

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

APOPKA TAYLOR APARTMENTS, LTD.
(PLP 07-136) Taylor Apartments

Petitioner

vs.

FLORIDA HOUSING FINANCE CORPORATION

Respondent,

**PETITION FOR VARIANCE FROM OR WAIVER OF RULE 67-38.014 (3),
FLORIDA ADMINISTRATIVE CODE**

Petitioner, Apopka Taylor Apartments, Ltd., whose Co-General Partners are The Center for Affordable Housing and Apopka Taylor GP, Inc. (owned by Housing Partners of Florida LLC), petitions Respondent Florida Housing Finance Corporation (“Florida Housing”) for variance from or waiver of Rule 67-38.014(3), F.A.C. In support of its petition, Apopka Taylor Apartments, Ltd. states as follows:

1. Pursuant to Section 120.542, Fla. Stat. (2007), and Rules 28-104.001 through 28-104.006, F.A.C. (2008), Petitioner requests a variance from or waiver of Rule 67-38.014(3), F.A.C., to allow for reimbursement of site acquisition costs incurred prior to the closing of a Predevelopment Loan Program (“PLP”) loan.¹

¹ Florida Housing granted similar relief requested in the Petition for Rule Waiver filed by Florida Low Income Housing Associates, Inc. in December, 2005.

2. The name, address and telephone number and facsimile number of the Petitioner are:

Apopka Taylor Apartments Ltd.
c/o Maria Pellerin Barcus
President, Apopka Taylor GP, Inc.
5637 La Gorce Drive
Miami Beach, FL 33140
(305) 861-7898 (telephone)
(866) 240-3307 (facsimile)

3. The applicable rule which is the subject of this petition is Rule 67-38.014(3) F.A.C. (the Rule) that provides as follows:

Disbursements for eligible activities, conducted prior to being awarded predevelopment financing, qualify for reimbursement from PLP funds provided that the eligible Predevelopment activities were performed or completed no earlier than twelve months prior to the submission of the Application. **Reimbursement for the site acquisition which was completed prior to closing of the PLP loan shall not be allowed as a PLP expense.** (Emphasis added)

4. The Rule implements Section 420.528, Florida Statutes.

Program and Factual Background

5. Florida Housing administers the PLP as provided in Section 420.520, Florida Statutes. PLP provides funds for the purpose of assisting with the planning, financing and development of affordable housing by non-profits organizations and the limited partnerships in which they own 51% of the General Partner. PLP loans may be applied toward costs such as rezoning, soil tests, engineering fees, title searches, appraisals, feasibility analysis, legal fees, audit fees, earnest money deposit, impact fees, insurance fees, commitment fees, administrative costs, marketing expenses and **acquisition expenses** (emphasis added). These activities must be part of a nonprofit

organization's efforts to develop housing for low income households in accordance with Rule 67-38.001, F.A.C.

6. Housing Partners of Florida (HPF) or assigns entered into a purchase agreement on November 27, 2007 for the purchase of the Taylor Apartments, a 100 unit complex in Apopka, Orange County, Florida (the "Development"), in which all of the units are operated under a HUD project-based Section 8 contract. The willingness of HPF or its assigns to close on the acquisition upon HUD's approval of the transaction was a required condition for obtaining the Seller's agreement. On January 4th, 2008, The Center for Affordable Housing Inc. ("TCFAH") entered into a Co-General Partner Agreement with Housing Partners of Florida, wherein TCFAH has a 51% interest in the General Partner of Apopka Taylor Apartments, Ltd.

7. On January 8, 2008, Petitioner submitted its PLP application to Florida Housing. The PLP application included \$500,000 in acquisition financing. On February 4, 2008, Florida Housing invited Petitioner to participate in the application process, and Petitioner accepted the invitation on the same day.

8. On May 2, 2008, Florida Housing's Board will consider approval for Petitioner to enter into underwriting. The earliest date that the underwriting report could be completed and accepted by the Board is August 8, 2008.

9. In accordance with the terms of the purchase contract, as amended, however, there is a possibility that Petitioner may have to close before the August 8, 2008 action by the Board. Although Petitioner has the ability to borrow the necessary funds to close, the interest rate for these funds will be 8%. This higher interest rate will cause an

operating loss during the holding/rehabilitation period requiring additional funding from the Co-General Partners and creating a financial hardship for TCFAH.

10. The requested Rule variance or waiver will not adversely affect the Development. However, a denial of this Petition (a) would result in substantial economic hardship to the Development; (b) could deprive Orange County of essential, affordable housing units in a timely manner; and (c) would violate principles of fairness. § 120.542(2), Fla. Stat. (2006).

11. Finally, by granting the requested waiver, Florida Housing would recognize the economic realities and principles of fundamental fairness in the development of affordable rental housing. This recognition would promote participation by experienced developer entities in meeting the purpose of the Act through rehabilitation construction in an economical and efficient manner.

12. The variance and/or waiver being sought is permanent in nature.

13. Should Florida Housing require additional information, Petitioner is available to answer questions and to provide all information necessary for consideration of its Petition for Variance from or Waiver of Rule 67-38.014 (3), Florida Administrative Code.

WHEREFORE, Petitioner Apopka Taylor Apartments Ltd., respectfully requests Florida Housing Finance Corporation grant the Petition and provide the following relief:

A. Waive or grant a variance of Florida Housing waive or grant a variance of Rule 67-38.014(3), F.A.C., to permit reimbursement of costs for site acquisition completed prior to closing on the PLP loan, if necessary; and

B. Award such further relief as may be deemed appropriate.

Respectfully submitted,

Co-General Partners of Apopka Taylor Apartments, Ltd.



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CERTIFICATE OF SERVICE

The original Petition is being served by overnight delivery, with a copy served by electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300, this 2 day of April, 2008.

By:

