

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: Englewood Senior Limited Partnership

Case No. 2007-019VW

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**ORDER GRANTING PETITION FOR WAIVER OF RULES  
67-48.004(1)(a), 67-48.004(14)(b) and (15), FLORIDA ADMINISTRATIVE CODE (2006)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on June 8, 2007, pursuant to a "Petition for Waiver From Rules 67-48.004(1)(a), 67-48.004(14)(b), and (15) [F.A.C. 2006]" (the "Petition"), filed by Englewood Senior Limited Partnership. ("Petitioner") on May 4, 2007. Notice of the Petition was published in Volume 33, Number 20, of the Florida Administrative Weekly. 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. During the 2006 Application Cycle, Englewood Senior Limited Partnership ("Petitioner") applied for Housing Credits to finance the construction of Englewood Senior Apartments (the "Development") in Escambia County, Florida.
3. Rule 67-48.004(a)(a), Florida Administrative Code (2006), provides in pertinent part:

The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference and consists of the forms and instructions...which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the...HC program.

4. Part II of the 2006 Universal Application Instruction provides in pertinent part:

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

A. Green

/DATE: 6-22-07

## Part II. Applicant and Development Team

### A. Applicant...

2(a)(1): If applying for HC, the Applicant must be a limited partnership...Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed material misrepresentation

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### B. Development Team

#### 1. Developer or principal of Developer (Threshold).

The identity of the Developer(s) listed in this Application may not change until construction or Rehabilitation/Substantial Rehabilitation of the Development is complete, unless approved by the Board.

#### 5. Rule 67-48.004(14)(b) provides in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

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(b) Identity of each Developer, including all co-Developers

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#### 6. Rule 67-48.004(15) provides in pertinent part:

(15) A Development will be withdraw from funding and any outstanding commitments for funds or HC will be rescinded if, at any time, the Board determines that the Applicant's Development or Development team is no longer the Development or Development team described in the Application, and the changes

made are prejudicial to the Development or to the market to be served by the Development.

7. 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.

8. Petitioner requests a waiver of the above rule to change the ownership structure of the General Partner, Beneficial Englewood, LLC. Beneficial Englewood LLC's ownership interests are currently structured as follows:

-RLI Beneficial Holdings 6 LLC, the sole member (100% interest), is composed of:

-Lomas Holding Corp. (1% interest), is composed of:

-Robert K. Lomas (100% interest)

-AHG-RLI, LLC (46.5% interest), is composed of:

-Robert K. Lomas (100% interest)

-Beneficial Holdings II LLC (52.5% interest)

9. Petitioner seeks to amend the ownership structure of the General Partner to the following:

-Beneficial Englewood LLC

-RLI Beneficial Holdings H, LLC, the sole member (100% interest) is composed of:

-Beneficial Holdings II LLC (52.5% interest)

-Hope Shiverick Lomas LLC (47.5% interest)

10. The tax credit syndicator has a long standing internal policy which has necessitated the change to the underlying ownership structure before it will close on the equity loan.

11. Also, Petitioner notes that the proposed change in ownership structure will not adversely impact the Development because the Ownership entity and Developer

entity possess the requisite expertise and experience to successfully complete the Development without a disruption in quality, continuity or progress.

12. The Board finds that strict application of the above Rule under these circumstances, where the Petitioner is attempting to change the ownership structure pursuant to a requirement of the tax credit syndicator, would cause substantial hardship to Petitioner and violate the principles of fairness. Permitting this change in Development would also serve the underlying purpose of the statute.

**IT IS THEREFORE ORDERED:**

The “Petition for Waiver From Rules 67-48.004(1)(a), 67-48.004(14)(b), and (15) [F.A.C. 2006]” is hereby **GRANTED** to permit the requested change in the ownership structure of Beneficial Englewood, LLC—the General Partner of the Development.

DONE and ORDERED this 22<sup>nd</sup> day of June, 2007.

Florida Housing Finance Corporation

By:

*Lynn M. Shultz*  
Chair



**Copies furnished to:**

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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
120 Holland Building  
Tallahassee, Florida 32399-1300

### **NOTICE OF RIGHTS**

**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.**