

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: SP CC Apartments, LLC  
SP HK Apartments, LLC  
SP HV Apartments, LLC  
SP SG Apartments, LLC

FHFC Case No.: 2016-021VW

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**ORDER GRANTING WAIVER OF RULE 67-21.013,  
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 24, 2016, pursuant to a Petition for Waiver of Rule 67-21.013 (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on June 8, 2016, from SP CC Apartments, LLC, SP HK Apartments, LLC, SP HV Apartments, LLC, and SP SG Apartments, LLC (“Petitioners”). While Petitioners consist of four different applicants, Southport Development, Inc. is the Developer for each. Notice of the Petition was published in Volume 42, Number 113, 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

 /DACL: 6-24-16

2. Petitioners were selected to receive SAIL Financing of Affordable Multifamily Housing Developments under RFA 2015-112, to be used in conjunction with Multifamily Mortgage Revenue Bonds<sup>1</sup> (MMRB) and non-competitive Housing Credits to assist in the acquisition and rehabilitation of existing Developments serving low-income families. Petitioner SP CC Apartments, LLC, was awarded \$3,175,000 in SAIL funds and \$12,200,000 in MMRB funds to rehabilitate the Columbus Court development in Hillsborough County. Petitioner SP HK Apartments, LLC, was awarded \$3,150,000 in SAIL funds and \$6,400,000 in MMRB funds to rehabilitate the Hickory Knoll development in Marion County. Petitioner SP HV Apartments, LLC, was awarded \$2,000,000 in SAIL funds and \$3,800,000 in MMRB funds to rehabilitate the Hampton Villa development in Duval County. Petitioner SP SG Apartments, LLC, was awarded \$2,800,000 in SAIL funds and \$6,750,000 in MMRB funds to rehabilitate the Seminole Gardens development in Seminole County. After being invited to credit underwriting, Petitioners now seek a waiver to allow the purchase of non-credit enhanced revenue bonds by an entity that does not meet the definition of a Qualified Institutional Buyer.

3. Rule 67-21.013, Fla. Admin. Code, allows a non-credit enhanced revenue bond to be sold only to a Qualified Institutional Buyer (QIB), as defined in

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<sup>1</sup> The particular form of indebtedness here is a note. However, the rule to be waived uses the term “bonds,” which is defined in Section 420.503(4), F.S., to include any note issued by the Corporation.

Rule 67-21.002(88), F.A.C.<sup>2</sup> The rule also requires that the purchaser of such bonds provide an investment letter.

**67-21.013 Non-Credit Enhanced Multifamily Mortgage Revenue Bonds.**

Any issuance of non-Credit Enhanced revenue Bonds shall be sold only to a Qualified Institutional Buyer. . . . Unless such Bonds are rated in one of the four highest rating categories by a nationally recognized rating service, such Bonds shall not be held in a full book-entry system (but may be Depository Trust Company (DTC)-Eligible)) and shall comply with at least one of the following criteria:

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(2) The Bonds shall be issued in minimum denominations of \$250,000 (subject to reduction by means of redemption) and an investment letter satisfactory to the Corporation and its counsel shall be obtained from each initial purchaser of the Bonds (including any purchaser purchasing such Bonds in an immediate resale from an underwriter), but shall not be required of subsequent purchasers of the Bonds, to the effect that, among other things, such purchaser is a Qualified Institutional Buyer, is purchasing such Bonds for its own account and not for immediate resale to a purchaser other than a Qualified Institutional Buyer, and has made an independent investment decision as a sophisticated or institutional investor.

4. Petitioners are funding their Developments using, among other things, Freddie Mac Tax Exempt Multifamily Revenue Notes (Bonds) under its Tax Exempt Loan (TEL) Program. Federal law requires Freddie Mac to purchase the bonds through an intermediary, which in this case is Jones Lang LaSalle Multifamily, LLC (“JLL”). JLL, however, does not meet the definition of a Qualified Institutional Buyer in Rule 67-21.002(88), Fla. Admin. Code. Petitioners seek a waiver that will allow them to use the services of JLL in order to facilitate the note/bond portion of

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<sup>2</sup> QIBs are sometimes referred to as sophisticated investors that are capable of understanding and managing the risks associated with a non-credit enhanced bond.

the financing for these Developments. The notes/bonds will ultimately be sold to Freddie Mac (which is a QIB) in accordance with an executed commitment letter between JLL and Freddie Mac. Unless the waiver is granted, Petitioners will be required to find alternate financing, and funding for the Developments will be jeopardized.

5. Under Section 120.542(1), Fla. Stat., and Chapter 28-104, Fla. Admin. Code, Florida Housing has the authority to grant waivers to its rule requirements when strict application of these rules would lead to unreasonable, unfair, and unintended consequences in particular instances. Section 120.542(2) 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

The principles of fairness are violated when literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

6. The Board finds that granting the waiver would neither affect the scoring of Petitioners' applications nor allow Petitioners to gain an unfair advantage over other applicants. The Board further finds that granting the waiver would have no detrimental impact on Florida Housing or any of its programs.

7. Petitioners have demonstrated that they would suffer a substantial hardship if the waiver is not granted. Petitioners have 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.

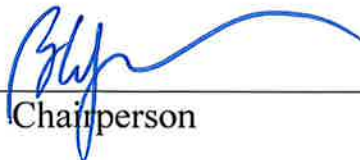
8. The Board finds that strict application of the above rules under these circumstances would cause substantial hardship to Petitioners. The Board further finds that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

**IT IS THEREFORE ORDERED:**

Petitioners’ request for waiver of Rule 67-21.013, Fla. Admin. Code, is hereby **GRANTED**, so that Petitioners will be able to use the services of JLL to purchase the non-credit enhanced revenue bonds as part of the TEL Program and so that JLL will not be required to submit an investment letter.

DONE and ORDERED this 24th day of June, 2016.

Florida Housing Finance Corporation

By:  \_\_\_\_\_  
Chairperson

**Copies furnished to:**

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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.**