

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Dr. Alice Moore Apartments, LLLP

FHFC CASE NO.: 2017-077VW

ORDER GRANTING WAIVER OF RULE 67-48.004(3)(g)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on January 26, 2018, pursuant to a "Petition for Waiver" ("Original Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 13, 2017, from Dr. Alice Moore Apartments, LLLP ("Petitioner"). Notice of the Petition was published on November 15, 2017, in Volume 43, Number 221, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. On November 22, 2017, Petitioner filed an Amended and Restated Petition (together with the Original Petition, collectively referred to as 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 Application ("RFA") 2016-103 to assist in financing the development

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HOUSING FINANCE CORPORATION

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of Dr. Alice Moore Apartments, a 36-unit housing development in Palm Beach County, Florida for persons with disabilities. Petitioner’s Application Number was 2016-333CL (the "Application").

3. Petitioner requests a waiver of Rule 67-48.004(3), Fla. Admin Code, which, in relevant part, states the following:

For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

.....

(g) Development Type;

4. Petitioner requests a waiver of the above Rule to allow it to change the Development Type listed in its Application from “Garden Apartments” to “Mid-Rise, 4-stories.” Petitioner requests the change in Development Type in order to construct a 4-story building rather than a 3-story building. Petitioner asserts that the City of West Palm Beach recently modified its zoning code and Dr. Alice Moore Apartments is the first development to be constructed under the new zoning code. Furthermore, Petitioner states that meeting the requirements under the zoning code

has proven difficult with the garden design and they have already had to redesign the buildings several times as a result.

5. The Board finds that granting the waiver will 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.

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 Rule 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.

8. The Board finds that strict application of the above Rule 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 the above Rule is **GRANTED**, to permit Petitioner to change its Development

Type listed in the Application from “Garden Apartments” to “Mid-Rise, 4-stories” and to allow Petitioner to use the Total Development Cost Per Unit limitation for the Development Type of “Mid-Rise, 4-stories” excluding the portion allocated to the maximum developer fee which shall stay at the “Garden Apartments” limit.

DONE and ORDERED this 26th day of January, 2018.

Florida Housing Finance Corporation



By:


Chair

Copies furnished to:

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NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO ADMINISTRATIVE 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.