

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Frenchtown Square Partners, LLC.,

FHFC CASE NO.: 2017-005VW

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**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 February 3, 2017, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on January 13, 2017, from Frenchtown Square Partners, LLC (“Petitioner”). Notice of the Petition was published on January 18, 2017, in Volume 43, Number 11, 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 Housing Credits and State Apartment Incentive Loan (“SAIL”) funds under Request for Applications 2015-103 (the “RFA”) to assist in the construction of Casanas Village at Frenchtown Square, an

88-unit family housing development in Leon County, Florida. Petitioner's Application Number was 2015-231CS (the "Application").

3. Petitioner applied for 2015 credits in the RFA. However, Petitioner received a Binding Commitment of 2016 credits, which according to the QAP, must have the same place-in-service deadline requirement as the applications awarded through the same competitive solicitation process. Therefore, even though Petitioner received 2016 credits, Petitioner must comply with the place-in-service date of December 31, 2017.

4. Petitioner seeks a waiver from Rule 67-48.002(95), Fla. Admin. Code.

5. Rule 67-48.002(95), Fla. Admin. Code which defines and incorporates by reference the following provision of the 2016 QAP provides the following:

K. Notwithstanding any other provision of this QAP, 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, provided the following conditions have been met: (i) the sponsor must have provided written notice to the Corporation, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any other pertinent information, prior to returning the

allocation; and (ii) the Executive Director must find and determine that the delay was caused by circumstances beyond the Applicant's control, that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay, that the Development in all respects, except time placed in service, still meets the conditions upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs.

6. 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 2017. Petitioner asserts that its good faith negotiations with a general contractor failed after six months and Petitioner had to restart negotiations with a new general contractor. Petitioner further asserts that administrative delays in the permitting process through the City delayed the commencement of the Development. Given these circumstances, Petitioner asserts that achievement of the scheduled placed in service deadline is extremely unlikely. Petitioner therefore requests that it be permitted to swap the allocated tax credits now instead of the last quarter of 2017. Petitioner is requesting an extended place-in-service date of July 1, 2018.

7. The Board finds that granting the waiver 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.

8. 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.

9. Petitioner has demonstrated that strict application of the above Rules under these circumstances would constitute a substantial hardship and violate the principals of fairness. 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.

10. 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 67-48.002(95), Florida Administrative Code and 2016 QAP provision is hereby **GRANTED** to allow Petitioner to exchange its 2016 credits for a subsequent year's allocation now rather than in the last calendar quarter of 2017 and obtain a place-in-service date of July 1, 2018.

DONE and ORDERED this 3rd day of February, 2017.

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.**