

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Summit Housing Partners, LLC

FHFC Case No.: 2010-004VW

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**ORDER GRANTING PETITION FOR EMERGENCY  
WAIVER OF CERTAIN SET-ASIDE REQUIREMENTS  
CONTAINED IN APPLICATION INSTRUCTIONS  
ADOPTED BY RULE 67-21.003**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 17, 2010, pursuant to a "Petition for Emergency Waiver of Certain Set-Aside Requirements Contained in Application Instructions Adopted by Rule 67-21.003" ("Emergency Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Emergency Petition on February 15, 2010, from Summit Housing Partners, LLC ("the Petitioner"). On February 26, 2010, the Notice of the Emergency Petition was published in Volume 36, Number 8, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Emergency Petition.

On February 26, 2010, the Board considered the Petition, determined that the Emergency Petition did not allege facts sufficient to demonstrate an

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HOUSING FINANCE CORPORATION

Romain Hamill DATE: 3/17/10

emergency. Accordingly, the Board entered a Final Order denying the Petition, and directing staff to review the merits of the Petition on a non-emergency basis.

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 2009 Multifamily Mortgage Revenue Bond ("MMRB") Supplemental Bond Cycle, Petitioner applied for an award of \$7,600,000.00 in Tax-Exempt, Private Activity bonds to acquire and rehabilitate Oak Pointe Apartments (the "Development") in Leon County, Florida. Petitioner's Application was #2009A-215B.

3. On December 4, 2009, the Board approved the award of \$7,600,000.00 of Tax-Exempt, Private Activity bond allocation to Petitioner subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff. During the credit underwriting process, it was discovered that the Development is located within the Set-Aside Location A area of Leon County, Florida.

4. Petitioner requests a waiver of the Rule requiring that Developments within a Set-Aside Location A area commit to Set-Aside at least 85% of the Development's residential units at 50% of Area Median Income ("AMI") or less and a waiver of the Rule requiring it must meet the minimum Extremely Low Income ("ELI") unit Set-Aside threshold provided in the Application Instructions.<sup>1</sup> Petitioner states that it will not be able to offer the rental units as affordable housing if it is required to comply with these requirements.

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 has demonstrated that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Florida Housing has allocation available for this transaction. Further, there are no guarantee

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<sup>1</sup> Part III E.1.b.(1)(b) of the Application Instructions state: Applicants with a Set-Aside Location A Development must meet the following set-aside requirements: Applicants requesting MMRB must commit to set aside at least 85% of the Development's residential units at 50 percent AMI or less. Part III E.1.b.(1)(c) of the Application Instructions state: Applicants with a Set-Aside Location A Development must meet the following set-aside requirements: All Applicants must meet the minimum ELI Set-Aside Threshold set out at Part III.E.1.b(2)(a)(iii) of these instructions.

program developments in Leon County that would be impacted by this Development. This Development was originally constructed in 1993 and is in need of funding for rehabilitation, without which, the Development might be lost as affordable housing. Moreover, no other Florida Housing funds will be utilized for this Development and the bonds are anticipated to be credit enhanced by HUD. Petitioner has further demonstrated that permitting this change in Development would also serve the underlying purpose of the statute of providing safe and sanitary affordable housing.

**IT IS THEREFORE ORDERED:**

The "Petition for Emergency Waiver of Certain Set-Aside Requirements Contained in Application Instructions Adopted by Rule 67-21.003," as a Petition for Emergency Waiver is hereby **GRANTED**. The minimum ELI Set-Aside Threshold requirement as set out at Part III.E.1.b(2)(a)(iii) of the Application Instructions is hereby waived. The Set-Aside for the Development shall be 100% of the units at 60% AMI.

DONE and ORDERED this 17<sup>TH</sup> day of March, 2010.



Florida Housing Finance Corporation

By:   
Chairperson

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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.**