

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Dixie Court II, Ltd.


Case No. 2007-016VW

**ORDER GRANTING PETITION FOR WAIVER OF RULES
67ER06-27(14)(j) and 67-21.003(14)(j), FLORIDA ADMINISTRATIVE CODE (2006)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on June 8, 2007, pursuant to a "Petition for Waivers or Variances of Rule 67ER06-27(14)(j) [F.A.C. (2006)] for the 2006 Rental Recovery Loan Program, and Rule 67-21.003(14)(j) [F.A.C. (2006)] for the 2006 Multifamily Mortgage Revenue Bond Program to Increase the Number of Units in the 2006 Applications" (the "Petition"), filed by Dixie Court II, Ltd. ("Petitioner") on May 1, 2007. Notice of the Petition was published in Volume 33, Number 9, of the Florida Administrative Weekly. 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. During the 2006 Application Cycle, Dixie Court II, Ltd. ("Petitioner") applied for RRLP, MMRB and non-competitive Housing Credits to finance the construction of Dixie Court Apartments (the "Development") in Ft. Lauderdale, Broward County, Florida.
3. Rule 67ER06-27(14)(j), Florida Administrative Code (2006), provides in pertinent part:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE. 6-22-07

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.

...Those items are as follows:

(j) Total Number of Units;

4. Rule 67-21.003(14)(j) Florida Administrative Code (2006), 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.

...Those items are as follows:

(j) Total Number of Units;

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. Petitioner requests a waiver of the above rules to increase the number of residential units from 28 to 32, with the four additional units committed to a set-aside at or below 60% of area median income ("AMI").
7. With the RRLP Loan, State Bond Allocation and non-competitive Housing Credits, Petitioner has sufficient funding for provide the additional four units. Moreover, the addition of the four units would not have adversely affected the 2006 RRLP Loan or the 2006 MMRB State Bond Allocation applications or scoring thereof by Florida

Housing which qualified Petitioner for these allocations. The additional units do not provide the Developer with an unfair advantage over other applicants.

8. The 2006 RRLP application requires that at least 15% of the total units be set aside for ELI Households; the additional four units would result in a permissible ELI set aside of greater than 21% for the Development. Lastly, the total set aside would remain at one hundred percent.
9. The Board finds that strict application of the above Rule under these circumstances, where the Petitioner is attempting to increase the number of units, while remaining above the minimum ELI and other set-aside requirements would violate the principles of fairness by depriving Petitioner of the opportunity to provide even more affordable housing at no additional cost. Permitting this change in Development would also serve the underlying purpose of the statute.

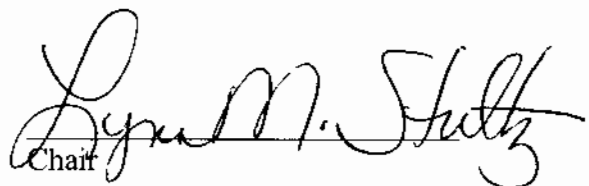
IT IS THEREFORE ORDERED:

The “Petition for Waivers or Variances of Rule 67ER06-27(14)(j) [F.A.C. (2006)] for the 2006 Rental Recovery Loan Program, and Rule 67-21.003(14)(j) [F.A.C. (2006)] for the 2006 Multifamily Mortgage Revenue Bond Program to Increase the Number of Units in the 2006 Applications” is hereby **GRANTED** to permit Petitioner to provide an additional four units to be set-aside at 60% of AMI.

DONE and ORDERED this nd 22 day of June, 2007.



Florida Housing Finance Corporation

By: 
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
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NOTICE OF RIGHTS

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.