

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Martin Lakeside Apartments, Ltd.

FHFC Case No.: 2013-031VW

**ORDER GRANTING WAIVER OF RULE 67-48.004(14)(i), FLORIDA
ADMINISTRATIVE CODE (2011)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on November 1, 2013, pursuant to a "Petition for Waiver from Florida Administrative Code Rule 67-48.004" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on October 2, 2013, from Martin Lakeside Apartments, Ltd. ("the Petitioner"). On October 3, 2013, the Notice of the Petition was published in Volume 39, Number 193, 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 (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 11/01/13

2. During the 2011 Universal Cycle, Petitioner applied for and was awarded an allocation of tax credits to finance the rehabilitation and construction of a 36 unit, garden-style family development known as Lakeside Apartments (the "Development") located in Martin County, Florida.

3. As proposed, the Development's 36 units consisted of 25 rehabilitation units and 11 new construction units.

4. Rule 67-48.004(14) Fla. Admin. Code (2011) provides in relevant 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:

(i) Total number of units; ...

5. Petitioner requests a waiver of the above rule to allow it to reduce the total number of units in the Development from 36 to 32, while increasing the number of units preserved and rehabilitated from 25 to 32, resulting in a "100% Preservation Development" with no new construction.

6. The cost of construction increased substantially since the date of the Housing Credit allocation in 2011.

7. Reducing the total number of units will result in a reduction of the Housing Credit allocation proportionate to the reduction in the number of total units, i.e., from \$436,043 to \$387,594 ($32/36 \times \$436,043$).

8. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants, and the Housing Credit allocation for the Development will be reduced in proportion to the reduction in the number of units.

9. 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.

10. The Board finds that strict application of the above rule under these circumstances would constitute a substantial economic hardship for Petitioner due to the substantial increase in construction costs since 2011 through no fault of the Petitioner. Granting the requested waiver will serve the purpose of the underlying statute and the Act as a whole by facilitating the availability of affordable housing to low-income persons and households

that might not be otherwise available through preservation and rehabilitation, while recognizing the economic realities of developing, preserving and constructing affordable rental housing.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Rule 67-48.004(14)(i), Florida Administrative Code (2011), to permit Petitioner to reduce the total number of units in the Development from 36 to 32, is hereby **GRANTED**, subject to (1) a reduction in Petitioner's Housing Credit allocation for the Development from \$436,043 to \$387,594 and (2) the number of rental assistance units remaining the same as in the Petitioner's application.

DONE and ORDERED this 1st day of November, 2013.



Florida Housing Finance Corporation

By: _____

Chair

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.