

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Avon Park Housing Authority

Case No. 2012-051VW

**ORDER GRANTING WAIVER OF RULE 67-48.010(21),
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on November 2, 2012, pursuant to an "Amended Petition for Waiver of Rule 67-48.010 (8)(a) and (21)" (the "Petition") filed by Avon Park Housing Authority ("Petitioner") on October 9, 2012. Notice of the Petition was published on September 7, 2012 in Volume 38, Number 36, of the Florida Administrative Weekly.

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 owns and operates two multi-family public housing developments, Lakeside Park and Delaney Heights, which are supported annually through the U.S. Department of Housing and Urban Development

(“HUD”) with public housing operating and capital funding based on the consolidated operation and maintenance of both developments, and, as such, Petitioner’s annual audited financial statements are consolidated, and do not segregate income and expenses for each development.

3. In 2008, Petitioner successfully applied for State Apartment Incentive Loan Program (SAIL) funding to provide a portion of the funds for the rehabilitation and permanent financing of Lakeside Park I Apartments (the “Development”), a sixteen (16) unit subset of Lakeside Park.

4. Florida Housing made a loan in the amount of Seven Hundred Sixty Thousand Dollars (\$760,000) (the “Loan”) to Petitioner under Florida Housing’s Request for Proposals (RFP) 2008-01 dated April 11, 2008 (the “RFP”) and Florida Housing’s SAIL program.

5. The Loan in question is unique in that (1) it is non-amortizing, (2) it has an interest rate of zero percent (0%) with no annual payments due, and (3) twenty-five percent (25%) of the principal balance is to be forgiven at maturity.

6. The circumstances surrounding the Loan are unique in that Petitioner intends to repay the Loan in full within fifteen (15) years through an automatic direct deposit from the capital funds it receives from HUD, Florida Housing will still receive audited financial statements for the

Lakeside Park and Delaney Heights projects as a whole, and calculating the annual payment under 67-48.010(8)(a) is not necessary due to yearly prepayment.

5. Rule 67-48.010 (8)(a) and (21), Fla. Admin. Code, provides:

“[8](a) By May 31 of each year of the SAIL loan term, the Applicant shall provide the Corporation with audited financial statements and a certification detailing the information needed to determine the annual payment to be made...”

And

“(21) The Applicant shall provide to the Corporation an annual budget of income and expenses for the Development, certified as accurate by an officer of the Development, no later than 30 days prior to the beginning of the Development’s fiscal year.”

6. Petitioner now seeks this waiver from those portions of the above Rule and to supplement those requirements with a Development budget based on a per-unit breakout formula (i.e., 16 units = 12.4% of the total 129 units for both developments) (the “Modified Budget”).

7. Petitioner has demonstrated that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner in that the costs associated with changing Petitioner's current reporting system to segregate the Development's income and expenses and the additional audit costs would be a considerable expense to Petitioner.

8. The Board finds that the granting of this Petition would serve the underlying purpose of Chapter 420, Part V, Florida Statutes, by facilitating the development of much needed affordable public housing for the homeless demographic in Highlands County.

IT IS THEREFORE ORDERED:

A waiver of Rule 67-48.010 (8)(a) and (21), F.A.C., is hereby **GRANTED**. Petitioner shall be permitted to substitute the Modified Budget in place of the requirements set forth in the above-mentioned Rule, on the condition that the annual prepayments are timely received.

DONE and ORDERED this 2 day of November, 2012.



Florida Housing Finance Corporation

By:

Chair

Copies furnished to:

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NOTICE OF RIGHTS

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.