STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Park Towers Assisted Housing Preservation, L.P.

FHFC Case No.: 2021-081VW

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ORDER GRANTING WAIVER FROM RULE 67-21.003(1)(b), FLORIDA ADMINISTRATIVE CODE

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on December 10, 2021. On November 4, 2021, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver Rule 67-21.003(1)(b) (eff. 6-23-20) and the Non-Competitive Application Instructions to allow Petitioner to change its Applicant Principals prior to the issuance of the Preliminary Determination and Request for Board Approval Pursuant to Rule 67-21.003(8)(b) (eff. 6-23-20) (the "Petition") from Park Towers Assisted Housing Preservation L.P. (the "Petitioner"). Notice of the Petition was published on November 5, 2021, in Volume 47, Number 216, 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 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: 12/13/2021

2. Petitioner successfully applied for non-competitive housing credits to assist in the acquisition and rehabilitation of a 144-unit elderly, affordable housing development named the Park Towers Apartments to be located in Miami-Dade County, Florida (the "Development").

3. Rule 67-21.003(1)(b), Fla. Admin. Code (2020), in relevant part, adopts and incorporates the Non-Competitive Application Package (NCA), which applicants for non-competitive housing credits are required to use.

4. Section A.6.b(1) of the NCA Package states:

> The Applicant entity shall be the recipient of the Housing Credits and the ownership structure of the Applicant entity as set forth in the Principal Disclosure Form and cannot be changed in any way (materially or non-materially) until after the Preliminary Determination is issued. Once the Preliminary Determination has been issued, (a) any material change in the ownership structure of the named Applicant will require Board approval prior to the change, and (b) any non-material change in the ownership structure of the named Applicant will require Corporation approval prior to the change. The ownership structure of the Applicant entity may be changed without Corporation or Board approval after a Final Housing Credit Allocation Agreement has been approved and the IRS Forms 8609 have been issued; however, the Corporation must still be notified in writing of the change. Changes to the ownership structure of the Applicant entity prior to the issuance of the Preliminary Determination or without Board approval or Corporation approval, as applicable, prior to the approval of the Final Housing Credit Allocation and issuance of the IRS Forms 8609 shall result in a disqualification from receiving funding and shall be deemed a material misrepresentation. Changes prior to the issuance of the Preliminary Determination to the officers or directors of a Public Housing Authority, officers or directors of a Non-Profit entity, or the limited partner of an investor limited partnership or an

investor member of a limited liability company owning the syndicating interest therein will not result in disqualification, however, the Corporation must be notified of the change. Changes to the officers or directors of a Non-Profit entity shall require Corporation approval.

5. Rule 67-21.003(8)(b), Fla. Admin. Code (2020), in relevant part, states:

> (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:
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> ...
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> (b) Principals of each Developer, including all co-Developers; notwithstanding the foregoing, the Principals of the Developer(s) may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter Credit Underwriting. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of validity and consistency of Application documentation;

6. Petitioner requests a waiver or variance of the above quoted Rules and NCA application instructions to allow Petitioner to change the Principals identified in its application prior to issuance of the Preliminary Determination and also to change the Principals of the Developer. Petitioner, a Florida limited partnership, disclosed the following at the first Principal disclosure level in its NCA:

1. Florida Community Development Corporation (General Partner; 0.005%)

2. Synovus Park Towers 2021, LLC (Investor LP; 99.98%)
3. Synovus Special Limited Partner, LLC (Investor LP; 0.01%)
4. Park Towers Assisted Housing, LLC ("PTAH") (Non-Investor LP; 0.005%).

7. At the second disclosure level, Petitioner disclosed the following as Principals of PTAH:

1. Perez Housing Associates, LLC (Member; 50%)
2. LEDG Park Towers Member, LLC (Member; 50%)
3. Patrick Plunkett (Manager; 0%)
4. Eliot Reid (Manager; 0%).

8. PTAH released its manager, Patrick Plunkett, and he is no longer authorized to bind PTAH. At the second disclosure level, Petitioner is seeking to substitute Anthony Del Pozzo for Patrick Plunkett as the manager of PTAH.

9. At the third disclosure level, only the Principals of Perez Housing Associates, LLC are at issue. Petitioner states that because Mr. Plunkett is no longer the manager of PTAH, Petitioner would like to redistribute Mr. Plunkett's 10% interest in Perez Housing Associates, LLC among the three new members that will be overseeing the Development's rehabilitation and asset management. Specifically, the redistribution is as follows: 3.5% to Anthony Del Pozzo; 2.1% to Long Ha; 1.4% to David Loewy, and the remaining 3% will remain with Mr. Plunkett in consideration for prior services rendered. Petitioner asserts that Long Ha, David Loewy, and Anthony Del Pozzo have been previously disclosed to Florida Housing in

prior applications for funding. In addition, First Housing Development Corporation of Florida, the Underwriter assigned to this Development, reported that these changes would not negatively impact the positive recommendation in the Housing Credit Program Credit Underwriting Report provided to Florida Housing on October 20, 2021.

10. Since PTAH was also disclosed as a Principal for the Developer, the same proposed organizational structure changes apply to the Developer's organizational structure. Specifically: (a) Anthony Del Pozzo would replace Mr. Plunkett as the manager of PTAH; and (b) Mr. Plunkett's 10% interest in Perez Housing Associates, LLC would be redistributed as follows 3.5% to Anthony Del Pozzo; 2.1% to Long Ha; 1.4% to David Loewy, and the remaining 3% will remain with Mr. Plunkett.

11. Section 120.542(2), Florida Statutes, provides in pertinent part:

> Variances 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.

12. The Board finds that granting the requested waiver will not impact other participants in funding programs administered by Florida Housing, nor will it detrimentally impact Florida Housing.

13. The Board also finds that Petitioner has demonstrated that the waiver is needed because of circumstances beyond its control, and that it would suffer a substantial hardship if the waiver is not granted.

14. The Board further finds that Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state" would still be achieved if the waiver is granted. §420.5099, Fla. Stat.

IT IS THEREFORE ORDERED:

1. Petitioner's request for a waiver of Rule 67-21.003(1)(b), Fla. Admin. Code, (2020) and the Non-Competitive Application Instructions is hereby **GRANTED** to allow Petitioner to change its Principals as set forth in the Petition prior to the issuance of the Preliminary Determination; and

2. Petitioner's request for approval per Rule 67-21.003(8)(b), Fla. Admin. Code (2020) is hereby **GRANTED** to allow Petitioner to change the Principals of the Developer.

DONE and ORDERED this 10th day of December 2021.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.