

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: GULF BREEZE APARTMENTS PARTNERS, LTD.

FHFC Case No.: 2009-032VW  
Application No.: 2005-319 HR

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**ORDER GRANTING PETITION FOR WAIVER OF RULE 67ER05-10(14)(h) FOR A CHANGE IN TOTAL NUMBER OF UNITS**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on September 18, 2009, pursuant to a "Petition for Waiver of Rule 67ER05-10(14) (h) for a change in the total number of units" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 18, 2009, from Gulf Breeze Apartments Partners, Ltd. ("Petitioner"). Notice of the Petition was published on September 21, 2009 in Volume 35, Number 39, 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 2005 Rental Recovery Loan program, (“RRLP”) Petitioner applied for and was awarded funds to finance the construction of Gulf Breeze Apartments, a 171-unit development in Punta Gorda, Charlotte County, Florida.
3. Rule 67ER05-10(14) (h) F.A.C, contains the prohibition on changing the total number of units in the development. It provides in pertinent part:

(14) 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. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(h) Total number of units;

4. Petitioner has requested a waiver of the above rule to allow a change in the total number of residential units in the Development. Subsequent to credit underwriting approval, the Petitioner required the non-residential use of one of the three market rate units in the Development for a community police service site, changing the total number of units in the Development from 171 to 170. However, the number of affordable housing units to be occupied by households earning not more than 60% of area median income remains unaltered at 168.
5. Petitioner seeks to change the total number of market rate units in the development from 3 to 2, to allow one market rate unit to be used as a

community police service site, while maintaining the number of affordable housing units at 168.

6. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants.

7. Section 120.542(2), Florida Statutes provides in pertinent part:

Variances 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. The Board finds that strict application of the above Rule under these circumstances, where the Petitioner is attempting to alter one market rate unit, while maintaining the number of affordable units, to provide a community police service site for the Development, would cause substantial hardship to Petitioner and violate the principles of fairness. Permitting this change in Development would also serve the underlying purpose of the statute. The addition of a community police service site will ultimately benefit the future residents by providing an extra measure of safety with additional police presence on site.

**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.**

**IT IS THEREFORE ORDERED:**

The relief requested in the Petition is hereby **GRANTED**. The requirements of Rule 67ER05-10(14)(h) is hereby waived to permit Petitioner to transform one market rate unit into a community police service site, reducing the total number of residential units in the development from 171 to 170 while maintaining the number of affordable housing units at 168. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 23<sup>rd</sup> day of October, 2009.



Florida Housing Finance Corporation

By: Stuart Schauza  
Chair