

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: MARIANNA GARDENS
PRESERVATION, LP

FHFC Case No.: 2015-001VW

**ORDER GRANTING WAIVER OF RULE 67-21.003(1)(a),
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on January 30, 2015, pursuant to a "Petition for Waiver of Rule 67-21.003(1)(a), for a Change in Ownership Structure" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on January 14, 2015, from Marianna Gardens Preservation, LP (the "Petitioner"). On January 16, 2015, Notice of the Petition was published in Volume 41, Number 11, 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: 01-30-15

2. Petitioner was selected to receive \$350,000 in State Apartment Incentive Loan (SAIL) funding in Application #2014-327S under RFA 2014-103 (the “RFA”), and was also provided funding under its non-competitive Housing Tax Credits/Multifamily Mortgage Revenue Bond (4% HC/MMRB) Application (\$340,592 and \$7,300,000, respectively). These funds were provided to assist in the construction of a 100-unit Garden apartment complex serving the Family demographic in Jackson County, Florida.

3. Petitioner seeks to change a general partner of the Applicant entity, Royal American Development, Inc. (“RAD”), to a new special purpose entity, RA Marianna Gardens, LLC, a Florida limited liability company, the members of which are RAD and JBC of Panama City, Inc., a Florida corporation. Both RAD and RA Marianna Gardens, LLC are ultimately controlled by the same person or entity.

4. This change in ownership structure is required by the bond purchaser, and that without this change the purchaser may not close on the transaction, resulting in substantial hardship to Petitioner.

5. Rule 67-21.003(1)(a), Fla. Admin. Code (Rev. 7-16-13) adopts and incorporates by reference the Non-Competitive Application Package (Rev. 3-13), which includes the following Instructions at Section A.2.a.(2):

(2) If applying for MMRB, with or without Non-Competitive HC, 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.

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

7. 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.

8. The Board finds that to deny Petitioner's request for a waiver of the above incorporated Instructions would cause substantial hardship to Petitioner and violate the principles of fairness. The Board further finds that the granting of this request for waiver would serve the underlying purpose of Chapter 420, Part V, Florida Statutes.

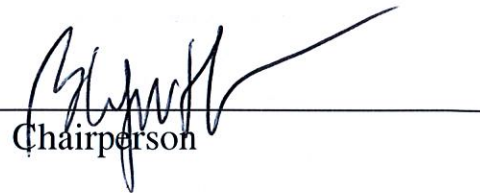
IT IS THEREFORE ORDERED:

Petitioner's request for waiver of the Instructions set forth above and incorporated into Rule 67-21.003(1)(a), Florida Administrative Code is hereby **GRANTED**, to permit the requested change in the Applicant's ownership structure.

DONE and ORDERED this 30TH day of January, 2015.



Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
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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.