

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

JANIE POE ASSOCIATES 3, LLC,

Petitioner,

v.

FHFC Case No.: 2015-002VW

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

**ORDER GRANTING WAIVER OF
2012 QUALIFIED ALLOCATION PLAN, PARAGRAPH 9
AS INCORPORATED BY REFERENCE AT RULE 67-48.002 (94), F.A.C.**

THIS CAUSE came on for consideration and final agency action before the Board of Directors of the Florida Housing Finance Corporation on March 20, 2015, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on February 6, 2015, from Janie Poe Associates 3, LLC ("Petitioner"). Notice of the Petition was published in Volume 41, Number 28, 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.

2. Janie Poe Associates 3, LLC (“Petitioner”) applied for and was awarded an allocation of Low Income Housing Tax Credits under RFP 2013-07 - PHA Revitalization High Priority Affordable Housing Developments (the “RFP”) to finance the construction of a family development in in Sarasota County known as Janie’s Garden Phase 3 (the “Development”). On December 27, 2013, Petitioner entered into a Carryover Agreement for allocation of 2013 Low-Income Housing Tax Credits and as a result, the Placed-In-Service date for the Development is December 31, 2015.

3. Rule 67-48.002(94) Fla. Admin. Code (2012) defines and incorporates by reference the 2012 Qualified Allocation Plan (the “QAP”). Section 9 of the QAP provides in pertinent part:

[W]here 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 it was otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of Housing 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: (i) the sponsor must have provided written notice to the Corporation, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any

other pertinent information, prior to returning the allocation; and (ii) the Executive Director must find and determine that the delay was caused by circumstances beyond the Applicant's control, that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay, that the Development in all respects, except time placed in service, still meets the conditions upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs. (Emphasis added.)

4. Petitioner requests a waiver from the above provisions of the QAP to permit the immediate return of its Carryover Allocation of 2013 Housing Credits and to receive a reservation and Carryover Allocation of 2015 Housing Credits, with a corresponding extension of all deadlines relative to those credits.

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:

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. Petitioner has demonstrated that strict application of the above QAP under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness, in that the completion of the Development has been delayed by circumstances beyond Petitioner's control. On December 23, 2014, the

general contractor for the Development declined to move forward on the Development, necessitating the need to hire a new general contractor. Due to this delay, Petitioner will not be able to meet its Placed-in-Service date by December 31, 2015. In the interim, Petitioner has hired a new general contractor and architect, and has advanced the construction process by securing permits. Petitioner has also demonstrated that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver from Section 9 of the 2012 QAP, to permit the immediate return of its Carryover Allocation of 2013 Housing Credits and to receive a reservation and Carryover Allocation of 2015 Housing Credits, with a corresponding extension of all deadlines relative to those Housing Credits is hereby **GRANTED.**

DONE and ORDERED this 20th day of March, 2015.

Florida Housing Finance Corporation



By: _____
Chair

A handwritten signature in blue ink is written over a horizontal line. The signature is cursive and appears to be "R. J. ...".

Copies furnished to:
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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

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.