

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Houston Street Manor Limited  
Partnership,

FHFC CASE NO.: 2016-057VW

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**ORDER GRANTING WAIVER OF RULE 67-48.0072(4)(c)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 9, 2016, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 18, 2016, from Houston Street Manor Limited Partnership, ("Petitioner"). Notice of the Petition was published on November 22, 2016, in Volume 42, Number 227, 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 was selected to receive competitive Housing Credits under Request for Application ("RFA") 2014-115 to assist in the construction of Houston

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

 /DATE: 12-9-16

Street Manor, a 72-unit elderly housing development in Duval County, Florida. Petitioner's Application Number was 2015-119C (the "Application").

3. Petitioner seeks a waiver from Rule 67-48.002(95), Fla. Admin. Code, and incorporated timing provisions of the 2015 QAP.

4. Rule 67-48.002(95), Fla. Admin. Code defines and incorporates by reference the following provision of the 2015 Qualified Allocation Plan ("QAP"):

K. Notwithstanding any other provision of this QAP, where a Development has not been placed in service by the date required or it is apparent that a Development will not be placed in service by the date required, and such failure is due to circumstances beyond the Applicant's control, **and the Applicant has returned its Housing Credit Allocation in the last calendar quarter of the year in which it was otherwise required to be placed in service**, the Corporation may reserve allocation in an amount not to exceed the amount of Housing Credits returned, and may allocate such Housing Credits to the Application for the year after the year in which the Development was otherwise required to be placed in service, provided the following conditions have been met: (i) the sponsor must have provided written notice to the Corporation, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any other pertinent information, prior to returning the allocation; and (ii) the Executive Director must find and determine that the delay was caused by circumstances beyond the Applicant's control, that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay, that the Development in all respects, except time placed in service, still meets the conditions upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs.

(emphasis added.)

5. Petitioner is requesting a waiver of the above Rule and bolded selection from the QAP to permit it to exchange its tax credits now rather than in the last quarter of calendar year 2017. Petitioner asserts that unforeseen events will cause the Development to not be placed in service by December 31, 2017. Specifically, Petitioner was required to replace the general contractor resulting from that contractor's involvement with Carlisle Development and its Principals and their conviction of federal offenses related to the tax credit program (and resulting disqualification from Corporation programs).

6. Petitioner suffered further delays as a result of Hurricane Matthew which affected the Development's permitting process. Petitioner requests, at the behest of the tax credit syndicator/investor, that it be permitted to swap the allocated tax credits now instead of the last quarter of 2017.

7. The Board finds that granting the waiver would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants.

8. 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.

9. Petitioner has demonstrated that strict application of the above Rules under these circumstances would constitute a substantial hardship and violate the principals of fairness, by increasing the risk that the syndicator will withdraw equity financing from the Development. Petitioner has also demonstrated that the purpose of the underlying statute, which is to “encourage development of low-income housing in the state” (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

10. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner, and 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 67-48.002(95), Florida Administrative Code and the 2015 QAP provision is hereby **GRANTED** to permit Petitioner to exchange its 2015 credits for a subsequent year’s allocation now rather than in the last calendar quarter of 2017. The granting of this waiver is conditioned, however, on Petitioner’s Developer entity resolving all outstanding compliance issues regarding its Gardenia Gardens Development (2011-129C/2012-020C), including, at a minimum, the installation of permanent dishwashers in all units.

DONE and ORDERED this 9th day of December, 2016.

Florida Housing Finance Corporation

By:   
Chair

**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.**