

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

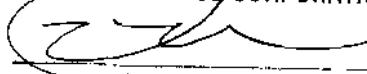
In Re: WEST BARTOW PARTNERSHIP LTD., LLLP

FHFC Case No.: 2008-016VW
Application No.: 2007-038C

**ORDER GRANTING PETITION FOR WAIVER
OF RULES 67-48.004(1)(a) and 67-48.0075(7)(a)(1)
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 13, 2008, pursuant to a Petition for Waiver of Rules Fla. Admin. Code R. 67-48.004(a)(1) (2007) and Fla. Admin. Code R. 67-48.0075(a)(1) (2007) (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on May 13, 2008, from **WEST BARTOW PARTNERSHIP LTD., LLP**, (“Petitioner”). On May 23, 2008, the Notice of the Petition was published in Volume 34, Number 21, 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:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE. 6/16/2008

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. During the 2007 Universal Cycle, Florida Housing awarded an allocation of low income housing tax credits to Petitioner (under application #2007-038C). Petitioner applied for housing credits and a “supplemental loan” to finance, in part, a Development known as The Manor at West Bartow, a 100-unit apartment complex located in Polk County, Florida (the “Development”).

3. Section 120.542(2), Florida Statutes provides in pertinent part:

Variances 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.

4. Fla. Admin. Code R. 67-48.004(1)(a), states in pertinent part:

The Universal Application Package or UA1016 (Rev. 3-08) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or available, without charge, on the Corporation's Website under the 2007 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC, or SAIL and HC Program(s).

5. Universal Application Instruction Part II A.2.a(1), states in pertinent part:

If applying for HC, the Applicant must be a limited partnership...or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and may not change until after the Carryover Allocation Agreement is in effect. Once the Carryover Allocation has been executed by all parties, replacement of the Applicant or a material change (33.3 percent 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 will require Board approval prior to the change.

6. Fla. Admin. Code R. 67-48.0075(7)(a)1, states in pertinent part:

with the principal forgivable provided the units for which the supplemental loan amount is awarded are targeted to ELI Households for at least 15 years.

7. Petitioner now requests a waiver of the above rules.

8. First, Petitioner requests a waiver to change the general partner from West Bartow GP, Inc. to Lakeland-Polk Housing Corporation and for West Bartow GP, Inc. to reclassify as Petitioner's special limited partner.

9. Second, Petitioner requests a waiver to the rule requiring Florida Housing to forgive a supplemental loan's principal balance when the awarded amount funds ELI Household units for at least 15 years.

10. Without the waivers, a senior housing development owned by a partnership can only receive exemption from Florida ad valorem property

tax purposes if the general partner is exempt from federal income tax. This general partner lacks such status.

11. Petitioner has also demonstrated that if Florida Housing fails to grant the waivers, Petitioner will suffer negative federal income tax ramifications pertaining to forgivable loans will arise. Designation of this loan as “forgivable”, whether ultimately forgiven or not, may cause the IRS to consider this loan as “phantom” taxable income, or income that the IRS would tax, but for which Petitioner has not yet received a benefit.

12. Under these circumstances, the effect of this rule on this dissimilarly situated Petitioner would violate the principals of fairness. Granting both requests furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. The waivers of Fla. Admin. Code R. 67-48.00(1)(a) and Fla. Admin. Code R. 67-48.0075(a)(1) further this purpose.

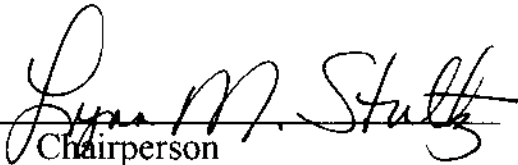
IT IS THEREFORE ORDERED:

The Petitioner's request for a waiver of Fla. Admin. Code R. 67-48.004(1)(a) is hereby **GRANTED** to permit Petitioner to change the general partner from West Bartow GP, Inc. to Lakeland-Polk Housing Corporation and for West Bartow GP, Inc. to reclassify as Petitioner's special limited partner. Also, the Petitioner's request for a waiver of and

Fla. Admin. Code R. 67-48.0075(a)1, is hereby GRANTED to permit
Petitioner to forgo the automatic forgiveness a supplemental loan's principal
balance receives when the awarded amount funds ELI Household units for at
least 15 years. All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 13th day of June, 2008.

Florida Housing Finance Corporation

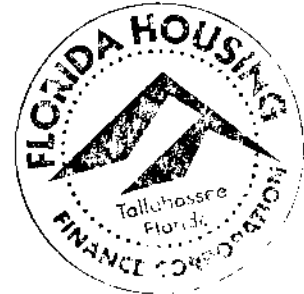
By: 
Chairperson

Copies furnished to:
Wellington H. Meffert II, Esq.
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Debbie Blinderman
Deputy Development Officer
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Gary J. Cohen, Esq.
Shutts & Bowen LLP
1500 Miami Center
201 S. Biscayne Boulevard
Miami, Florida 33131

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



NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN LUTHER KING, JR., BLVD., TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.