

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: DR. ALICE MOORE
APARTMENTS, LLLP

FHFC CASE NO.: 2017-040VW

ORDER GRANTING WAIVER OF RULE 67-48.002(95)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 16, 2017, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on May 24, 2017, from Dr. Alice Moore Apartments, LLLP, ("Petitioner"). Notice of the Petition was published on May 30, 2017, in Volume 43, Number 104, 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. Petitioner was selected to receive competitive Housing Credits under Request for Applications 2016-103 (the "RFA") to assist in the construction of The Residences at Dr. Alice Moore Apartments, LLLP, a 36-unit housing development for persons with a disabling condition in Palm Beach County, Florida. Petitioner's Application Number was 2016-333CL (the "Application").

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

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3. Petitioner seeks a waiver from Rule 67-48.002(95), Fla. Admin. Code.
4. Rule 67-48.002(95), Fla. Admin. Code defines and incorporates by

reference the 2016 QAP including the following provision from Section II.K:

K. Notwithstanding any other provision of this QAP, 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, and 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 Application 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.

5. Petitioner requests a waiver of the above Rule and bolded selection of the QAP provision above to permit it to exchange its tax credits now rather than in the last calendar quarter of 2018. Petitioner asserts that unforeseen events will cause

the Development to not be placed in service by December 31, 2018. Petitioner asserts that the Development was proceeding towards a closing when the equity markets suffered a significant pull back which resulted in significant downward pressure on tax credit pricing. Therefore, the Development's transaction will need to be re-underwritten and restructured in order to move forward. Given these circumstances, Petitioner asserts that achievement of the scheduled placed in service deadline is extremely unlikely. Petitioner therefore requests that it be permitted to swap the allocated tax credits now instead of the last quarter of 2018.

6. The Board finds that granting the waiver not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

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. Petitioner has demonstrated that strict application of the above Rules under these circumstances would constitute a substantial hardship and violate the principals of fairness. Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state" (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

9. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner, and 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 a waiver of Rule 67-48.002(95), Florida Administrative Code and the timing provision in Section II.K of the 2016 QAP is hereby **GRANTED** to allow Petitioner to exchange its 2016 credits for a subsequent year's allocation now rather than in the last calendar quarter of 2018.

DONE and ORDERED this 16th day of June, 2017.

Florida Housing Finance Corporation

By: 

Chair

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.