

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: VILLAGE CENTRE APARTMENTS, LTD.

FHFC Case No.: 2005-048VW

Application No.: 2003-099C

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**ORDER GRANTING WAIVER OF RULES 67-48.002(111), 67-48.002(31), AND  
67-48.004(14), FLA. ADMIN. CODE (2003)**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on December 9, 2005, pursuant to a Petition for Waiver of Rules 67-48.002(111), 67-48.002(31), 67-48.004(14), and 67-48.025, Fla. Admin. Code (2003) ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 4, 2005, from Village Centre Apartments, Ltd., a Florida limited partnership ("Petitioner"). On November 18, 2005, the Notice of the Petition was published in Volume 31, Number 46, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After review and consideration of the record, and being otherwise fully advised, the Board of Directors ("Board") of Florida Housing hereby finds as follows:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2003 Universal Cycle, Florida Housing awarded an allocation of \$939,968 in low income housing tax credits to Village Centre Apartments, Ltd. ("Petitioner"), to aid in the financing of an 84-unit affordable apartment development to be located in Palm Beach County, Florida.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

M. J. [Signature] /DATE: 12/12/05

3. Rule 67-48.002(111), Florida Administrative Code (2003), states in pertinent part:

“Universal Application Package” ... means the forms and instructions, obtained from the Corporation ... [t]he Universal Application Package is adopted and incorporated herein by reference...

4. By virtue of the rule above, the 2003 Universal Application Instructions are also rules. The particular provisions of the Instructions for which Petitioner requests a waiver state, in pertinent part:

#### Part II. Applicant and Development Team

A.2 If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.

\* \* \*

5. Rule 67-48.002(31), Florida Administrative Code (2003), states, in pertinent part:

The Developer, as identified in an Application, may not change until the construction of the Development is complete.

6. Rule 67-48.004(14), Florida Administrative Code (2003), states 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 ... Any attempted changes to these items will not be accepted. Those items are as follows:

\* \* \*

(b) Name of Developer;

7. Rule 67-48.025, Florida Administrative Code (2003), describes and includes provisions regarding Florida Housing's Qualified Allocation Plan (QAP), which governs aspects of the tax credit process, including extensions of the placed-in-service date. Petitioner has requested such an extension, but no rule waiver is necessary to grant this request, as Petitioner is eligible for a one-year extension to its Carryover Allocation Agreement through Rev. Proc. 95-28, as Palm Beach County was designated as a disaster affected county for FEMA Disaster #1609 (Hurricane Wilma). Florida Housing staff has advised Petitioner to seek an extension in this manner.

8. Petitioner requests a waiver from the above Rules and incorporated provisions of the Instructions to permit the replacement, prior to completion of construction, of its General Partner, Village Centre GP, LLP (consisting of a 49% for-profit LLC and a 51% non-profit corporation), with a sole General Partner. Greater Miami Neighborhoods, Inc., a Florida non-profit corporation ("GMN"), prior to completion of construction. This change would also require a waiver of the above rules to permit GMN to act as Developer.

9. 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.

10. Petitioner seeks the replacement of its General Partner to become more eligible for additional funding, made necessary by the increased costs and delays of construction of the development as a result of the effects of hurricanes Frances, Jean and Wilma on Palm Beach County, including scarcity of both building materials and labor. Petitioner asserts, and the Board agrees, that the proposed changes to its ownership structure are necessary to maintain the

economic viability of the Development, and that such would further the purposes of the underlying statute.

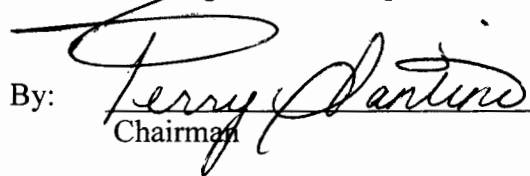
11. Moreover, denying this waiver would create a substantial hardship for Petitioner and may result in unintended consequences, in that Petitioner would be unable to obtain additional funding and alternative development procedures offered by local governmental agencies and limited to non-profit applicants, and thus remain unable to effectively respond to the economic difficulties created by the aforementioned hurricanes.

**IT IS THEREFORE ORDERED:**

The Petition for Waiver is hereby **GRANTED** for Rules 67-48.002(111), 67-48.002(31), and 67-48.004(14), Fla. Admin. Code (2003), to permit the replacement of its General Partner and Developer in the manner described in the Petition. The Board deems a waiver of Rule 67-48.025, Fla. Admin. Code (2003), as unnecessary under the circumstances described in paragraph 7 above.

DONE and ORDERED this 9<sup>th</sup> day of December, 2005.

Florida Housing Finance Corporation

By:   
Chairman

**Copies furnished to:**

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Village Centre Apartments, Ltd.  
c/o Village Centre, GP, LLC  
Attention: Lloyd J. Boggio  
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Miami, Florida 33133

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 FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIL L. KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.**