

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: EDEN GARDEN APARTMENTS LP

Case No. 2008-069VW

**ORDER GRANTING PETITION FOR WAIVER OF RULE
67-48.004(14)(g), FLORIDA ADMINISTRATIVE CODE (2008)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on September 26, 2008, pursuant to a "Petition for Variance/Waiver from Florida Administrative Code Rule 67-48.004(14)(g)" (the "Petition"), filed by Eden Garden Apartments Limited Partnership ("Petitioner") on August 25, 2008. Notice of the Petition was published in Volume 34, Number 36, 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 2004 Universal Application Cycle, Florida Housing awarded competitive low-income housing tax credits ("housing credits") to Petitioner, to aid in the development of a 51 unit multifamily apartment complex in Collier, Florida.
3. Rule 67-48.004(14), Florida Administrative Code (2008), provides in pertinent part:

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

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Sherry Tre /DATE: 9-26-08

Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(g) Development Type.

4. 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.

5. Petitioner requests a waiver of the above rule to permit a change in Development Type from “Townhouses” to “Garden Apartments” in order to erase any ambiguity or confusion which may have arisen in connection with the underwriting of the Development. The original design of the Development provided for 51 units in 12 residential buildings. As a result of permitting with Collier County and the local government’s environmental considerations, the Development had to reduce footprints and increase native vegetation and wetland preserves. These new considerations reduced the number of residential buildings from 12 to 7 and altered each building’s design.

6. The new Development is comprised of five 7-units buildings and two 8-unit buildings. This change has resulted in 28 Garden Apartment units and 23 Townhouse units.

7. This change has no effect on the score Petitioner received in its original Application and would not give Petitioner an advantage not enjoyed by competing applicants. In addition, there was no “leveraging” benefit associated with selecting “Townhouse” as the Development Type rather than “Garden Apartments.”

8. The Board recognizes that completion of the Development as originally planned is now unrealistic and cannot be accomplished, and that strict application of the above Rule under

these circumstances would cause Petitioner substantial hardship and would violate the principles of fairness. The Board also finds that permitting this Development change, while preserving the same number of affordable housing units, would serve the underlying purpose of the statute.

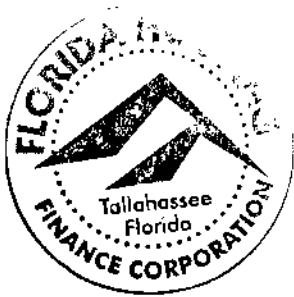
IT IS THEREFORE ORDERED:

The "Petition for Variance/Waiver from Florida Administrative Code Rule 67-48.004(14)(g)" is hereby **GRANTED** to permit Petitioner to change the Development Type of the Eden Gardens from "Townhouse" to "Garden Apartments." All other relief requested in the Petition, if any, is denied.

DONE and ORDERED this 26th day of September, 2008.

Florida Housing Finance Corporation

By: *Lynne M. Stultz*
Chair



Copies furnished to:

Wellington H. Meffert II
General Counsel
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, Esquire
Shutts & Bowen, LLP
201 South Biscayne Boulevard
Suite 1500
Miami, Florida 33131

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.