

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Trinity Towers East
Preservation Associates, LLLP

FHFC CASE NO.: 2018-078VW

ORDER GRANTING WAIVER OF RULE 67-21.003(8)(i)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 14, 2018, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on October 9, 2018, from Trinity Towers East Preservation Associates, LLLP (“Petitioner”). Notice of the Petition was published on October 16, 2018, in Volume 44, Number 202, 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 for an award of SAIL, 4% Non-Competitive Housing Tax Credits (4% HC), and Tax Exempt Bond financing under RFA 2015-112 to assist in the acquisition and rehabilitation of a Development serving low-income elderly tenants in Melbourne, Florida.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Tom Alamy / DATE: 12/17/18

3. Rule 67-21.003(8)(j), Fla. Admin. Code, provides that certain items must be included in the application and cannot be revised, corrected or supplemented after the application is submitted. Those items include the following:

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 was previously granted a waiver of the above Rule (as well as Rule 67-48.004(3)(j)) to permit it to amend its application to decrease the total set-aside percentage for the SAIL loan and Tax-Exempt Bonds from 90% to 85%. Petitioner now requests a waiver of the above Rule to permit it to amend its application to decrease the total set-aside percentage for the 4% HC from 90% to 85% in order to be consistent with the set-asides required for the SAIL and Bonds. This would allow some 23 current tenants to continue to remain in their units even though they have incomes greater than 60% of AMI. If the waiver is not granted, 8 of the current tenants could be required to be relocated. Had Petitioner selected an 85% total set-aside in its original Application, it would have still been eligible to receive the 4% HC.

5. 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.

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. Petitioner has demonstrated that the waiver is needed in order to efficiently serve for homeless individuals or families and persons with a disabling condition and that, if the waiver were not granted, Petitioner would suffer a substantial hardship. 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 waivers are granted.

8. 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(8)(j), Fla. Admin. Code, is hereby **GRANTED** to to permit a reduction in the Development's set-aside percentage for the 4% Non-Competitive Housing Credits from 90% @ 60% AMI to 85% @ 60% AMI.

DONE and ORDERED this 14th day of December, 2018.



Florida Housing Finance Corporation

By:


Chair

Copies furnished to:

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Joint Administrative Procedures Committee
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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.