

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: HARBOR CITY TOWERS, LLLP

FHFC Case No.: 2015-007VW

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**ORDER GRANTING WAIVER OF RULE 67-48.004(14)(j),  
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 20, 2015, pursuant to a “Petition for Waiver from Rule 67-48.004(14)(j), F.A.C.” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on March 3, 2015, from Harbor City Towers, LLLP (“the Petitioner”). Notice of the Petition was published in Volume 41, Number 44, 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. Petitioner successfully applied for an allocation of Low Income Housing Tax Credits (HC) under RFA 2014-104 to assist in the acquisition

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*Kate [Signature]*

/DATE: 3-24-15

and rehabilitation of Trinity Towers West, a 192 unit Elderly apartment building in Brevard County, Florida. In connection with this RFA Application, Petitioner committed to set aside 95% (183 units) for Low Income Tenants (at 60% of Area Median Income (AMI)).

3. Rule 67-48.004(14), Fla. Admin. Code (Rev. 10-9-13), provides, in pertinent part:

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 Deadline...

(j) With regard to the SAIL and HC Programs, 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. Petitioner requests a waiver of the above Rule to permit some current tenants who do not meet eligibility requirements to remain in their units until replaced by eligible residents.

5. Specifically, tenants currently occupying 18 units (9 market rate units plus 9 set-aside units) would be permitted to remain in spite of the 95% set-aside, until replaced through the normal leasing process by (9) income-qualified tenants. These tenants were income qualified at the time they leased the units, but now must re-certify due to the transfer of ownership of the Development to Petitioner.

6. This proposed arrangement would effectively (and temporarily) reduce the Development's set-aside from 95% to 90%. Petitioner has agreed that the rent charged to such tenants will not exceed the maximum rent permitted under the HC Program. Had Petitioner selected a 90% set-aside in its original Application, it would not have affected the scoring or funding selection for this Development.

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. 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, by unnecessarily subjecting these pre-existing elderly tenants to the hardship of relocation. The Board further finds that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

**IT IS THEREFORE ORDERED:**

Petitioner's request for a waiver of Rule 67-48.004(14)(j), Fla. Admin. Code (Rev. 10-9-13) is hereby **GRANTED** to permit a temporary reduction

in the Development's set-aside from 95% @ 60\$ AMI to 90% @ 60% AMI, provided that:

- a. Petitioner replaces the non-qualified tenants with qualified tenants as the units become available and does not charge tenants rents in excess of those permitted under the HC Program; and,
- b. When the 9 set-aside units in question are filled with low-income tenants, the set-aside shall revert to 95% @ 60% AMI.

The Board also directs Corporation staff to amend Petitioner's corresponding Carryover Allocation Agreement in accordance with this Order.

DONE and ORDERED this 20<sup>th</sup> day of March, 2015.



Florida Housing Finance Corporation

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

Chair

Copies furnished to:

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

Ken Reecy  
Director of Multifamily Programs  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

Gary J. Cohen, Esquire  
Shutts & Bowen LLP  
1500 Miami Center  
201 S. Biscayne Boulevard  
Miami, Florida 33131

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.**