

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Martin Lakeside Apartments, Ltd.

FHFC Case No.: 2014-067VW

**ORDER GRANTING PETITION FOR WAIVER
OF Rule 67-48.004(1)(a), F.A.C., PART III.A.3.a 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 June 13, 2014, pursuant to a “Petition for Waiver from Florida Administrative Code Rule 67-48.004” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on May 5, 2014, from Martin Lakeside Apartments, Ltd. (“the Petitioner”). On May 7, 2014, the Notice of the Petition was published in Volume 40, Number 89, 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.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 6.13.14

2. During the 2011 Universal Cycle, Martin Lakeside Apartments, Ltd. (“Petitioner”) applied for and was awarded Competitive Housing Credit (HC) funding to finance the acquisition and preservation of Lakeside Apartments (the “Development”) located in Martin County, Florida. Twenty-three of the units were to be set-aside for those tenants receiving United States Department of Agriculture, Rural Development (“USDA RD”) rental assistance.

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... 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.A.3.a.of the 2011 Universal Cycle Instructions provides, in pertinent part:

A. General Development Information

3. Development Category

a. During credit underwriting, regardless of the number of rental assistance units used for the RA Level classification, all funded Applications will be held to the number of rental assistance units stated in the applicable letter provided by the Applicant based on Part III.A.3.a. of the Application. This requirement will apply throughout the entire Compliance Period, subject to Congressional

4. Petitioner has requested relief from the USDA RD set-aside, as set forth in the above section of the Universal Cycle Instructions, which would require Petitioner to set-aside the twenty-three units for rental assistance tenants for the duration of the Compliance Period. USDA RD has discontinued the program for this Development.

5. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants. Petitioner would still be required to set-aside twenty percent of the units for those individuals who are thirty-three percent or less of the area median income and set-aside eight percent of the units for those individuals who make sixty percent or less of the area median income.

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 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. The original borrower was found to be in non-compliance with the USDA RD program prior to Petitioner purchasing the Development. USDA RD notified

all tenants that rental assistance for the Development would be discontinued and that the tenants would be issued vouchers to use at any property. Petitioner will still be required to adhere to the set aside terms in its Application for the Development and those tenants receiving USDA RD rental assistance may stay if they choose to do so. Petitioners have also demonstrated that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Part III.A.3.a. of the 2011 Universal Application Instructions is hereby **GRANTED**, to reduce the number of USDA RD rental assistance units from twenty-three to zero due to the discontinuation of the rental assistance program at the Development. Petitioner is still required to set-aside twenty percent of the units for those individuals who are thirty-three percent or less of the area median income and set-aside eighty percent of the units for those individuals who make sixty percent or less of the area median income.

DONE and ORDERED this 13TH day of June, 2014.



Florida Housing Finance Corporation

By: 
Chairperson

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.