

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: Lennard Road Partners, LTD.

Case No. 2014-076VW

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**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-21.003(8)(j),  
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on December 12, 2014, pursuant to a "Petition for Waiver from Florida Administrative Code Rule 67-21.003(8)" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on October 13, 2014, from Lennard Road Partners, Ltd. ("Petitioner"). Notice of the Petition was published in Volume 40, Number 201, 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. In 2013, Lennard Road Partners, Ltd. ("Petitioner") applied for an allocation of 4% non-competitive tax credits to finance the construction of a development intended to serve low-income individuals and families known as

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HOUSING FINANCE CORPORATION

 /DATE: 12.15.14

Grove Park Apartments (the “Development”) located in St. Lucie County, Florida. Petitioner had previously applied for and was awarded State Apartment Incentive Loan (“SAIL”) funds in the amount of up to \$4,200,000 with a Total Set-Aside Percentage of 80%.

3. Rule 67-21.003(8), Florida Administrative Code (2011), provides in pertinent part:

(8) 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 is deemed complete. Those items are as follows:

(j) The Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application.

4. In its application, Petitioner committed to set aside 100% of the Development’s 210 units at 60% AMI or less.

5. Petitioner requests waivers of the above rule. Specifically, Petitioner seeks to decrease the Total Set-Aside Percentage from 100% to 80%, to correct a mistake it made in its application. Petitioner intends to rent 20% of the units at market rate.

6. The requested change would neither affect the scoring of Petitioner’s application nor allow Petitioner to gain an unfair advantage over other applicants.

The 4% non-competitive housing tax credits application process allows applicants to correct errors in its applications during the application process.

7. 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.

8. Petitioner has demonstrated that strict application of the above rule and instruction provisions under these circumstances would violate the principles of fairness for Petitioner as it had intended the Development to have 20% of the units at market rate, as indicated in its previous award of SAIL funding. Granting the requested waivers would serve the purpose of the underlying statute and the Act as a whole by facilitating the availability of affordable housing to low-income persons and households, while recognizing that the Development needs to be able to adapt to the market conditions.

**IT IS THEREFORE ORDERED:**

The Petition for a waiver of Rule 67-21.003(8)(j) Florida Administrative Code is hereby **GRANTED** , to decrease the Total Set-Aside Percentage from 100% to 80%.

DONE and ORDERED this 12th day of December, 2014.



Florida Housing Finance Corporation

By:

Chair

A handwritten signature in blue ink is written over a horizontal line. The signature is cursive and appears to be "K. Reecy".

**Copies furnished to:**

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Joint Administrative Procedures Committee  
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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.**