

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: ISLAND HORIZONS HOUSING, L.P.

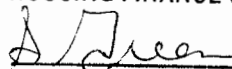
FHFC Case No. : 2006-017VW

**ORDER GRANTING WAIVER OF RULE 67-48.004(14) AND RULE 67-48.004(1)(a)
AND PART II.A.2.a(1) AND PART II.B.1. OF THE UNIVERSAL APPLICATION
INSTRUCTIONS FOR A CHANGE IN THE IDENTITY OF THE PETITIONER'S CO-
DEVELOPER AND THE PETITIONER'S OWNERSHIP STRUCTURE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation on June 9, 2006, pursuant to a "Petition for Waiver of Rule 67-48.004(14) and Rule 67-48.004(1)(a) and part II.A.2.a(1) and part II.B.1. of the Universal Application Instructions for a Change in the Identity of the Petitioner's co-Developer and the Petitioner's Ownership Structure," (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on May 1, 2006, from Island Horizons Housing, L.P. ("Petitioner"). On May 12, 2006, the Notice of the Petition was published in Volume 32, Number 19, of the Florida Administrative Weekly. Florida Housing did not receive any 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. During the 2005 Universal Application Cycle Petitioner was awarded an allocation of Housing Credits in the amount of \$500,000 for the construction of Island Horizons Housing, a 72-unit apartment development intended to serve the Elderly demographic to be located in Brevard County, Florida (the "Development").

BY THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION



/DATE: 6-12-06

3. The Petitioner's application identified the Developer as National Church Residences, for which the Developer's Prior Experience Chart was attached, and the Brevard Family of Housing Authorities as co-Developer. Subsequent to Petitioner's submittal of its application, the Brevard Family of Housing Authorities determined that it would be more efficient and in the best interest of the Development to assign its development rights to Island Horizons, Inc., as co-Developer, whereby Island Horizons, Inc., together with National Church Residences, would provide the development services necessary for the Development. Island Horizons, Inc., is a Florida non-profit, affiliated entity of the Brevard Family of Housing Authorities.

4. As part of the negotiations to add Island Horizons, Inc., as the new co-Developer, the Petitioner's general partner, Island Horizons Housing, Inc., has agreed to transfer 49% of its general partner interest (a total of 0.0049% of the total interests) in the Petitioner to Island Horizons, Inc.

5. Rule 67-48.004(14), Florida Administrative Code, states in pertinent part:

“(14) 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 Deadline. Failure to submit these items in the Application at the time of Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

.....

(b) Identity of each Developer, including all co-Developers...”

6. Rule 67-48.004(1)(a), Florida Administrative Code, adopts and incorporates by reference the Universal Application Instructions (the “Application Instructions”). The Application Instructions include the instructions discussed below (the “Applicable Instructions”).

Part II.B.1. of the Application Instructions provides that:

“1. Developer or principal of Developer (Threshold)

The identity of the Developer(s) listed in this Application may not change until construction or Rehabilitation/Substantial Rehabilitation of the Development is complete.”

Part II.A.2.a(1) of the Application Instructions provides as follows:

“If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.”

7. Petitioner requests a waiver of the foregoing rules and instructions to (1) change the identity of the co-Developer from Brevard Family of Housing Authorities to Island Horizons, Inc., and (2) change the ownership structure of the Petitioner by adding Island Horizons, Inc., as a co-General Partner who will hold a 0.0049% general partner interest.

8. 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.

9. The granting of this request for waiver will serve the purpose of the underlying statute in that the requested changes to the Developer entity and the Petitioner’s ownership structure will enhance the likelihood that the Development will be timely and successfully completed and, in turn, will further Florida Housing’s statutory mandate to provide safe, sanitary

and affordable housing to the citizens of Florida. Furthermore, the granting of this request for waiver will serve the purpose of the underlying statute by ensuring the maximum use of available credits in order to encourage development of low-income housing in the state. Strict application of Rule 67-48.004(14) and the Applicable Instructions incorporated by Rule 67-48.004(1)(a), will create a substantial hardship for Petitioner in that it will result in unnecessary delay and expense and make it impossible to complete the Development on time and within budget.

IT IS THEREFORE ORDERED:

A Waiver of Rule 67-48.004(14), F.A.C., and the Applicable Instructions incorporated by Rule 67-48.004(1)(a), F.A.C., is hereby **GRANTED** to (1) change the identity of the co-Developer from Brevard Family of Housing Authorities to Island Horizons, Inc., such that the Petitioner's co-Developers will be National Church Residences and Island Horizons, Inc., and (2) change the ownership structure of the Petitioner by adding Island Horizons, Inc., as a co-General Partner, such that Island Horizons Housing, Inc., and Island Horizons, Inc., will be co-General Partners of Petitioner.

DONE and ORDERED this 9th day of June, 2006.

Florida Housing Finance Corporation

By:

Terry Stanton
Chairperson



Copies furnished to:

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Joint Administrative Procedures Committee
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NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN L. KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.