.: 2014-061VW


**ORDER GRANTING WAIVER OF RULE 67-21.028(2)(m), FLORIDA
ADMINISTRATIVE CODE (2013)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on April 25, 2014, pursuant to a “Petition for Waiver of Rule 67-21.028(2)(m)” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on March 17, 2014, from Cypress Cathedral, LLLP. (“the Petitioner”). On March 18, 2014, the Notice of the Petition was published in Volume 40, Number 53, 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:

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

2. On March 27, 2013, Cypress Cathedral, LLLP, (“Petitioner”) received a tax-exempt bond allocation from the Housing Finance Authority of

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION


/DATE: 04/25/14

Polk County, Florida to acquire and rehabilitate Cypress Cathedral Apartments (the “Development”). Petitioner completed its rehabilitation and placed the Development in service in December, 2013. Subsequently, on January 21, 2014, Petitioner submitted an application to Florida Housing requested an allocation of Non-Competitive Housing Credits.

3. Rule 67-21.028(2)(m), Fla. Admin. Code (2013), provides:

(2) Tax-Exempt Bond-Financed Developments receiving bonds issued by a County Housing Finance Authority established pursuant to Section 159.604, F.S., shall:

(m) Make Application to the Corporation utilizing the Non-Competitive Application Package ...but in no event may the Application be submitted later than the last Corporation business day of December of the year the Development is placed in service...

4. Petitioner requests a waiver of the Rule 67-21.028(2)(m), Fla. Admin. Code, to allow it to submit an Application to Florida Housing after the last Corporation business day of December of the year the Development was placed in service.

5. 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.

6. The Board finds that strict application of the above rule under these circumstances would constitute a substantial economic hardship for Petitioner. When Petitioner closed on the debt and equity financing for the Development, it provided guarantees to the providers of the debt and equity financing based upon it obtaining the Housing Credits from Florida Housing. A denial of the Petition would trigger economic defaults under the other financing documents. Granting the requested waiver will serve the purpose of the underlying statute and the Act as a whole by facilitating the availability of affordable housing to elderly persons that might not be otherwise available in Polk County, while recognizing the economic realities of developing, preserving and constructing affordable rental housing.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Rule 67-21.028(2)(m), Florida Administrative Code (2013), to allow Petitioner to submit its Application for an allocation of Non-Competitive Housing Credits is hereby **GRANTED**.

DONE and ORDERED this 25th day of April, 2014.



Florida Housing Finance Corporation

By: 
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
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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.