

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: MARIANNA GARDENS
PRESERVATION, LP

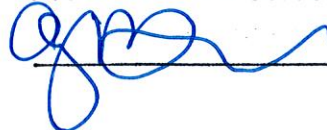
FHFC Case No.: 2014-090VW

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

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on January 30, 2015, pursuant to a "Petition for Waiver of Rule 67-21.003(8)(f), F.A.C. for a Change in Development Category" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on December 23, 2014, from Marianna Gardens Preservation, LP (the "Petitioner"). On December 31, 2014, Notice of the Petition was published in Volume 40, Number 251, 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



/DATE: 01.30.15

2. Petitioner was selected to receive \$350,000 in State Apartment Incentive Loan (SAIL) funding for an Acquisition/Rehabilitation in Application #2014-327S under RFA 2014-103 (the “RFA”), and was also provided funding under its non-competitive Housing Tax Credits/Multifamily Mortgage Revenue Bond (4% HC/MMRB) Application for Acquisition/Preservation (\$340,592 and \$7,300,000, respectively). The Development Category selected in the non-competitive Application was chosen in error. These funds were provided to assist in the construction of a 100-unit Garden apartment complex serving the Family demographic in Jackson County, Florida.

3. Petitioner now seeks to change the Development Category chosen in its non-competitive Application from “Acquisition/Preservation” to the Development Category chosen in its competitive SAIL Application, “Acquisition/Rehabilitation.”

4. Rule 67-21.003, Fla. Admin. Code (Rev. 7-16-13), 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:

(f) Development Category;

5. Petitioner requests this change to resolve the discrepancy between its non-competitive Application and its subsequent competitive SAIL Application, in order to complete the Development as an “Acquisition/Rehabilitation” Category.

6. As the requested change would occur in the terms of Petitioner’s non-competitive Application, it would neither affect the scoring of Petitioner’s application nor allow Petitioner to gain an unfair advantage over other applicants.

7. Section 120.542(2), Florida Statutes provides in pertinent part:

Variances 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. The Board finds that to deny Petitioner’s request for a waiver of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. The Board further finds that the granting of this request for waiver would serve the underlying purpose of Chapter 420, Part V, Florida Statutes.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of the Instructions set forth above and incorporated into Rule 67-21.003(8)(f), Florida Administrative Code (Rev. 7-16-13) is hereby **GRANTED**, to permit the requested change in Development Category.

DONE and ORDERED this 30TH day of January, 2015.



Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
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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.