

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

FHFC CASE NO.: 2018-060VW

In Re: Marathon Key Housing Partners, LP

ORDER GRANTING WAIVER OF RULE 67-48.004(3)(g)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on July 27, 2018, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on July 11, 2018, from Marathon Key Housing Partners, LP (“Petitioner”). Notice of the Petition was published on July 12, 2018, in Volume 44, Number 135 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 an award of competitive housing credits and State Apartment Incentive Loan (“SAIL”) funding under Request for Application (“RFA”) 2018-107 to assist in financing the construction of a development known as Residences at Marathon Key, a 55-unit family housing

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Tom McElamony DATE: 7/27/18

development in Monroe County, Florida. Petitioner's Application Number was 2018-305CS (the "Application").

3. Petitioner seeks a waiver from Rule 67-48.004(3), Fla. Admin.

Code, which in relevant part provides:

For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

....

(g) Development Type; ...

4. Petitioner requests a waiver of the above Rule to allow it to change the Development Type listed in its Application from "Townhouses" to "Garden Apartments." The Total Development Cost per Base Unit Limitation is the same for both Garden Apartments and Townhouses. As such, changing the Development Type will have no impact on the Total Development Cost. Petitioner asserts that as construction prices have risen, the costs of constructing townhomes is higher than garden apartments. Additionally, Petitioner asserts that the site is more conducive to Garden Apartments and construction for Garden Apartments should move more quickly.

5. The Board finds that granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the 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. Petitioner has demonstrated that strict application of the above Rule under these circumstances would constitute a substantial hardship and violate the principals of fairness. 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.

9. The Board finds that strict application of the above Rule 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 the above Rule is **GRANTED**, so that the Development Type is changed from “Townhouses” to “Garden Apartments.”

DONE and ORDERED this 27th day of July, 2018.

Florida Housing Finance Corporation



By:


Chair

Copies furnished to:

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NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO ADMINISTRATIVE 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.