

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: Joe Moretti Phase Two, LLC

Case No.: 2016-039VW


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**ORDER GRANTING WAIVER OF RULE 67-48.004(3)  
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on October 28, 2016, pursuant to a “Petition for Waiver of Rule 67-48.004(3)(i) for a Change in Number of Units” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on October 12, 2016 from Joe Moretti Phase Two, LLC (“the Petitioner”). Notice of the Petition was published on October 14, 2016 in Volume 42, Number 201, 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 10-28-16

2. Petitioner selected to receive Low Income Housing Tax Credits under RFA 2014-104 (the “RFA”) to assist in the preservation of a development serving elderly tenants in Miami, Florida.

3. Fla. Admin. Code R. 67-48.004(3)(2014), provides:

For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provisions of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

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- (i) Total number of units; notwithstanding the foregoing, the total number of units may be increased after the Applicant has been invited to enter credit underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation...”

4. Petitioner requests a waiver from this Rule to decrease the total number of units to which it committed in its Application from 96 to 95, in order to re-designate one residential unit as community space for the provision of essential services to Development residents, in lieu of providing such services in other on-site structures.

5. In accordance with the provisions of the RFA, Petitioner provides “Required Resident Programs” to be conducted on the Development site [Exhibit C, Section 5(b) of RFA], which include Computer Training and

Literacy Training. It is these two programs which Petitioner wishes to provide on-site in the converted residential unit.

5. Petitioner reports that this effort has been complicated by the limitations on physically altering the layout of the Development due to its historic character and integrity, and as required by the State of Florida Division of Historical Resources (“FDHR”), which has required that the Petitioner cancel its original plans to add separate facilities for community space to minimize any effect on the historical character of the site. Petitioner asks for the conversion of a single unit to make it possible to provide resident programs on site, to permit it to meet the resident program requirements of the RFA and the aesthetic standards of FDHR alike.

5. §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. The Board finds that the requested change would neither affect the scoring of Petitioner’s application nor allow Petitioner to gain an unfair advantage over other applicants. The Board further finds that not granting this waiver could result in substantial hardship for Petitioner, in that it would be unable to renovate the Development without potential violation of historic

preservation standards, and that granting the requested waiver serves the underlying purpose of Chapter 420, Part V, Fla. Stat.

**IT IS THEREFORE ORDERED:**

Petitioner's request for a waiver of Fla. Admin. Code R. 67-48.004(3)(2014) is hereby **GRANTED** to permit Petitioner to reduce the number of units in the Development from 96 to 95. The tax credit allocation awarded to Petitioner shall also be reduced pro rata upon update of the Credit Underwriting Report based on the new number of units and other underwriter recommendations, if any.

DONE and ORDERED this 28<sup>th</sup> day of October, 2016.

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.**