

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: CAMPUS TOWERS
APARTMENTS, LLLP

FHFC Case No.: 2019-095VW

**ORDER GRANTING WAIVER FROM RULE 67-48.004(3)(j),
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 13, 2019. Florida Housing Finance Corporation (“Florida Housing”) received the Petition for Waiver of Rule 67-48.004(3)(j), *Florida Administrative Code*, (“Petition”) on November 19, 2019, from Campus Towers Apartments, LLLP (“Petitioner”). The Notice of the Petition was published on November 20, 2019, in Volume 45, 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 (“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 allocation of competitive housing credits in Request for Applications 2018-113 (“RFA”) to assist in the acquisition and rehabilitation of Campus Towers, a 192-unit elderly,

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Wm. S. Slattery / DATE 12/16/19

affordable housing development in Jacksonville, Florida (the “Development”).

3. In its Application, Petitioner provided for a Total Set-Aside Percentage of one hundred (100) percent, or 192 units.

4. Rule 67-48.004(3)(j), *Florida Administrative Code* (2018), provides in relevant part:

(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

(j) For the SAIL and HC Programs, 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....

5. Petitioner requests a waiver from the above Rule to permit a reduction in the Total Set-Aside from 100% to 98.96%, which would result in a reduction of total set aside units from 192 to 190. Petitioner asserts that the reduction is necessary because existing residents in two units will not be considered income eligible under the current set aside designation for the rehabilitation of the Development. Both Section 42 and the Housing Credit program permit tenants to continue to reside at a property when their income level at move in meets the income requirements, but subsequently increases

to an amount in excess of such limit. However, those provisions are inapplicable to this Development because ownership of the Development will be transferred to Petitioner and the tenants must recertify income levels. Petitioner asserts that due to the scarcity of nearby affordable housing, required permanent relocation of tenants would impose severe hardship upon each of the residents.

6. Petitioner agrees to continue to satisfy the Extremely Low Income (“ELI”) Set-Aside by continuing to set aside 39 units at the 33% ELI level.

7. Petitioner asserts that its application would have still been selected for funding under the terms of the RFA if Petitioner had selected to set-aside 190 units.

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. Granting the requested waiver would not impact other participants in funding programs administered by Florida Housing, nor would it detrimentally impact Florida Housing.

10. Petitioner has demonstrated that it would suffer a substantial hardship if the waiver is not granted.

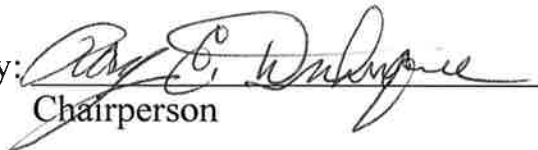
11. Petitioner has also demonstrated that the purpose of the underlying statute, which is to “encourage development of low-income housing in the state” (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

IT IS THEREFORE ORDERED: Petitioner’s request for a waiver of Rule 67-48.004(3)(j), *Florida Administrative Code*, is hereby **GRANTED** so that the Petitioner may reduce its Total Set-Aside Percentage from 100% to 98.96% and maintain 39 units at or below the 33% ELI level.

DONE and ORDERED this 13th day of December, 2019.



Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
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NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO ADMINISTRATIVE 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.