

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: OVATION HOUSING, LLLP.

FHFC Case No.: 2018-036VW

**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 June 15, 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 May 18, 2018, from Ovation Housing, LLLP (“Petitioner”). Notice of the Petition was published on May 21, 2018, in Volume 44, Number 99, 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 successfully applied for an award of 4% Non-Competitive Housing Credits (with local bonds) to assist in the rehabilitation of a development serving families in Orange County.

3. Petitioner paid \$455,673 as a part of their first equity installment, amounting to 14.12% of the total equity. The 0.88% difference from the required 15% provided at closing amounts to \$28,445.25. The difference is the result of Petitioner's error, resulting from changes to the development budget. Petitioner is requesting a waiver of the above rules to receive financing necessary to complete the rehabilitation of the development.

4. Rule 67-21.003(1)(b), Fla. Admin. Code, provides as follows:

(1) Applicants shall apply for MMRB, Non-Competitive HC, or a combination of MMRB and Non-Competitive HC as set forth below. For purposes of this subsection only, the term NC Award shall refer to MMRB, Non-Competitive HC, or a combination of MMRB and Non-Competitive HC, and funding from the following Corporation programs will not be considered to be other Corporation funding: Predevelopment Loan Program (PLP) and Elderly Housing Community Loan (EHCL) Program.

* * *

(b) If the NC Award will not be in conjunction with other Corporation funding made available through the competitive solicitation funding process outlined in Rule Chapter 67-60, F.A.C., the Applicant shall utilize the Non-Competitive Application Package in effect at the time the Applicant submits the Application. The Non-Competitive Application Package or NCA (Rev. 08-2016) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation's website under the Multifamily Programs link labeled Non-Competitive Programs or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-07356>, which shall be completed and submitted to the Corporation in accordance with this rule chapter.

5. Section 7j of the NCA, provides:

7. 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% of the total proposed equity to be provided (the 15 percent criteria)...

6. Petitioner paid \$455,673 as a part of their first equity installment, amounting to 14.12% of the total equity. The 0.88% difference from the required 15% provided at closing amounts to \$28,445.25. The difference is the result of Petitioner's error, resulting from changes to the development budget. Petitioner is requesting a waiver of the above rules to receive financing necessary to complete the rehabilitation of the development.

7. Section 120.542(2), Fla. Stat., provides in pertinent part:

Variances 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 The Board finds that strict application of the above Rule regarding the Firm Commitment Deadline 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, and that it would have no impact on other participants in

funding programs administered by Florida Housing, nor would it have a detrimental effect on Florida Housing.

9. Although Petitioner has also requested a waiver of the extension fee, the Board finds that such a request is unnecessary – as this request is processed as a waiver of the Rule and not within the operation of the Rule, no such fee will be imposed for this extension. The Board therefore finds Petitioner’s request to waive the extension fee as moot.

IT IS THEREFORE ORDERED:

Petitioner’s request for waiver of R. 67-21.003(1)(b), Fla. Admin. Code is hereby **GRANTED** to allow the remaining 0.88% of the 15% equity required at closing to be paid by June 14, 2018.

DONE and ORDERED this 15th day of June, 2018.



Florida Housing Finance Corporation

By: 
Chair

Copies to:

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

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.