

**STATE OF FLORIDA**  
**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**  
**FLORIDA REAL ESTATE COMMISSION**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/18/2017
File #	2017-00390

**IN RE: Petition for Declaratory Statement**  
**by St. Petersburg Housing Authority**

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**DS 2016-084**

**FINAL ORDER GRANTING PETITION FOR**  
**DECLARATORY STATEMENT**

St. Petersburg Housing Authority filed a petition for declaratory statement on November 7, 2016. Notice of the receipt of the petition was published in the Florida Administrative Register. The Commission considered the petition at its meeting in Orlando, Florida on December 13, 2016.

By its petition, St. Petersburg Housing Authority seeks the Commission's opinion whether they qualify for an exemption under Section 475.011(2), F.S., for the leasing and management of Jordan Park Apartments, a public housing and low income Housing Tax Credit property.

**FINDINGS OF FACT**

1. The St. Petersburg Housing Authority is a public housing authority under Chapter 421, Florida Statutes. Other facts about this Authority are as set forth in the Petition.

2. Petitioner asks whether the following exemption to Part I, Chapter 475, applies to their operations described in their petition. The exemption in Section 475.011(2), F.S., provides as follows:

(2) Any individual, corporation, partnership, trust, joint venture, or other entity which sells, exchanges, or leases its own real property; however, this exemption shall not be available if and to the extent that an agent, employee, or independent contractor paid a commission or other

compensation strictly on a transactional basis is employed to make sales, exchanges, or leases to or with customers in the ordinary course of an owner's business of selling, exchanging, or leasing real property to the public.

### **CONCLUSIONS OF LAW**

3. The Commission is authorized to issue this declaratory statement by Section 120.565, Florida Statutes.

4. Under the facts and circumstances outlined by the Petitioner in their request for a declaratory statement, the Commission states that Petitioner qualifies for the exemption set forth in Section 475.011(2), F.S.

5. The Commission grants the petition for declaratory statement.

**DONE AND ORDERED** this 9 day of January, 2017.



Lori Crawford  
Executive Director  
Florida Real Estate Commission

### **NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Melinda Perry, Chief Operating Officer, St. Petersburg Housing Authority, 2001 Gandy Boulevard North, St. Petersburg, Florida 33702 and Tom Barnhart, Special Counsel, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, all on this 18<sup>th</sup> day of January, 2017.

  
Brendon M. Nichols



<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
CLERK.	Brandon Nichols
Date	<b>11/7/2016</b>
File #	

Petition for Declaratory Statement before Florida Real Estate Commission

Petitioner

Melinda Perry, 2001 Gandy Blvd. North, St. Petersburg, FL 33702  
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Phone: (727) 323-3171, ext. 223  
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**DS 2016-084**

Petitioner's Attorney

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The statute we are concerned about is **Section 475.011(2)**, which essentially provides an exemption from licensing requirements for the leasing of one's own property (provided no employee is compensated on a commission basis).

The St. Petersburg Housing Authority, a public housing authority under Chapter 421, Florida Statutes, is in the process of purchasing Jordan Park Apartments, a public housing and Low Income Housing Tax Credit property, through its instrumentality, RISE Development Corporation, a 501(c)3 organization. The St. Petersburg Housing Authority will manage the property. No employee will receive compensation on a commission basis.

Our interpretation of Chapter 421, Florida Statutes, and in particular Section 421.08(2), is that these provisions provide separate and complete statutory authority for a public housing authority to operate, manage and lease a "housing project" (as defined in Chapter 421) within the housing authority's area of operation without the need of a real estate license. Further, if a housing authority creates a corporation under Section 421.08(11)(a) for the purpose of facilitating the development of housing projects at the direction and within the control and area of operation of the housing authority, the housing authority need not obtain a real estate brokerage license to manage, operate and lease such project, even if the ownership of the development is in the name of a limited partnership of which the housing authority's corporation (or a wholly owned subsidiary or limited liability company) is a general or managing member.

Under Chapter 421, housing authorities exercise "the public and essential governmental functions" set forth in Chapter 421, Florida Statutes and have "all the powers necessary or convenient to carry out and effectuate the purpose and provisions" of Chapter 421. Section 421.08(2) specifically authorizes a housing authority to lease and operate housing projects within

its area of operation. Section 421.08(11) specifically authorizes a housing authority to carry out its mission through the creation of corporate entities.

We respectfully request that the Florida Real Estate Commission agree that housing authorities created under Chapter 421, Florida Statutes, are not subject to the licensing requirements of Chapter 475, Florida Statutes. Alternatively, we respectfully request that the Florida Real Estate Commission agree that the operation and leasing by a housing authority of a housing project under Chapter 421, Florida Statutes, including, without limitation, a development undertaken by or with a corporate entity pursuant to Section 421.08(11), meets the requirements for exemption under Section 475.011(2) provided that no employee of the housing authority is compensated on a commission basis.

Maell YB  
Petitioner's Signature

11/3/16  
Date

Jeffrey New  
Petitioner's Attorney's Signature

11/3/16  
Date