

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: AMISTAD APARTMENTS, LTD.

Case No. 2012-053VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(g),
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on December 7, 2012, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(g) for a Change in Development Type," filed by Amistad Apartments, Ltd. ("Petitioner") on November 15, 2012. Notice of the Petition was published in Volume 38, Number 73, 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. During the 2011 Universal Cycle, Petitioner successfully applied for an allocation of Low Income Housing Tax Credits (HC) and a loan under the HOME Investment Partnership Program ("HOME"), as provided in 24 C.F.R. Part 92, to finance the construction of Amistad Apartments (the "Development")

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrill /DATE. 12/7/2012

located in Miami-Dade County, Florida. As part of its application, Petitioner stated that the Development Type would be a Mid-Rise with an elevator (a building comprised of five or six stories).

3. Rule 67-48.004(14)(g), Florida Administrative Code (2011), provides 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 the 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:

(g) Development Type

2. 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.

3. Petitioner requested a waiver of the above rule to change the Development Type from Mid-Rise with elevator to High-Rise, to increase the number of stories from six to seven stories. Under Florida Housing's rules governing Development Type, a building with seven stories is a High-Rise. The

requested change would allow Petitioner to accommodate the required surface parking.

4. The requested change did not affect the scoring of Petitioner's application or allowed Petitioner to gain an unfair advantage over other applicants.

5. Petitioner has demonstrated that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. Petitioner demonstrated that it must complete and place in service the Development by December 31, 2013, in order to avail itself of the full 9% federal low income housing tax credit rate. Failure to place in service by December 31, 2013, will result in a decrease in the tax credit percentage, substantially decreasing the tax credit equity invested in the transaction. A decrease in the amount of tax credit equity invested may result in total sources of funds substantially decreasing, which would jeopardize the completion of the proposed Development. Petitioner has further demonstrated that permitting this change in Development would also serve the underlying purpose of the statute. By granting the Petition, Petitioner will be able to provide needed homeless housing in Miami-Dade County.

IT IS THEREFORE ORDERED:

The Petition for a waiver of Rule 67-48.004(14)(g) Florida Administrative Code (2011) is hereby **GRANTED**, to the following extent: the Development Type is

changed from Mid-Rise with elevator to High-Rise, to allow Petitioner to increase the number of stories in the Development from six to seven.

DONE and ORDERED this 7th day of December, 2011.



Florida Housing Finance Corporation

By: _____
Chair

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be the initials "LH".

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 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.