

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: CATHEDRAL TOWNHOUSE, FHFC CASE NO.: 2021-026VW
LTD

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

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 18, 2021, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on May 5, 2021, from Cathedral Townhouse, LTD (“Petitioner”). Notice of the Petition was published on May 7, 2021, in Volume 47, Number 89, of the Florida Administrative Register. On May 17, 2021, Florida Housing receive an Amended Petition. Florida Housing has received no comments concerning 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 award of competitive Housing Credits under Request for Applications 2017-114 (the “RFA”) to assist in the acquisition and preservation of 177 high-rise units for elderly persons in Duval County.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

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3. Rule 67-48.004(3), Fla. Admin. Code (2019), prohibits an Applicant from changing certain items identified in the Application. It provides, in relevant part:

(3) 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:

(j) For 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's Application identified a total set-aside of 96% including 20% at or below 33% AMI (36 units), 76% at or below 60% AMI (134 units) and 4% at market rate (7 units). Petitioner seeks a waiver that will allow it to reduce the Total Set-Aside Percentage from 96% to 92%. This would have the effect of allowing an additional 7 units (for a total of 14 units) out of 177 units to be rented to tenants with income exceeding 60% AMI. The total number of units set-aside for tenants with income at or below 33% would not change.

5. Petitioner is seeking this waiver because a total of 14 units, rather than the 7 units identified in its Application, do not comply with the tenant income requirements since their total household incomes exceed 60% of AMI. Petitioner states that this was discovered only after a recent income certification. Petitioner also states that it cannot make these residents leave and does not wish to force these

families from their homes. Guidelines from the Department of Housing and Urban Development (HUD) have the effect of preventing Petitioner from terminating the tenancies of these HUD-assisted tenants. Unless the waiver is granted, Petitioner will be out of compliance with its Total Set-Aside Percentage yet will be prohibited from coming into compliance.

6. 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 the waiver is needed in order to efficiently serve elderly persons. 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 Rule 67-48.004(3)(j), Fla. Admin. Code (2019), is hereby **GRANTED** to permit Petitioner to reduce the Total Set-Aside Percentage from 96% to 92%, so that Petitioner will be able to continue renting 14 units to tenants with incomes over 60% AMI.

DONE and ORDERED this 18th day of June, 2021.



Florida Housing Finance Corporation

By:

A handwritten signature in blue ink, appearing to be "R. B.", is written over a horizontal line.

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.