

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: INDEPENDENCE VILLAGE, LLC

FHFC Case No.: 2013-017VW

---

**ORDER GRANTING PETITION FOR WAIVER  
OF RULE 67-48.010(8)(a) FLORIDA ADMINISTRATIVE CODE  
(2008)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on August 9, 2013, pursuant to a "Petition for Waiver or Variance from Rule 67-48.010(8)(a) F.A.C" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on July 9, 2013, from Independence Village, LLC ("the Petitioner"). On July 11, 2013, the Notice of the Petition was published in Volume 39, Number 134, 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

Wella M. Darrey /DATE: 8/9/2013

2. Pursuant to RFP 2008-01, "The Development and Substantial Rehabilitation of Special Needs Housing," Independence Village, LLC ("Petitioner") applied for and was awarded State Apartment Incentive Loan (SAIL) funding to finance the construction of Independence Village Project (the "Development") located in Bay County, Florida, to provide housing for youth aging out of foster care.

3. Rule 67-48.010(8)(a), Fla. Admin. Code (2008) provides, in pertinent part:

(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...The audited financial statements are to be prepared in accordance with generally accepted accounting principles for the 12 months ended December 31...If the Applicant has not submitted the required audited financial statements, the Corporation servicer shall deem the Development Cash Flow sufficient and issue a billing for interest due on the SAIL loan for the immediate preceding calendar year by July 31...Failure to submit the required audited financial statements and certifications by May 31 of each year of the SAIL loan term shall constitute an event of default on the SAIL loan...

4. Petitioner has requested a waiver of the above Rule which requires it to provide audited financial statements by May 31 of each year; that requires it use a calendar fiscal year ending December 31; that the servicer issue a billing for interest due on the SAIL loan; and that it not be

in default on the SAIL loan.<sup>1</sup> Petitioner requests that it be allowed to have the reporting flexibility permissible under current Rule 67-48.010(8)(a), Fla.Admin.Code (2011), which allows Petitioner to select its fiscal year end and requires that audited financial statements be provided 151 days after that fiscal year end date. Under the current Rule, Petitioner would not be default and the servicer would not issue a billing for interest due on the SAIL loan. Currently, Petitioner's fiscal year ends on June 30<sup>th</sup>.

5. The requested change would neither affect the scoring of Petitioner's proposal nor allow Petitioner to gain an unfair advantage over other applicants' proposals.

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 strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner operates with limited resources and receives most of its funding from Big Bend Community Base Care

---

<sup>1</sup> Petitioner requested a waiver of the \$500 late fee. This request is moot as Petitioner subsequently paid the fee.

("Big Bend CBC"). Big Bend CBC audits all of its properties at one time and conducting a separate audit on the Development would cause Petitioner to incur a substantial economic hardship. Granting the waiver will provide Petitioner more flexibility in reporting and allow it to continue to provide much needed housing.

**IT IS THEREFORE ORDERED:**

Petitioner's request for waiver of Rule 67-48.010(8)(a) Fla. Admin. Code (2008) is hereby **GRANTED**. Petitioner is to comply with Rule 67-48.010 (8)(a), Fla. Admin. Code (2011).

DONE and ORDERED this 9th day of August, 2013.



Florida Housing Finance Corporation

By: \_\_\_\_\_

Chairperson

Copies furnished to:

Wellington H. Meffert II, Esq.  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

Kevin Tatreau  
Deputy Development Officer  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

John Moyle, Esquire  
The Moyle Law Firm  
118 North Gadsden Street  
Tallahassee, Florida 32312

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.**