

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: SILVER POINTE DEVELOPMENT
PARTNERS, LLC

FHFC CASE NO.: 2018-075VW

ORDER GRANTING WAIVER OF RULE 67-48.002(95)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on November 2, 2018, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on October 2, 2018, from Silver Pointe Development Partners, LLC (“Petitioner”). Notice of the Petition was published on October 3, 2018, in Volume 44, Number 193, 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 successfully applied for an award of competitive Housing Credits, under Request for Applications 2016-110 (the “RFA”) to assist in the construction of 90 new garden style units for low-income families in Marion County.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Thomas R. Lamoreaux /D/ATL: 11/7/18

3. Rule 67-48.002(95), Fla. Admin. Code, defines and incorporates by reference the following provision of the 2016 QAP at Section II.2:

K. ...where a Development has not been placed in service by the date required or it is apparent that a Development will not be placed in service by the date required, and such failure is due to circumstances beyond the Applicant's control, **and the Applicant has returned its Housing Credit Allocation in the last calendar quarter of the year in which it was otherwise required to be placed in service**, the Corporation may reserve allocation in an amount not to exceed the amount of Housing Credits returned, and may allocate such Housing Credits to the Application for the year after the year in which the Development was otherwise required to be placed in service...

4. Petitioner requests a waiver of the above Rule and bolded selection of the QAP provision above to permit it to exchange its tax credits now rather than in the last calendar quarter of 2019. Petitioner asserts that because of changes in tax credit equity pricing and rising construction costs the project has had to undergo various value engineering changes, and for this reason achievement of the scheduled placed in service deadline is extremely unlikely. Petitioner also asserts that potential tax credit investors are unwilling to close on the Development without assurance that tax credits will be available to the Development even though the Development will likely not be placed in service by December 31, 2019. Petitioner therefore requests that it be permitted to swap the allocated tax credits now instead of the last quarter of 2019.

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 for homeless individuals or families and persons with a disabling condition 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 67-48.002(95), Fla. Admin. Code and Section II.2.K. of the 2016 QAP is hereby **GRANTED** to allow Petitioner to

exchange its 2017 credits for an allocation of 2018 credits now rather than in the last calendar quarter of 2019.

DONE and ORDERED this 6th day of November, 2018.



Florida Housing Finance Corporation

By: 
Chair

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.