

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: St. Martins Pl, Ltd.

FHFC Case No.: 2013-011VW

**ORDER GRANTING PETITION FOR WAIVER
OF PART II.A.2.c.(2) OF THE 2011 UNIVERSAL CYCLE
APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 21, 2013, pursuant to a Petition for Waiver of Part II.A.2.c.(2) of the 2011 Universal Application Instructions, UA1016(Rev. 2-11) and Rule 67-48.004, F.A.C., to Allow Change of Applicant Entity Prior to Home Loan Closing” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on May 23, 2013, from St. Martins Pl, Ltd. (“the Petitioner”). On May 28, 2013, the Notice of the Petition was published in Volume 39, Number 103, of the Florida Administrative Register. 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

Rella Harrell / DATE: 6/21/2013

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

2. During the 2011 Universal Cycle, St. Martin's Pl, Ltd. ("Petitioner") applied for and was awarded an allocation of tax credits and HOME funds to finance the construction of a homeless development known as St. Martin's Place (the "Development") located in Miami-Dade County, Florida.

3. Rule 67-48.004(1)(a) Fla. Admin. Code (2011) provides, in pertinent part:

(a) The Universal Application Package or UA1016 (Rev. 2-11) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation's Website under the 2011 Universal Application link labeled Instructions and Application, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-00703>, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the HOME and HC Program(s).

Part II.A.2.c. (2). of the Instructions provides in pertinent part:

If applying for MMRB or HOME, the Applicant entity shall be the borrowing entity and cannot be changed until after loan closing. 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 prior to loan closing shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes after loan closing require Board approval.

4. Petitioner requested a waiver of the above Rules to allow it to replace the Applicant entity provided at the Application Deadline, prior to the HOME Loan Closing. As justification, Petitioner states that after being invited into credit underwriting, a dispute between the principals of Biscayne Housing Group, LLC (“Biscayne”), the owner of the General Partner of the Applicant, resulted in an arbitration proceeding. The Order from this proceeding required that Michael Cox, who co-owned Biscayne with Gonzalo De Ramon be removed from the Development and that Mr. De Ramon was to proceed independently with the construction of the Development as the Applicant and the Developer.¹ Petitioner submitted a revised Exhibit 9 to its Application as Exhibit C to its Petition. This revised Exhibit 9 sets out the revised Applicant entity, BHG St. Martin’s PL, Ltd, which demonstrates that Mr. Cox would no longer participate in the Development as the Applicant.

5. The requested change would neither affect the scoring of Petitioner’s application nor allow Petitioner to gain an unfair advantage over other applicants.

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

¹ Mr. Cox was the sole limited partner of the Applicant and co-owner of the Managing Member of the Developer of the Applicant entity. There is a separate request to remove Mr. Cox from the Developer entity.

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.

7. The Board finds that strict application of the above Rule under these circumstances would result in a substantial hardship. Petitioner demonstrated that strict application of the above Rule under these circumstances would result in a substantial hardship. Petitioner established the need to move expeditiously. Further, Mr. De Ramon has the requisite experience and can complete the Development as the Applicant. A denial of the requested waiver would result in a substantial hardship due to a delay in the construction where a substantial investment in the Development has been made; resulting in delaying much needed homeless housing in Miami-Dade County.

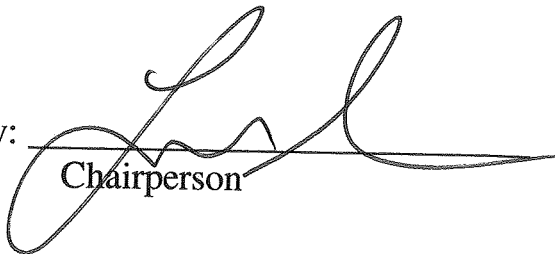
IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Part II.A.2.c.(2) of the Instructions, to allow Petitioner to change the identity of the Applicant from St. Martin's Pl Ltd., to BHG St. Martin's Pl, Ltd., prior to the HOME Loan Closing is hereby **GRANTED**.

DONE and ORDERED this 21st day of June, 2013.

Florida Housing Finance Corporation



By: 
Chairperson

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NOTICE OF RIGHT TO JUDICIAL REVIEW

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.