

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

FHFC CASE NO.: 2018-045VW

In Re: Melbourne Leased Housing Associates II, LLLP
(Crane Creek)

ORDER GRANTING WAIVER OF RULE 67-21.003(1)(b)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on July 27, 2018, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on May 22, 2018, from Melbourne Leased Housing Associates II, LLLP ("Petitioner"). Notice of the Petition was published on May 24, 2018, in Volume 44, Number 102, 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 applied for an award of Non-Competitive Housing Credits in conjunction with local bonds to assist in the rehabilitation of a development serving elderly persons in Brevard County called Crane Creek.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

W. M. S. Ramsey / DATE: 7/27/18

3. Rule 67-21.003(1)(b), Fla. Admin. Code, incorporates by reference the Non-Competitive Application Package (NCA). The NCA provides, in pertinent part:

7. Applicant Certification

By completing, executing and submitting this Application form and all applicable exhibits, the Applicant certifies and acknowledges that:

j. The proposed equity amount to be paid prior to or simultaneous with the closing of construction financing is at least 15 percent of the total proposed equity to be provided (the 15 percent criteria). . . .

4. Due to a difference in calculating the total proposed equity between the credit underwriting process for the local bonds and the credit underwriting process for the housing tax credits, the investor contributed only 13.25% of the total proposed equity at construction closing, a shortfall of \$101,843.00. However, a principal of the Petitioner contributed \$1,051,565.88 as a bridge loan at closing to bridge the equity. As a result, the total amount of equity contributed at the closing of construction financing exceeded the 15% criteria.

5. The Board finds that granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

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 the waiver is needed in order to efficiently serve persons with disabilities and that, if the waiver were not granted, Petitioner would suffer a substantial hardship. 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 waivers are granted.

8. The Board finds that strict application of the above Rule 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 67-21.003(1)(b), Fla. Admin. Code, is hereby **GRANTED** so that the investor will be allowed to contribute less than 15% of the total proposed equity at the time of construction closing.

DONE and ORDERED this 27th day of July, 2018.

Florida Housing Finance Corporation



By:


Chair

Copies furnished to:

Hugh R. Brown, General Counsel
Hugh.Brown@floridahousing.org

Kevin Tatreau, Interim Director of Multifamily Development
Kevin.Tatreau@floridahousing.org

Leonard Collins, Esq.
Lcollins@broadandcassel.com

Joint Administrative Procedures Committee
Ms. Yvonne Wood
WOOD.YVONNE@leg.state.fl.us

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.