

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE**

In Re: CATHEDRAL TERRACE, LTD

FHFC Case No.: 2016-053VW

ORDER GRANTING WAIVER OF RULE 67-48.010(2), F.A.C.

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 9, 2016, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 15, 2016, from Cathedral Terrace 2, LTD ("the Petitioner"). Notice of the Petition was published on November 17 in Volume 42, Number 224, 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. Petitioner was selected to receive State Apartment Incentive Loan Program (SAIL) Financing of Affordable Multifamily Housing Developments under Request for Applications (RFA) 2014-111 to assist in the rehabilitation of a Development serving low-income elderly tenants in Jacksonville, Florida. At the time of the award, there was a requirement in the RFA for the creation of an MOU

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Keke Anis /DATL 12-9-16

to be executed with a designated supportive services lead agency in order to, among other things, direct Persons with Disabling Conditions to the property. As provided in the RFA at page 18, Petitioner was required to comply with the following:

The Applicant will be required to enter into a Memorandum of Understanding (MOU) with at least one (1) designated supportive services lead agency approval by the Corporation, for the purpose of coordinating services and housing for Persons with Disabling Conditions. The Corporation will establish and maintain a list of approved participating agencies in each county that the Development shall work with to execute the MOU. The FHFC-Designated Supportive Services Lead Agencies List is available on the Corporation's Website The purpose of the MOU is to establish the roles and responsibilities of the Development and lead agency/agencies in meeting the intent of this commitment. These include roles and responsibilities regarding the Applicant notifying the lead agency that a unit is available, the lead agency referring households to apply for the set-aside unit, and the lead agency addressing the needs of the residents in the set-aside unit. The roles and responsibilities of the lead agency may be in conjunction with the supportive services agency's network of community-based service providers.

3. This requirement of the RFA has been incorporated into the loan documents executed by Petitioner. Rule 67-48.010(12), F.A.C. (2014) states that "Violation of any material term or condition of the documents evidencing or securing the SAIL loan shall constitute a default during the term of the SAIL loan."

4. Petitioner's property is restricted to elderly or handicapped families and individuals under its HUD Regulatory Agreement, and a significant majority of the residents would qualify under Florida Housing's definition of Persons with Disabling Conditions. The property also has HUD Section 8 rental assistance with

an extensive waiting list, and the majority of those on the list would qualify as Persons with Disabling Conditions and would be at or below the Extremely Low Income limit. Petitioner has for over 21 years employed its own services coordinator to coordinate services and housing for Persons with Disabling Conditions in order to generate better occupancy through the faster lease-up of vacant units. Petitioner therefore seeks to waive the RFA provision requiring the execution of an MOU with supportive services lead agencies in order to continue to employ its own internal services coordinator. Petitioner does not seek to change its obligation to continue to meet its set-aside requirement for Special Needs Households.

5. The Board finds that granting the waiver would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants. The Board further finds that granting the waiver could help Petitioner streamline its review process and thus possibly reduce delays in providing housing to low income, elderly, special needs individuals.

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. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income seniors and Persons with Disabling Conditions and that

it would suffer a substantial hardship if the waiver is not granted. Petitioner has also demonstrated that the purpose of the underlying statute, which is to “encourage development of low-income housing in the state” (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

8. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner, and 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:

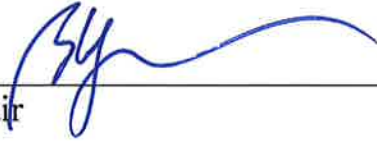
Petitioner's request for a waiver of Rule 67-48.010(12), Fla. Admin. Code (2014) and the requirement of RFA 2014-111 cited above is hereby **GRANTED** to permit Petitioner to meet its set-aside requirement for Special Needs Households through compliance with its internal procedures rather than through the use of the MOU required in the RFA, with a condition requiring Petitioner to continue to comply with the HUD Regulatory Agreement and to continue to employ its own services coordinator, and providing that if Petitioner fails to meet these conditions it will be required to enter into an MOU with a local referral agency.

DONE and ORDERED this 9th day of December, 2016.

Florida Housing Finance Corporation

By:

Chair

A handwritten signature in blue ink, appearing to be 'Sly', written over a horizontal line.

Copies furnished to:

Hugh R. Brown
General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Ken Reecy
Director of Multifamily Development Programs
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Michael P. Donaldson
Carlton Fields Jordan Burt
215 S. Monroe Street, Suite 500
Tallahassee, FL 32301

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
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.