

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: OCEANSIDE HOUSING
PARTNERS, LP

FHFC Case No.: 2017-091VW

**ORDER GRANTING WAIVER OF
RULE 67-21.003(1)(b), FLA. ADMIN. CODE**

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 of Rule 67-21.003(1)(b), F.A.C." (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on December 22, 2017, from Oceanside Housing Partners, LP ("Petitioner"). Notice of the Petition was published on December 27, 2017, in Volume 43, Number 248, 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

Thomas Slattery / DATE: 1/26/18

2. In 2017, Oceanside Housing Partners, LP (“Petitioner”) successfully applied for an award of Non-Competitive Housing Credits to assist in the construction of a development serving elderly persons in Pinellas County.

3. Petitioner now requests a waiver of the following provision of the Non-Competitive Application (NCA), which is incorporated into R. 67-21.003(1)(b), Fla. Admin. Code. The NCA provides, in pertinent part:

By completing, executing and submitting this Application form and all applicable exhibits, the Applicant certifies and acknowledges that:

j. The proposed equity amount to be paid prior to or simultaneous with the closing of construction financing is at least 15 percent of the total proposed equity to be provided...

4. Petitioner requests a waiver of the above incorporated provision of the NCA to permit it to close on its bond financing although it did not pay the required 15% of equity. As noted below, Petitioner has already closed the subject transaction on December 15, 2017.

5. In December 2017, proposed action by the U.S. House of Representatives created the possibility that the tax-free status of a large portion of Petitioner’s financing would be terminated after December 31, 2017. Because of the sudden need to close on these bonds sooner than anticipated, Petitioner was unable to bring an investor limited partner into its ownership structure and thus the 15% of

equity required at the loan closing was not yet available at the time of the closing (December 15, 2017).

6. Petitioner has demonstrated that because of the potentially devastating effects that the proposed Congressional action would have had on the tax-free status of private activity bonds (the legislation ultimately did not pass), that it would suffer a substantial hardship if the waiver is not granted. Under these circumstances, Petitioner had to close before December 31, 2017, much sooner than it had anticipated, and without first obtaining a rule waiver. If the waiver is not granted, Petitioner will not be able to secure the benefits of the tax-exempt financing necessary to complete the Development.

7. 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

8. Section 120.542(2), Fla. Stat., 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.

9. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner. The Board further

finds that granting this request furthers the Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizen of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of R. 67-21.003(1)(b), Fla. Admin. Code, and the above incorporated provision of the NCA is hereby **GRANTED** to permit Petitioner, *nunc pro tunc*, to close its construction financing without paying the 15% of total equity.

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

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 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.