

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Caribbean Village, LTD

FHFC CASE NO.: 2017-064VW

ORDER GRANTING WAIVER OF RULE 67-48.0072(4)(c)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on October 27, 2017, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on October 3, 2017, from Caribbean Village, LTD ("Petitioner"). Notice of the Petition was published on October 5, 2017, in Volume 43, Number 193, 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 State Apartment Incentive Loan ("SAIL") financing under Request for Application ("RFA") 2014-111 to assist in the construction of Caribbean Village, an 82-unit elderly non-ALF housing

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Thomas Slamory /DATL: 10/27/17

development in Miami-Dade County, Florida. Petitioner's Application Number was 2014-418S (the "Application").

3. Petitioner seeks a waiver of Rule 67-48.0072(4)(c), Florida Administrative Code, which 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 December 19, 2014, and received a 12-month extension to close the loan until December 21, 2016. Then, Petitioner petitioned for and was granted a waiver of the above rule to extend the closing deadline to December 21, 2017 under FHFC Case No. 2016-035VW. Now, Petitioner is requesting an extension of the SAIL loan closing date until June 29, 2018, due to delays in the development process. Specifically, delays from an Administrative Complaint and Temporary Order of Suspension filed by Florida Housing and delays from litigation filed by an adjacent landowner against Petitioner and Miami-Dade County. The litigation involving the adjacent landowner was settled mid-summer of 2017. On September 22, 2017, a Settlement Agreement was

approved by Florida Housing and Petitioner may now move forward with the closing.

5. 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.

6. Section 120.542(2), Florida Statutes, 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.

7. Petitioner has demonstrated that strict application of the above Rule under these circumstances would constitute a substantial hardship and violate the principals of fairness. 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 Rule 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 the above Rule is **GRANTED**, so that the SAIL loan closing deadline may be extended from December 21, 2017 until June 29, 2018.

DONE and ORDERED this 27th day of October, 2017.

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.