

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

IN RE: WOODLAND PARK
REDEVELOPMENT, I, LLC

FHFC CASE NO.: 2018-059VW

**ORDER GRANTING WAIVER OF
RULES 67-48.0072(28) (c) AND 67-48.0075(3)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on July 27, 2018, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on July 9, 2018, from Woodland Park Redevelopment, I, LLC ("Petitioner"). Notice of the Petition was published on July 10, 2018, in Volume 44, Number 133, 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 an award of housing credits under Request for Applications 2015-106 (the "RFA") to assist in the construction of a development serving families in Alachua County.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Tom R. Ramos DATE: 7/27/18

3. Rule 67-48.0072(28)(e), Fla. Admin. Code (2014), provides:

(e) ...“During the credit underwriting process and as a part of the final cost certification process, the Development will be subjected to the Total Development Cost per unit limitation test as outlined in a competitive solicitation.

4. Rule 67-48.0075(3), Fla. Admin. Code (2014), provides, in pertinent part:

Total Development Cost includes the following:

(b) The cost of site preparation, demolition and development...

(j) The cost of such other items, including relocation costs...

5. Exhibit C, Section 8 of the RFA provides:

5. Total Development Cost Per Unit Limitation:

The Corporation shall limit the Total Development Cost (TDC) per unit for all Developments categorized by the construction type of the units as indicated by the Applicant in the RF'A. The maximum amounts are provided on the TDC Per Unit Limitation chart set out below (the maximum TDC per unit exclusive of land costs and exclusive of any operating deficit reserves that are part of the permanent phase (i.e., non-construction) financing for the Development which have not been included within the Developer fee, applying any applicable TDC multiplier and/or TDC add-on) and will be tested during the scoring of the RFA, during the credit underwriting process, and during the final allocation process, as outlined below.

6. Petitioner now asks for a waiver or variance from the above provisions, to exclude demolition and relocation costs from the Development's TDC. As grounds for this request, Petitioner reports several factors that have affected the

progress of the Development. Petitioner asserts that it is usual practice when partnering with a local Public Housing Authority (PHA) that the PHA paid demolition and relocation costs directly from PHA funds, and did not typically include them in a TDC. In this case, Gainesville Housing Authority (GHA) did not have this option nor possessed the funds from other sources to cover these costs outside the TDC (funds were instead promised to modernize another local development). Petitioner requests the demolition and relocation costs to remain in the Development budget, but be excluded from the TDC so that another source of funds can be obtained and to avoid exceeding the TDC limit. Petitioner also reports that if the waiver is not granted, and GHA were to remove the demolition and relocation costs from the Developments TDC in the absence of the waiver (and fund such costs directly), GHA would have no way to recoup such funds in the event the Development were able to locate additional funds (i.e., Federal Home Loan Bank funds), since such costs would no longer be within the Development budget and thus not eligible to be paid with replacement funds.

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), 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.

9. Petitioner has demonstrated that the waiver is needed in order to efficiently serve persons with disabilities and that, if the waiver were not granted, Petitioner would suffer a substantial hardship. 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.

10. 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 Rules 67-48.0072(28) and 67-48.0075(3), Fla. Admin. Code is hereby **GRANTED** to exclude demolition and relocation costs from the Developments TDC, and to waive the applicable requirements of Exhibit C, Section 8 of the RFA.

DONE and ORDERED this 27th day of July 2018.



Florida Housing Finance Corporation

By:


Chair

Copies furnished to:

Hugh R. Brown, General Counsel
Hugh.Brown@floridahousing.org

Kevin Tatreau, Interim Director of Multifamily Programs
Kevin.Tatreau@floridahousing.org

Gary J. Cohen, Esq.
GCohen@shutts.com

Joint Administrative Procedures Committee
Ms. Yvonne Wood
WOOD.YVONNE@leg.state.fl.us

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.