

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Town Parke, Ltd.

Case No. 2011-006VW

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**ORDER GRANTING VARIANCE FROM SECTION 10
OF THE 2009 QUALIFIED ALLOCATION PLAN**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on May 16, 2011, pursuant to a "Petition for Waiver of the 2009 Qualified Allocation Plan Requirements for Returning Housing Credit Allocations and For an Immediate Allocation of 2011 Housing Credits" filed by Town Parke, Ltd., ("Petitioner") on March 30, 2011. Notice of the Petition was published on April 8, 2011 in Volume 37, Number 14, 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.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Haney / DATE: 5/20/11

2. During the 2009 Universal Cycle, Petitioner applied for and was awarded competitive low-income housing tax credits (“Housing Credits”) in the amount of \$1,510,000 to finance the construction of Town Parke Apartments- Phase I (the “Development”) located in Seminole County, Florida.

3. Rule 67-48.002(95), Fla. Admin. Code (2009), states in pertinent part:

“QAP” or “Qualified Allocation Plan” means, with respect to the HC Program, the 2009 Qualified Allocation Plan which is adopted and incorporated by reference...

4. Section 10 of the 2009 Qualified Allocation Plan, provides in pertinent part:

... where a Development has not been placed in service by the date required or it is apparent that a development will not be placed in service by the date required, such failure is due to circumstances beyond the Applicant’s control, and the Applicant has returned its housing credit allocation in the last calendar quarter of the year in which otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of credits returned, and may allocate such housing credits to the Applicant for the year after the year in which the Development was otherwise required to be placed in service, provided the following conditions have been met...

5. Petitioner requests a waiver or variance from the above provision to permit Petitioner to return its 2009 Housing Credit Allocation (“Allocation”) now, before the last quarter of 2011, and further requests to

replace this allocation with a 2011 Carryover Allocation of Housing Credits with a corresponding extension of all time requirements pertaining to this 2011 Allocation.

6. Completion of matters necessary to the furtherance of this Development have been delayed because the City of Winter Springs (“City”) denied Petitioner’s request for Final Development Plan approval, despite prior approval of Petitioner’s conceptual plan. The denial was due in great part to the claims of several groups and homeowners’ association that the Development would result in an increase in crime in the area and would increase the burden on the local school system.

7. Petitioner modified its Final Development Plan to help alleviate these fears. Despite the changes, the City modified its Comprehensive Plan and issued a denial of the Final Development Plan. Petitioner has since filed suit against the City, alleging that the aforementioned denial violates both Federal and Florida Fair Housing Acts.

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. The Board finds that this variance is needed due to the delays incurred by the City's denial of the Final Development Plan as well as those resulting from the resulting litigation, both of which will cause the Petitioner to be unable to meet the deadlines associated with the 2009 Allocation.

10. The Board finds that factors beyond Petitioner's control have delayed the development process and the closing of financing for the Development, that a variance of the above provision is appropriate relief and that strict application of the above provision, under these circumstances, would cause substantial hardship to Petitioner and violate the principles of fairness. The Board further finds that the granting of this variance serves the underlying purpose of Chapter 420, Part V, Florida Statutes.

IT IS THEREFORE ORDERED:

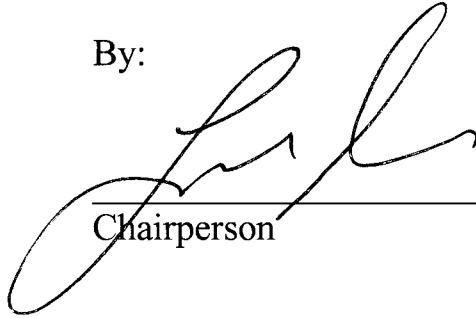
A variance from the requirements of Section 10 of the 2009 Qualified Allocation Plan is hereby **GRANTED**. Contingent upon payment of any processing fees, Petitioner shall be permitted to return its 2009 Housing Credit allocation immediately and shall receive an immediate 2011 Carryover Allocation of Housing Credits in an amount not to exceed the amount of its 2009 Housing Credit Allocation, with a corresponding extension of all time requirements.

DONE and ORDERED this 16th day of May, 2011.



Florida Housing Finance Corporation

By:


Chairperson

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.