

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: PHOENIX APARTMENTS  
VENTURE, LP

FHFC Case No.: 2018-044VW

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**ORDER GRANTING WAIVER OF  
RULE 67-21.0003(8)(j), FLA. ADMIN. CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 15, 2018, pursuant to a “Petition for Waiver or Variance of Rule 67-21.003(8)(j), F.A.C.” (the “Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on May 21, 2018, from Phoenix Apartments Venture, LP. (“Petitioner”). Notice of the Petition was published on May 23, 2018, in Volume 44, Number 101, 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 successfully applied under the 1993 Universal Cycle for an award of HOME and 9% Housing Credit funding to be used in conjunction with Florida Housing-Issued MMRB and Non-Competitive Housing Credits to assist in

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*Ames Ralamo* / DATE: 4/15/18

the acquisition and rehabilitation of a development serving families in Miami-Dade County.

3. Petitioner committed to set aside 100% of units for residents at or below the income levels specified above. All units are currently occupied by tenants who initially qualified, however, seven households are now over income. Petitioner is requesting waiver of the above Rule to amend the total set aside from 100% to 95%, allowing over income tenants to continue residence.

4. Rule 67-21.003(8)(j), Fla. Admin. Code, provides:

(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; notwithstanding the foregoing, the Total Set-Aside Percentage 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. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development;

5. Section 120.542(2), Fla, Stat., 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 strict application of the above Rule regarding the Firm Commitment Deadline under these circumstances would cause substantial hardship to Petitioner. The Board further finds that granting this request furthers the Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizen of Florida, and that it would have no impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental effect on Florida Housing.

**IT IS THEREFORE ORDERED:**

Petitioner's request for waiver of R. 67-48.0072(21)(b), Fla. Admin. Code is hereby **GRANTED** permitting a reduction in the Development's total MMRB set-aside percentage from 100% to 95%.

DONE and ORDERED this 15th day of June, 2018.



Florida Housing Finance Corporation

By:

  
Chair

Copies to:

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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
120 Holland Building  
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#### **NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW**

**A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO ADMINISTRATIVE 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.**