

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

HALLMARK-FLORIDA GP, LLC,

Petitioner

FHFC CASE NO.: 2016-002VW

v.

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent

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**ORDER GRANTING WAIVER OF RULE 67-21.003(1)(b)  
AND RULES 67-21.003(8)(k) and (l)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on January 29, 2016, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on January 12, 2016, from Hallmark-Florida GP, LLC ("the Petitioner"). Notice of the Petition was published on January 13 in Volume 42, Number 8, of the Florida Administrative Register. An Amended Petition was filed on January 19, 2016. 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:

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

 /DATE: 1-29-16

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. Petitioner intends to finance the acquisition and rehabilitation of 24 properties in 13 counties through a single tax-exempt bond issued by Osceola County, along with a 4% Low Income Housing Tax Credit (LIHTC) issued by Florida Housing. Rule 67-21.003, Fla. Admin. Code, specifies what must be included with each application for 4% LIHTC. It provides, in relevant part:

(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:

(k) Submission of one original hard copy with the required number of photocopies of the Application by the applicable Application submission deadline, as outlined in the Non-Competitive Application instructions;

(l) Payment of the required Application fee and, if applicable, the TEFRA fee at submission of the Application.

3. Rule 62-21.003(1)(b), Fla. Admin. Code, adopts and incorporates by reference the “Non-Competitive Application Package,” which is what is required when applying for 4% LIHTC. Part C of the application instructions require

applicants to “submit to the Corporation as part of the Application submission a non-refundable Application fee of \$3,000.”

4. Petitioner has asked for a waiver of both the requirement to provide a separate hard copy of the application for each property and of the requirement to pay an application fee for each application. Instead, Petitioner proposes to submit a single “master” application for the redevelopment project, with appropriate “sub-applications” for each property, and a single application fee of \$3,000.

5. Generally, Florida Housing would not consider the payment of an appropriate application fee to constitute a hardship. In this particular case, however, Petitioner has demonstrated that it would suffer a substantial hardship if it were required to submit \$72,000 in separate application fees for this project, which will be financed under a single bond. Since each proposed “sub-application” would have essentially the same information as is currently required for a separate application, Petitioner has not demonstrated that it would suffer a substantial hardship if it were required to submit a separate hard copy of the application for each property.

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. Granting the requested waiver would not have any impact on other participants in any programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing. Petitioner has demonstrated that failure to grant the waiver of the application fee requirement would cause 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 waiver is granted.

9. The Board finds that strict application of the above Rules 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:**

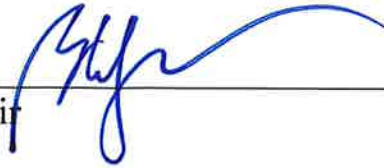
Petitioner's request for a waiver of Rules 67-21.003(8)(l) and 62-21.003(1)(b), Fla. Admin. Code is hereby **GRANTED** to permit Petitioner to submit a single application fee of \$3,000 for the proposed project. Petitioner's request for a waiver of Rule 67-21.003(8)(k), Fla. Admin. Code, is hereby **DENIED**, and Petitioner will be required to submit a separate application package for the 4% LIHTC for each property.

DONE and ORDERED this 29th day of January, 2016.

Florida Housing Finance Corporation

By:

Chair



**Copies furnished to:**

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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
120 Holland Building  
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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.**