

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Dante Fascell Preservation

FHFC Case No.: 2013-006VW

**ORDER GRANTING PETITION FOR WAIVER
OF PART III.B.1.b OF THE 2011 UNIVERSAL CYCLE
APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 21, 2013, pursuant to a “Petition for Waiver of the 2011 Universal Application Instructions, Housing Credit Program, Part III, Section (B)(1)(b)” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on March 14, 2013, from Dante Fascell Preservation, LLC. (“the Petitioner”). On May 15, 2013, the Notice of the Petition was published in Volume 39, Number 95, 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.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della Harrell / DATE: 6/21/2013

2. During the 2011 Universal Cycle, Dante Fascell Preservation, LLC. (“Petitioner”) applied for and was awarded an allocation of tax credits to finance the redevelopment of an elderly development known as Dante Fascell Preservation (the “Development”) located in Miami-Dade County, Florida.

3. Rule 67-48.004(1)(a) Fla. Admin. Code (2011) provides, in pertinent part:

(a) The Universal Application Package or UA1016 (Rev. 2-11) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation’s Website under the 2011 Universal Application link labeled Instructions and Application, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-00703>, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the HOME and HC Program(s).

Part III of the Instructions provides in pertinent part:

Part III. Proposed Development...

B. Construction Features and Amenities...

1. Required General Features and Amenities for All Developments (Threshold)...

b. All Units in All Developments Except SRO:..

-Full-size range, oven and Energy Star qualified refrigerator in all units.

4. Petitioner requested a waiver of the above Rule to allow it to install 24” ranges, instead of installing full-sized ranges in the units in the

Development. As justification, Petitioner states that full-sized ranges would deprive residents of counter space and drawer space in kitchens already of limited size and would cause unneeded expense to the Petitioner by requiring Petitioner to upgrade the electrical panel incurring unnecessary cost and delay.

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

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. The Board finds that strict application of the above Rule under these circumstances would violate the principles of fairness. Petitioner established that permitting this change in Development would not hinder the intended residents' use of the kitchen as 24" ranges are adequate for units in which no more than two (2) senior citizens will reside while not permitting this change would require a dramatic redesign that would leave residents with less space and a less functional kitchen. A denial of the requested

waiver would result in a substantial hardship due to increased costs of installation.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Part III.B.a.b.1, of the 2011 Universal Application Instructions, to allow Petitioner to install 24" ranges in all of the units in the Development, instead of full-sized ranges is hereby **GRANTED.**

DONE and ORDERED this 21st day of June, 2013.



Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:
Wellington H. Meffert II, Esq.
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Kevin Tatreau
Deputy Development Officer
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Brian McDonough
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street
Miami, Fl 33130

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.