

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

TRINITY TOWERS SOUTH PRESERVATION  
ASSOCIATES LLLP,

Petitioner

FHFC CASE NO.: 2016-041VW

v.

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent


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**ORDER GRANTING WAIVER OF RULE 67-48.041(1)(c)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on October 28, 2016, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on October 12, 2016, from Trinity Towers South Preservation Associates, LLLP ("the Petitioner"). Notice of the Petition was published on October 14, 2016, in Volume 42, Number 201, 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

 /DATE: 10-28-16

2. Petitioner was selected to receive financing from the Elderly Housing Community Loan (EHCL) program under RFA 2015-102 to assist in the construction of mid-rise apartments serving low-income tenants in Melbourne, Florida. Petitioner's Application Number was 2015-228E (the "Application"). Rule 67-48.041(1)(c), Fla. Admin. Code, provides in relevant part:

The loan term shall not exceed 15 years but may be for a shorter period of time as requested by the Applicant or recommended by the Credit Underwriter. However, if the lien of the Corporation's encumbrance is subordinate to the lien of another mortgage, then the term may be made coterminous with the longest term of the superior lien if requested by the borrower and approved by the Credit Underwriter based upon debt service coverage ratio, loan to value ratio, and other factors established in a competitive solicitation.

3. Petitioner is seeking this waiver because an affiliate of Petitioner (New Trinity South Preservation Associates, LLLP) ("New Trinity Towers") has contracted to purchase the Development from Petitioner and has applied for and been preliminary awarded tax exempt financing from the Brevard County Housing Finance Authority, AHP financing from the San Francisco office of Federal Home Loan Bank, and non-competitive 4% low income housing tax credits from the Corporation. New Trinity Towers will also utilize the proceeds of loans from affiliates of Petitioner (the "Petitioner Loans") to assist in the financing of the acquisition and rehabilitation of the Development. It is intended that Petitioner will close on the EHCL financing and, on the same day, sell the Development to New Trinity Towers, and that New Trinity Towers will assume the EHCL financing.

4. In order for the subordinate debt on the Development (which includes the EHCL loan and the Petitioner Loans) to be included in the eligible basis of the Development for purposes of computing the amount of the 4% non-competitive low income housing tax credit generated in connection with the acquisition and rehabilitation of the Development, such debt must have a maturity of at least 32 years.

5. The Board finds that a denial of the requested waiver would result in a substantial economic hardship for Petitioner, since a shorter (15-year) maturity date for the EHCL loan will not permit the inclusion of such loan in the eligible basis of the Development, thereby decreasing the amount of non-competitive 4% low income housing tax credits generated in connection with the acquisition and rehabilitation of the Development. Such decrease in the amount of noncompetitive 4% low income housing tax credits (and the corresponding decrease in the amount of tax credit equity generated in connection with the syndication thereof) will cause the acquisition and rehabilitation of the Development to be economically infeasible.

6. The Board finds that granting the waiver would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants.

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 the waiver is needed because of circumstances beyond its control, and that it would suffer a substantial hardship if the waiver is not granted. 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.

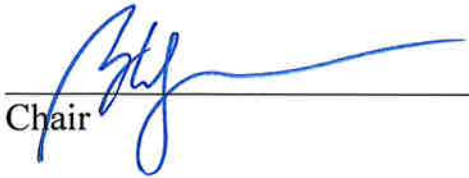
9. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner, and that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

**IT IS THEREFORE ORDERED:**

Petitioner’s request for a waiver of Rule 67-48.041(1)(c), Florida Administrative Code (2016) is hereby **GRANTED** to permit Petitioner to lengthen the maturity date of the EHCL loan from 15 years to the date which would be coterminous with the debt encumbering the Development that is subordinate to the EHCL loan, but not longer than 32 years.

DONE and ORDERED this 28th day of October, 2016.

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 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.**