

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Fairfield Manor, Ltd.


FHFC Case No.: 2013-027VW

ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(g), FLORIDA ADMINISTRATIVE CODE (2011), AND PART III.E.1.b.(2)(c) OF THE 2011 UNIVERSAL APPLICATION INSTRUCTIONS

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on November 1, 2013, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(g) for a Change in Development Type" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on August 29, 2013, from Fairfield Manor, Ltd. ("the Petitioner"). On September 3, 2013, the Notice of the Petition was published in Volume 39, Number 171, 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:

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

 /DATE: 11/01/13

2. During the 2011 Universal Cycle, Petitioner was awarded a \$1,500,000 allocation of tax credits to finance the construction of a 92 unit elderly development known as Fairfield Manor (the "Development") located in Escambia County, Florida. The development type was proposed as "three story with elevator."

3. Rule 67-48.004(14) Fla. Admin. Code (2011) provides in relevant part:

"(14) 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 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. Petitioner requests a waiver of the above rule to allow it to change the Development Type, listed in its Application at Part III.A.4, as "3-story with elevator," to "mid-Rise with Elevator (a building comprised of 4 stories)" to allow it to build a four-story building to include two elevators, rather than the three story building referenced in its Application.

5. The four-story configuration will reduce the building's footprint, reducing the distance elderly residents must travel to an elevator or

trash room, and allowing inclusion of a swimming pool for residents; reduce impervious surface, thus stormwater runoff, supporting Fairfield Manor's application for LEED certification for the Development.

7. Granting the requested waiver would not affect the scoring or funding of Petitioner's Application.

8. 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.

9. Strict application of the above rule and instruction provisions under these circumstances would constitute a substantial economic hardship for Petitioner .

IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rule 67-48.004(14)(j), Florida Administrative Code (2011), to allow Petitioner to change its Development Type to Mid-rise with Elevator in order to construct this 92-unit development configured as four stories with two elevators per building, is hereby **GRANTED**.

DONE and ORDERED this 1st day of November, 2013.



Florida Housing Finance Corporation

By: _____

Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
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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.