

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Towers of Jacksonville, LP

FHFC Case No.: 2014-077VW

_____/

**ORDER GRANTING WAIVER OF PART A, SECTION 2(a)(2) OF
THE NON-COMPETITIVE APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (“Florida Housing”) on December 12, 2014, pursuant to a “Petition for Waiver of 2014 Non-Competitive Application Instructions, Housing Credit Program, Part A, Section 2(a)(2).” Florida Housing received the Petition on October 14, 2014, from Towers of Jacksonville, LP. (“Petitioner”). Notice of the Petition was published in Volume 40, 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. In 2014, Towers of Jacksonville, LP (“Petitioner”) applied for and was awarded an allocation of non-competitive tax credits (“4% HC”) and

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 12.15.14

Multifamily Mortgage Revenue Bonds (“MMRB”) funds to finance the acquisition and rehabilitation of the Towers at Jacksonville (the “Development”) located in Duval County, Florida.

3. Rule 67-21.003(1)(a) Fla. Admin. Code, provides, in pertinent part:

(a) The Non-Competitive Application Package or NCA (Rev.3-13) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation’s Website under the Multifamily Programs link labeled Apply for Funding or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-> which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for MMRB only, Non-Competitive HC only, or both MMRB and Non-Competitive HC.

4. Part II, Section 2(a)(2) of the Non-Competitive Application Instructions provides in pertinent part:

2. Applicant:

a. State the name of the Applicant.

If applying for MMRB, with or without Non-Competitive HC, the Applicant entity shall be the borrowing entity and cannot be changed until after loan closing. Replacement of the Applicant or a material change (33.3 percent 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 loan closing shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes after loan closing require Board approval.

5. Petitioner requested a waiver of the above Rules to allow it to replace the Applicant entity provided at the Application Deadline, prior to the Loan Closing. As justification, Petitioner states that at the time of its application, Towers of Jacksonville, LLC, was the General Partner of the Applicant entity, but that the supporting documents demonstrated that Deland RHF Housing, Inc., as the General Partner. At the time Petitioner's application was submitted, Deland RHF Housing, Inc., was not a 501(c)e tax-exempt entity. It now has this designation.

6. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants.

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 demonstrated that strict application of the above Rule under these circumstances would result in a substantial hardship or violate the principles of fairness. Petitioner demonstrated that Retirements Housing Foundation and Towers of Jacksonville, Inc. are the members of both Deland RHF Housing, Inc., and Petitioner. Accordingly, there would be no loss of

developer experience. A denial of the requested waiver would result in a substantial unnecessary economic hardship and delay and reduced proposed renovations where a substantial investment in the Development has been made; resulting in delaying much needed housing in Duval County. Petitioners have also demonstrated 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 Part A, Section 2(a)(2) of the 2014 Non-Competitive Applications Instructions, Housing Credit Program, to allow Petitioner to change the identity of the Applicant from Towers of Jacksonville, LLC to Deland RHF Housing, Inc., is hereby **GRANTED**.

DONE and ORDERED this 12th day of December, 2014.



Florida Housing Finance Corporation

By:  _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

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.

