

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: CASTLE WOODS
APARTMENTS

FHFC Case No.: 2015-027VW

_____/

**ORDER GRANTING WAIVER OF RULE 67-21.003(8)(j),
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on August 7, 2015, pursuant to a “Petition for Waiver of, or Variance from, Rule 67-21.003(8) to Decrease the Total Set-Aside Percentage” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on June 3, 2015, from Dalcour Castle Woods, LTD (“the Petitioner”). Notice of the Petition was published in Volume 41, Number 109, of the Florida Administrative Register on June 5, 2015. 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: 8-7-15

2. Petitioner successfully applied for a Multifamily Mortgage Revenue Bond (MMRB) and a 4% Non-Competitive Housing Credit to assist in the acquisition and rehabilitation of Castle Woods Apartments, a 304 unit affordable housing community in Seminole County, Florida, Application # 2014-101B/2013-516C. In connection with this Application, Petitioner committed to set aside the following for Low Income Tenants (at 60% of Area Median Income (AMI)): 85% (259 units) for MMRB and 100% (304 units) for Housing Credits.

3. Rule 67-21.003(8), Fla. Admin. Code, provides, in pertinent part:

(8) 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 is deemed complete. Those items are as follows: ...

(j) The Total Set-Aside Percentage as stated in the last row of the total-set aside breakdown chart for the program(s) applied for in the Set-Aside Commitment Section of the Application...

4. Petitioner requests a waiver of the above Rule to permit it to decrease the total set-aside percentage for the MMRB from 85% to 76%. This would allow 27 current tenants to remain in their units despite having incomes greater than 60% of AMI. These tenants originally qualified to reside in the development and are allowed to continue to reside in the development pursuant to a "safe harbor" provision in the Housing Credits program.

5. Had Petitioner selected a 76% total set-aside for the MMRB in its original Application, it would not have affected its eligibility for the bonds or housing credits. Because these programs are non-competitive, granting this variance would not allow Petitioner to gain any unfair advantage over other applicants for such bonds or housing credits.

6. 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.

7. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness, by unnecessarily subjecting these current tenants to the hardship of relocation. The Board further finds that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rule 67-21.003(8)(j), Fla. Admin. Code is hereby **GRANTED** to permit it to amend its application to decrease the total set-aside percentage for the MMRB from 85% to 76%. This will

have the effect of allowing 27 families to remain in their units while still providing 232 units for qualified low-income residents.

DONE and ORDERED this 7th day of August, 2015.



Florida Housing Finance Corporation

By: _____

Chair

Copies furnished to:

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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.