

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Glorieta Partners, Ltd.

FHFC CASE NO.: 2018-064VW

**ORDER GRANTING WAIVER OF RULE 67-21.003(1)(b)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on September 14, 2018, pursuant to a "Petition for Waiver" ("Initial Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on August 17, 2018, from Glorieta Partners, Ltd. ("Petitioner"). On August 21, 2018, Florida Housing issued a Request for Additional Information. In response, Petitioner filed an Amended Petition for Waiver (collectively with the Initial Petition referred to as the "Petition"). Notice of the Petition was published on August 21, 2018, in Volume 44, Number 163, 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.
2. Petitioner applied for four percent Housing Tax Credits to be used in conjunction with tax-exempt multi-family bonds to assist in the acquisition and

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*Atm: rlamorey* ATL: 9/17/18

rehabilitation of a development serving low-income families in the City of Opa Locka in Miami-Dade County.

3. Rule 67-21.003(1)(b), Fla. Admin. Code, incorporates by reference the Non-Competitive Application Package (NCA). The NCA provides, in pertinent part:

7. Applicant Certification

By completing, executing and submitting this Application form and all applicable exhibits, the Applicant certifies and acknowledges that:

\* \* \*

j. The proposed equity amount to be paid prior to or simultaneous with the closing of construction financing is at least 15 percent of the total proposed equity to be provided (15 percent criteria)...

4. In 2015, Petitioner acquired and began rehabilitating a 330-unit development in Miami-Dade County known as Gardens-Glorieta. The financing included tax exempt bond financing from Capital Trust Agency. Construction of the Development was completed at the end of 2017, and all work contracted for under the construction contract has been completed. On October 19, 2017, Petitioner submitted an Application for Non-Competitive Housing Credits. At the time of the closing of construction financing, less than 15% of the total proposed equity was paid by the equity provider. Following the closing in 2015, the equity provider paid additional equity into the Development, and as August 17, 2018 the equity provider has paid 55% of the total proposed equity.

5. Petitioner argues that the 15 percent criteria only applied at the time that it submitted its NCA and that it would be unfair and unworkable to require it to comply with the 15 percent criteria at this time. Petitioner also argues that because 55% of the total proposed equity has already been paid, the intent of the 15 percent criteria has been met.

6. The Board finds that granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

7. 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.

8. Petitioner has demonstrated that it would violate principles of fairness if the waiver is not granted. Petitioner has also demonstrated that the purpose of the underlying statute, which is to “encourage development of low-income housing in the state” (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

9. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner, and 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(1)(b), Fla. Admin. Code, is hereby **GRANTED** to waive the requirement that 15% of the total proposed equity be paid at the time of construction closing.

DONE and ORDERED this 14th day of September 2018.



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.**