

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: REFLECTIONS

PRESERVATION, L.P.

FHFC Case No.: 2019-110VW

**ORDER GRANTING WAIVER OF RULE 67-21.003(1)(b),
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 23, 2020. Florida Housing Finance Corporation (“Florida Housing”) received the Petition for Waiver of Rule 67-21.003(1)(b), *Florida Administrative Code*, (“Petition”) on December 30, 2019, from Reflections Preservation, L.P. (“Petitioner”). The Notice of the Petition was published on January 3, 2020, in Volume 46, Number 02, 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 (“Board”) of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. On August 14, 2019, Petitioner applied for non-competitive housing tax credits in conjunction with Multifamily Mortgage Revenue Bonds (MMRB) to assist in the acquisition and rehabilitation of Colonial Park, which

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Thomas M. Murnighan / DATE: 1/23/2020

serves elderly persons in Broward County, Florida (the “Development”).
Petitioner was invited into credit underwriting on September 26, 2019.

3. Rule 67-21.003(1)(b), *Florida Administrative Code* (2019),
incorporates by reference the Non-Competitive Application Package (NCA).

The NCA includes the following requirement:

(2) For Applicants requesting MMRB, with or without
Non-Competitive Housing Credits:

The Applicant entity shall be the recipient of the Non-Competitive Housing Credits and the borrowing entity for the MMRB Loan and cannot be changed in any way (materially or non-materially) until after the MMRB Loan closing. After loan closing, (a) any material change will require review and approval of the Credit Underwriter, as well as Board approval prior to the change, and (b) any non-material change will require review and approval of the Corporation, as well as Board approval prior to the change. Changes to the Applicant entity (material or non-material) prior to the loan closing or without Board approval after the loan closing shall result in disqualification from receiving funding and shall be deemed a material misrepresentation.

4. In its Application, Petitioner listed SMR Holdings, L.L.C., as one of the Principals of the Applicant at the second disclosure level. Stephen M. Ross was incorrectly listed as the sole member of SMR Holdings, L.L.C. at the third disclosure level. SMR Holdings, L.L.C. is owned by SMR Revocable Trust u/a/d/ 12/12/2013, of which Stephen M. Ross is the sole beneficiary. Petitioner requests permission to correct the ownership structure with SMR Revocable Trust as the sole member of SMR Holdings, L.L.C. at

the third disclosure level, and to add Stephen M. Ross as the sole beneficiary of SMR Revocable Trust u/a/d/ 12/12/2013 (“SMR Revocable Trust”) at the fourth disclosure level. Disclosure of natural person beneficiaries of a trust at the fourth disclosure level has been allowed by Rule 67-21.0025(7)(d), *Florida Administrative Code*, since July 11, 2019. Had Petitioner submitted its Principal disclosure form to include SMR Revocable Trust at the time of Application, it would have been in compliance with the Rule.

5. 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.

6. Granting the requested waiver would not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing.

7. Petitioner has demonstrated that it would suffer a substantial hardship if the waiver is not granted.

8. 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.

IT IS THEREFORE ORDERED: Petitioner's request for a waiver of Rule 67-21.003(1)(b), *Florida Administrative Code*, is hereby **GRANTED** so that Petitioner may correct the ownership structure, with SMR Revocable Trust as the sole member of SMR Holdings LLC at the third disclosure level and to add Stephen M. Ross as the sole beneficiary of SMR Revocable Trust u/a/d/ 12/12/2013 at the fourth disclosure level, before the MMRB loan closing.

DONE and ORDERED this 23rd day of January, 2020.



Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.