

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: BROOKESTONE I, LP

FHFC Case No.: 2016-033VW

**ORDER GRANTING WAIVER OF RULE
67-48.0072(4)(c), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on August 5, 2016, pursuant to a Petition for Waiver of Rule 67-48.0072(4)(c) ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on July 14, 2016, from Brookestone I, LLC ("Petitioner"). Notice of the Petition was published in Volume 42, Number 138, 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 \$3,050,000 in SAIL funds from Florida Housing under RFA 2014-103 to assist in the construction of a 108 unit low-income elderly housing development named "Brookestone I Apartments" (the "Development"). Petitioner now seeks a waiver to extend the SAIL loan closing date.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 8-05-16

3. Rule 67-48.0072(4)(c), Fla. Admin. Code, provides:

(c) For SAIL, EHCL, and HOME Applicants, the loan must close within 12 months of the date of the invitation to enter credit underwriting. Applicants may request one (1) extension of up to 12 months. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. . . . In the event the loan does not close by the end of the 12 month extension period, the preliminary commitment or firm commitment, as applicable, will be deemed void and the funds will be de-obligated.

4. Petitioner was invited to credit underwriting on August 14, 2014, and received a 12-month extension until August 14, 2016. Petitioner has been unable to close the SAIL loan and does not anticipate being able to close it by August 14. Petitioner therefore seeks an extension of the SAIL loan closing date until December 31, 2016.

5. Under Section 120.542(1), Fla. Stat., and Chapter 28-104, Fla. Admin. Code, Florida Housing has the authority to grant waivers to its rule requirements when strict application of these rules would lead to unreasonable, unfair, and unintended consequences in particular instances. Section 120.542(2) 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

The principles of fairness are violated when literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

6. The Board finds that granting the waiver would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants. The Board further finds that granting the waiver would have no detrimental impact on Florida Housing or any of its programs.

7. Petitioner has demonstrated that it would suffer a substantial hardship if the waiver is not granted. 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.

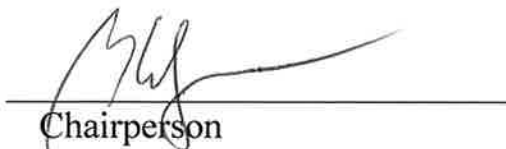
8. The Board finds that strict application of the above rules under these circumstances would cause substantial hardship to Petitioner. The Board further finds that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Rule 67-48.0072(4)(c) Fla. Admin. Code, is hereby **GRANTED**, so that the SAIL loan closing deadline may be extended from August 14, 2016 until December 31, 2016.

DONE and ORDERED this 5th day of August, 2016.

Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:

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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.