

OAKCREST APARTMENTS RRH II, L.L.L.P.

POST OFFICE BOX 10293
CLEARWATER, FLORIDA 33757

**PETITION FOR WAIVER OF COMPLIANCE MONITORING FEES
IMPOSED BY RULE 67-48.007, F.A.C., AND THE UNIVERSAL
APPLICATION INSTRUCTIONS ADOPTED AS RULES UNDER
SECTION 67-21.003 (1)(a), F.A.C.**

1. **Petitioner:** Oakcrest Apartments RRH II, L.L.L.P.
P. O. Box 10293
Clearwater, Florida 33757
Telephone: 727-443-3251 ext. 25
Facsimile: 727-447-2252
2. **Subject Project:** Oakcrest Apartments – Phase II
Project No. FL-2002-014C
3. **Respondent:** Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301-1329
Telephone: 850-488-4197
Facsimile: 850-488-9809
4. **Qualified Representative:** Pamela K. Borton, General Partner
Oakcrest Apartments RRH II, L.L.L.P.
P. O. Box 10293
Clearwater, Florida 33757
Telephone: 727-443-3251 ext. 25
Facsimile: 727-447-2252
5. **Applicable Rule:** 67-48.007 and 67-21.003(1)(a), F.A.C.
6. **Action Requested:** Petitioner requests a partial waiver of the compliance fees for the Oakcrest Apartments – Phase II project so that the total of such fees charged for this project will be calculated on an Annual Base of \$300.00, with no per unit annual fee, over the compliance term of 50 years with the payment discounted at 2.75%.

7. Statement of Facts Justifying Request for Waiver:

- Petitioner applied for and received Housing Credits from the Rural Development Set-aside in the 2002 Application Cycle of the Florida Housing Finance Corporation (“FHFC”). The Housing Credits received were for the development and construction of new garden apartment complex with 5 buildings containing 20 units.
- The Housing Credit compliance monitoring fees for the 2002 Application Cycle were adopted as rules pursuant to 67-21.003(1)(a) and 67-48.007, Florida Administrative Code.
- The rules requiring compliance monitoring fees implement § 420.507, Florida Statutes, which provides for the collection and payment of fees and § 420.5099(7) which authorizes the expenditure of fees received in conjunction with the allocation of Housing Credits.
- Oakcrest Apartments Phase II is financed through the Section 515 Direct Loan Program of Rural Development, an Agency of the United States Department of Agriculture (USDA/RD) for financing of multi-family housing. USDA/RD and FHFC entered into an agreement, or memorandum of understanding to, in part, monitor compliance with the LIHTC program requirements of RD borrowers. (A copy is attached hereto as Exhibit A) This agreement or memorandum of understanding is applicable only to those RD financed properties which have housing credits allocated by the FHFC and is not applicable to RD financed properties with other FHFC financing programs. Oakcrest Apartments Phase II’s financing sources consisted of only the RD Section 515 loan and housing credit equity; making it subject to the monitoring agreement between the Florida USDA RD and the FHFC.
- Because of the compliance monitoring done by USDA/RD and its prior agreements to share this information, there has been a different compliance monitoring fee imposed by FHFC on USDA/RD projects through 2001. The reduced fee, however, was inadvertently omitted from the rules in 2002.
- In 2001, the monitoring fee for USDA/RD projects was \$300 per development over the compliance monitoring term, which is 50 years for Oakcrest Apartments Phase II, and the payment would be discounted at 2.75%.

- 8. Purpose Justification:** The requested waiver is fair and in accord with the prior rule and the attached agreement between FHFC and USDA/RD, which was still in force during the 2002 Application Cycle and which agreement relieves FHFC from some of its monitoring responsibilities. It also does not contradict the purpose of the underlying statute that provides for compliance and the collection of monitoring fees, both of which are still being accomplished by FHFC.

9. **Type of Waiver:** Permanent

Dated this 21st day of June, 2006.

Petitioner

By: *Pamela K. Borton*
Pamela K. Borton, General Partner
Oakcrest Apartments RRH II, L.L.L.P.

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PURPOSE

The purpose of this document is to establish the conditions under which RECD and the State Agency agree to operate.

A. The State Agency will provide to RECD an initial list of Section 515 projects which have received low-income housing credits. At least annually thereafter, the State Agency will provide RECD with an updated list of such projects.

B. RECD agrees to assist in providing the State Agency with data concerning tenant income and rent levels on affected Section 515 projects if the borrower fails to provide such information when requested.

C. Parties to this agreement understand that RECD does not certify tenant tax credit income eligibility, nor does RECD certify to the owner's compliance with requirements of Section 42 of the Code, only that tenant income is based upon a tenant certification/recertification which is updated annually, and that the certification/recertification requires a third-party verification. The State Agency understands that the owner certifies to RECD monthly as to continued occupancy and tenant eligibility. RECD also carries out periodic supervisory actions to verify compliance by the owner with RECD tenant requirements.

D. RECD agrees to provide a copy of the initial post occupancy visit and the triennial supervisory visit conducted on each project. The visit will be recorded on Exhibits F and G of RECD Instruction 1930-C and will have a copy of HUD Form 9822, "Report of Physical Condition Estimate of Repair Costs."

PERIOD OF AGREEMENT

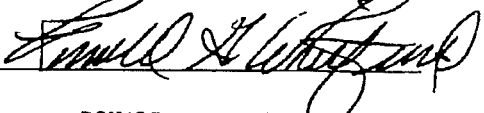
The initial term of the Agreement shall be for a period of one (1) year, commencing on September 1, 1995. This Agreement shall automatically be renewed for successive one-year periods unless terminated by either party upon written notice to the other given at least ninety (90) days prior to the expiration of then current term.

MODIFICATION OR CANCELLATION PROVISION

This Agreement may be modified or amended only by written agreement of RECD and the State Agency. Requests for amendments to the Agreement may be initiated by either of the two parties through written notification.

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ACCEPTANCE AND SIGNATURE OF EACH APPROVING PARTY:

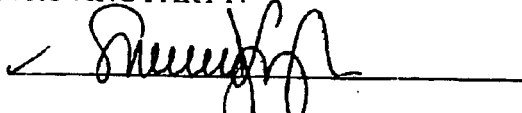


Name: RONALD G . WHITFIELD

ACTING

Title: State Director

Date: 9-29-95



Name: Susan J. Leigh

Title: Executive Director

Date: 9-20-95

PROCESSING
MEMORANDUM OF UNDERSTANDING
Between the
Rural Economic and Community Development, Florida
and
Florida Housing Finance Agency

I. INTRODUCTION

- A. The Rural Economic and Community Development (RECD), Florida, an Agency of the U.S. Department of Agriculture and Florida Housing Finance Agency, hereinafter referred to as "State Agency," wish to enter into the following Memorandum of Understanding (MOU) regarding the ALLOCATION of low-income housing tax credits.
- B. RECD administers a loan program authorized by Section 515 of the Housing Act of 1949, which provides financing for housing for very low- and low-income tenants in rural areas. As an incentive for developers to participate in the program, the Internal Revenue Service (IRS), in Section 42 of the Internal Revenue Code, provides tax credits, which are administered through State or local housing credit agencies.

II. SCOPE OF THE AGREEMENT

Under this agreement, the RECD State Director and the State Agency agree to engage in cooperative efforts to enable the State Agency to effectively evaluate tax credit requests of RECD applicants, as provided in Section 42 of the IRS Code.

III. PURPOSE

The purpose of this document is to establish the conditions under which the RECD State Director and State Agency agree to operate.

- A. RECD in Florida agrees to annually provide the State Agency, on Section 515 projects being considered and receiving 515 funding decisions, with data as follows:
1. When the construction is complete, the ACTUAL Form 1924-13 will be provided, including any cost analysis prepared by RECD.
 2. On an annual basis a copy of the data in the Rural Rental Housing Section 515 Program CONSTRUCTION COST ANALYSIS for the current year should be provided to the State Agency.

FmHA Instruction 1944-E
Exhibit A-10
Attachment A
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- B. The State Agency agrees to provide annually to RECD:
1. Within thirty (30) days after the application cycle closes (typically in the spring), a list of tax credits applications received, which indicates which of those projects are seeking financing from RECD.
 2. Within thirty (30) days after Agency's Board of Directors approves the post-appeal scores (typically in the summer), a copy of the final scoring and ranking sheet.
 3. For all projects seeking financing from RECD which are to receive a tax credit allocation:
 - A. Copies of Carryover Agreements, for those projects which do not receive a Final Allocation Certificate the same calendar year within which the Preliminary Allocation was issued, to be provided by March 15 following the calendar year within which the documents were executed.
 - C. Copies of Final Allocation Certificates, issued after the projects have been placed in service and the IRS Form 8609's have been submitted to IRS, to be provided by March 15 following the calendar year within which the documents were executed.
- C. Parties to this agreement understand that RECD does not certify accuracy of the tax credit applicant's eligibility, nor does RECD certify to the applicant's compliance with requirements of Section 42 of the Internal Revenue Code. The State Agency is to understand that the owner certifies the information to RECD as being true and correct representations, and that RECD carries out periodic reviews and analysis of the data to verify compliance with RECD requirements.

FmHA Instruction 1944-E
Exhibit A-10
Attachment A
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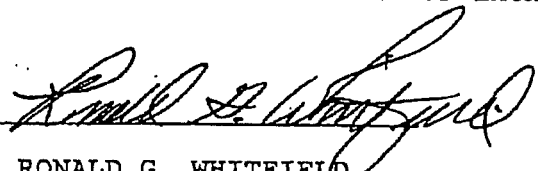
IV. PERIOD OF AGREEMENT

This agreement will remain in effect until terminated by written notification of either party.

V. MODIFICATION OR AMENDMENT PROVISION

This agreement may be modified or amended by written agreement of the RECD and the State Agency. Requests for amendments to the agreement may be initiated by either of the two parties through written notification.

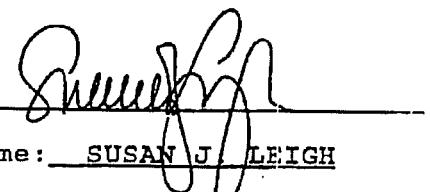
VI. ACCEPTANCE AND SIGNATURE OF EACH APPROVING PARTY



Name: RONALD G. WHITFIELD

Title: Acting State Director

Date: 1-24-96



Name: SUSAN J. LEIGH

Title: Executive Director

Date: 1/22/96

SERVICING
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
RURAL ECONOMIC AND COMMUNITY DEVELOPMENT IN FLORIDA
AND THE
FLORIDA HOUSING FINANCE AGENCY

INTRODUCTION

The Rural Economic and Community Development in Florida, an agency of the United State Department of Agriculture, hereinafter referred to as "RECD," and Florida Housing Finance Agency, hereinafter referred to as "State Agency," wish to enter into the following Memorandum of Understanding ("MOU") regarding the monitoring of low-income housing tax credit compliance. For the purposes of this MOU, the term "State Agency" may also collectively apply to any private contractors, "authorized delegates," or other State agencies to whom the State Agency named above has delegated compliance monitoring functions as set forth in Section 42 of the Internal Revenue Code of 1986, as amended (the "Code").

RECD administers a loan program authorized by Section 515 of the Housing Act of 1949, which provides financing for housing for very low- and low-income tenants in rural areas. Developers participating in this program are also eligible to receive low-income housing credits which are administered through state or local housing credit agencies, as provided under the Code.

BACKGROUND

The Internal Revenue Service ("IRS") published regulations on September 2, 1992 (the "Regulations"), to guide State Agencies in monitoring compliance with the low-income housing tax credit requirements by owners of low-income housing projects. These Regulations allow the State Agency to implement review requirements that grant exceptions to owners of projects financed under Section 515 of the Housing Act of 1949 to the requirements to review tenant certifications, supporting documentation, and rent records of such buildings. These requirements are set forth in Section 42 of the Code. However, for the State Agency to grant review exceptions on buildings financed by RECD, the State Agency must enter into an agreement with RECD whereby RECD will agree to provide the State Agency with information concerning the income and rent of the tenants in the building. The Regulations provide that the State Agency may assume accuracy of the information provided by RECD without verification.

SCOPE OF THE AGREEMENT

Under this Agreement, RECD and the State Agency agree to engage in cooperative efforts to enable the State Agency to effectively monitor compliance with tax credit requirements of RECD borrowers, as provided in Section 42 of the Code.