

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Trinity Towers East Preservation
Associates, LLLP.,

FHFC CASE NO.: 2016-055VW

ORDER GRANTING WAIVER OF RULE 67-48.0072(4)(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 Trinity Towers East Preservation Associates, LLLP, ("the Petitioner"). Notice of the Petition was published on November 21, 2016, 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. Petitioner was selected to receive SAIL financing, Tax-Exempt Bonds, and 4% housing credits under Request for Applications ("RFA") 2015-112 to assist

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION



/DATE: 12-9-16

in the acquisition and rehabilitation of Trinity Towers East, a 156 unit building for the elderly in Brevard County, Florida. Petitioner's Application Number was 2016-168BS (the "Application"). In connection with this Application, Petitioner committed to set aside 90% of the units for Low Income Tenants at 60% Area Median Income ("AMI") for the Tax-Exempt Bonds and 4% housing credits. Petitioner also committed to set aside 80% of the units at 60% AMI and 10% of the units at 35% AMI for SAIL.

3. Rules 67-21.003(8)(j) and 67-48.004(3)(j) provide that certain items must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Those items include the following:

(j)... the Total Set-Aside Percentage as stated in the last row of the total-set aside breakdown chart for the program(s) applied for in the Set-Aside Commitment Section of the Application...

4. Petitioner is requesting a waiver of the above Rules to permit it to amend its Application and decrease the total set-aside percentage for the Tax-Exempt Bonds from 90% of the units at 60% AMI to 80% of the units at 60% AMI and for SAIL from 80% of the units at 60% AMI to 70% of the units at 60% AMI. The set aside for the SAIL Extremely Low Income category will remain 10% of the units at 35% AMI. This would allow some 31 current tenants to remain in their units even though they have incomes greater than 60% AMI.

5. 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.

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. Petitioner has demonstrated that strict application of the above Rules under these circumstances would constitute a substantial hardship and violate the principals of fairness, by unnecessarily subjecting these current tenants to the hardship of locating alternate housing 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.

8. The Board finds that Petitioner has not, however, demonstrated that a decrease to an 80% set aside for Tax-Exempt Bonds and a decrease to a set-aside of 70% of the units at 60% AMI for SAIL is necessary or serves the underlying purpose of Chapter 420, Part V, Florida Statutes. The Board finds that a decrease to an 85% set aside for Tax-Exempt Bonds and a decrease to a set-aside of 75% of the units at

60% AMI for SAIL is necessary and serves the underlying purpose of Chapter 420, Part V, Florida Statutes.

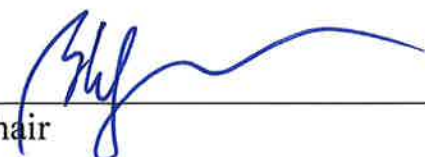
9. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner, and that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rules 67-21.003(8)(j) and 67-48.004(3)(j), Florida Administrative Code is hereby **GRANTED** to permit Petitioner to amend its application and decrease the set aside percentage for the Tax-Exempt Bonds from 90% at 60% AMI to 85% at 60% AMI and for SAIL from 80% at 60% AMI to 75% at 60% AMI. The set aside for the SAIL Extremely Low Income category shall remain 10% at 35% AMI. This waiver is not needed for, and will not impact, the current set-aside requirements regarding the 4% Non-Competitive Housing Credits.

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
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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.