

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: CIVIC TOWERS SENIOR,
LLLP, and CIVIC TOWERS, LLLP

FHFC CASE NO.: 2016-054VW

ORDER GRANTING WAIVER OF RULES 67-21.001(2) and (9), 67-21.002(85), 67-21.003(1)(b), (2), and (7)(b), and 67-21.028(2)(m), F.A.C.

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 9, 2016, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 17, 2016, from Civic Towers Senior, LLLP and Civic Towers, LLLP ("the Petitioners"). Notice of the Petition was published on November 21 in Volume 42, Number 226, 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. Petitioners submitted applications for local tax exempt bond financing to the Housing Finance Authority of Miami-Dade County to assist in the acquisition and rehabilitation of two Developments in Miami-Dade County. Civic Towers Senior is a 151-unit Development serving low-income elderly, and Civic Towers is

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HOUSING FINANCE CORPORATION

 /DATE: 12-9-16

a 196-unit Development serving low-income families. Petitioners intend to submit applications for non-competitive housing tax credits to Florida Housing for each Development. At the time Petitioners submitted their applications for local bonds their ownership structure complied with the requirements of Florida Housing's rules, including the application form for tax credits. These rules, however, were amended in September of 2016, and Petitioners' ownership structure no longer complies. If Petitioners are required to restructure their ownership it could jeopardize the local bonds for which they have already applied and thus potentially jeopardize the proposed rehabilitation of the Developments.

3. Rule 67-21.002(9) provides, in relevant part:

"Unless otherwise stated in a competitive solicitation, as used herein, a 'legal entity' means a legally formed corporation, limited partnership or limited liability company with a management and ownership structure that consists exclusively of all natural persons by the third principal disclosure level The terms 'first principal disclosure level' and 'third principal disclosure level' have the meanings attributed to them in the definition of "Principal."

4. Rule 67-21.002(85)(a)2.g., as part of the definition of the term "Principal," requires that with respect to an applicant that is a limited partnership, an applicant must disclose "by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person."

5. Rule 67-21.003(1)(b) provides:

(b) If the NC Award will not be in conjunction with any other Corporation funding made available through the competitive

solicitation funding process outlined in Chapter 67-60, F.A.C., the Applicant shall utilize the Non-Competitive Application Package in effect at the time the Applicant submits the application. The Non-Competitive Application Package or NCA (Rev. 08-20 16) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation's website ... which shall be completed and submitted to the Corporation in accordance with this rule chapter.

6. Rule 67-21.003(2) provides:

For purposes of the Non-Competitive Application Package, failure to submit an Application completed in accordance with the Application instructions and these rules will result in the failure to meet threshold in accordance with the instructions in the Application in this rule chapter.

7. Rule 67-21.003(7)(b) provides:

For purposes of the Non-Competitive Application Package, the Corporation shall reject an Application if ... the Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application and Application instructions."

8. Rule 67-21.028(2)(m) provides:

If utilizing the Non-Competitive Application Package, it must be completed in accordance with the requirements outlined in the Non-Competitive Application Package instructions.

9. Part A.2.b. of the Non-Competitive Application instructions provides,

in relevant part:

Provide a listing of the Principals for the Applicant, including the percentage of ownership interest to each Principal, as Exhibit "1" to the Application Form:

10. The Board finds that granting the waiver would not have any impact on other participants in funding programs administered by Florida Housing and would not allow Petitioners to gain an unfair advantage over other applicants, nor would it have a detrimental impact on Florida Housing. The Board further finds that granting the waiver will allow Petitioners to apply for non-competitive housing tax credits without jeopardizing their local bond financing.

11. 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.

12. Petitioners have demonstrated that the waiver is needed in order to apply for non-competitive housing tax credits and 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.

13. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioners, 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:

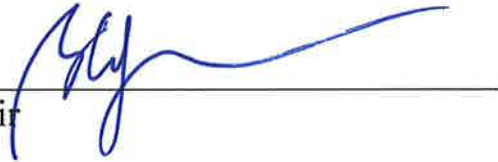
Petitioners' request for a waiver of Rules 67-21.001(2) and (9), 67-21.002(85), 67-21.003(1)(b), (2), and (7)(b), and 67-21.028(2)(m), F.A.C., as well as Part A.2.b. of the Non-Competitive Application, is hereby **GRANTED** so that Petitioners may submit applications for non-competitive housing tax credits without having to amend their ownership structure in order to be in compliance.

DONE and ORDERED this 9th day of December, 2016.

Florida Housing Finance Corporation

By:

Chair



Copies furnished to:

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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.