

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: SP Manor, LLC

FHFC CASE NO.: 2017-053VW

ORDER GRANTING WAIVER OF RULE 67-48.002(95)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on July 28, 2017, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on July 6, 2017, from SP Manor, LLC (“Petitioner”). Notice of the Petition was published on July 10, 2017, in Volume 43, Number 132, 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 was selected to receive an award of Low Income Housing Tax Credits (generally referred to as “Housing Credits”) under Request for Application (“RFA”) 2015-111 to assist in the construction of Lummus Park Manor, a 51-unit elderly and family housing development in Miami-Dade County, Florida.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Jenifer A. Marshall /DATL: 7/28/2017

3. Petitioner seeks a waiver from Rule 67-48.002(95), Fla. Admin. Code, which defines and incorporates by reference the 2016 Qualified Allocation Plan (the “QAP”).

4. Section II.K. of the QAP provides in pertinent part:

[W]here a Development has not been placed in service by the date required or it is apparent that a Development will not be placed in service by the date required, such failure is due to circumstances beyond the Applicant’s control, and the Applicant has returned its Housing Credit Allocation in the last calendar quarter of the year in which it was otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of Housing Credits returned, and may allocate such Housing Credits to the Applicant for the year after the year in which the Development was otherwise required to be placed in service, provided the following conditions have been met: (i) the sponsor must have provided written notice to the Corporation, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any other pertinent information, prior to returning the allocation; and (ii) the Executive Director must find and determine that the delay was caused by circumstances beyond the Applicant’s control, that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay, that the Development in all respects, except time placed in service, still meets the conditions upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs.

5. Petitioner requests a waiver of the above timing provisions of the QAP to permit immediate return of its Carryover Allocation of 2016 Housing Credits. Petitioner asserts that it cannot meet its currently required “placed in service” date

of December 31, 2018, due to delays outside its control. Petitioner asserts that due to disruptions in the equity market, the Development is unlikely to be placed in service by December 31, 2018. Additionally, Petitioner is concerned it will be unable to find a tax credit investor if the credit swap is delayed until the last quarter of 2018.

6. 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.

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 has demonstrated that strict application of the above Rules under these circumstances would constitute a substantial hardship and violate the principals of fairness. 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 Rule and incorporated timing provisions of the QAP, 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 the timing requirements in the 2016 QAP as set forth in Rule 67-48.002(95), Florida Administrative Code is hereby **GRANTED** to permit the immediate return of its Carryover Allocation of 2016 Housing Credits and to receive a reservation and Carryover Allocation of 2017 Housing Credits, with a corresponding extension of all deadlines relative to those credits.

DONE and ORDERED this 28th day of July, 2017.

Florida Housing Finance Corporation

By:

Chair



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 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.