

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Pasco CWHIP Partners, LLC

Case No. 2012-033VW

**ORDER GRANTING WAIVER OF RULES 67-58.020(6)
and 67-58.070(6), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on July 20 2012, pursuant to a "Petition for Waiver or Variance from Rules 67-58.020(6) and 67-58.070(6), F.A.C." (the "Petition") filed by Pasco CWHIP Partners, LLC ("Petitioner") on June 19, 2012. Notice of the Petition was published on June 29, 2012 in Volume 38, Number 26, of the Florida Administrative Weekly.

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. During Florida Housing's 2007 funding period, Petitioner successfully applied for CWHIP funding to assist with financing a

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

William Harrel DATE: 7/24/12

workforce housing project in Pasco County, Florida, under application number 2007-004W and was subsequently invited into credit underwriting.

3. Based in part on the circumstances described below, Petitioner has previously sought and obtained a 10-month extension from Florida Housing to complete underwriting for its project, Village Green with Ten Oaks, a housing project for the Pasco County community workforce.

4. Rules 67-58.020(6) and 67-58.070(6), Fla. Admin. Code (the “Rule”), contain the same language and provide, in pertinent part:

The Applicant has 14 months from the date of the acceptance of the letter of invitation to complete credit underwriting and receive Board approval unless an extension of up to 10 months is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and detail the timeframe to close the loan. The written request will then be submitted to the Corporation’s Board for consideration. The Corporation shall charge an extension fee of 1 percent of the CWHIP loan amount if the Board approves the extension request.

5. Petitioner requests a waiver from that portion of the above Rules to obtain a onetime additional second extension of additional time for 186 days from August 3, 2012 to complete credit underwriting and obtain board approval of its project, due to circumstances beyond its control.

6. On or around November 13, 2008, Petitioner received a commitment letter from Florida Housing and invitation to enter credit

underwriting for an award of \$5,000,000.00 in CWHIP funding and \$300,000.00 as a supplemental loan.

7. Subsequent to the receipt of the November 13, 2008 commitment letter, Florida Housing issued a memorandum that notified Petitioner that the CWHIP funding their project had been de-obligated.

8. On or around September 8, 2009, Petitioner received a revised invitation to enter into credit underwriting where Florida Housing offered Petitioner a preliminary commitment for a CWHIP loan of up to \$1,735,000.00 under Emergency Rule 67ER09-4, F.A.C., of which Petitioner did not accept.

9. On or around February 22, 2010, Petitioner received a revised invitation to enter credit underwriting for the original award amount of \$5,000,000.00 and a supplemental loan of \$300,000.00.

10. On or around August 3, 2010, Petitioner received another revised invitation to enter into credit underwriting for a revised award amount of \$2,500,000.00 and a supplemental loan of \$150,000.00 based off of the downsizing of the project from 60 units to 30 units.

11. In August 2010, Petitioner officially accepted the invitation to enter into credit underwriting and started its initial 14 month period to complete credit underwriting and receive board approval.

12. House Bill 639 (2011), which temporarily prevented any new construction funded by the state of Florida until July 1, 2012, was passed on March 31, 2011 and signed into law by the governor on June 21, 2011.

13. Due to House Bill 639 (2011), Petitioner was stopped for the second time in its efforts to finalize the underwriting for its housing project.

14. On or around September 21, 2011, Petitioner formally requested a 10 month extension from Florida Housing to complete underwriting according to Rules 67-58.020(6) and 67-58.070(6), F.A.C.

15. On or around October 14, 2011, the Board granted Petitioner's request for a 10 month extension to complete underwriting.

16. Due to House Bill 639 (2011), Petitioner could not move forward with credit underwriting during the 10 month extension.

17. Petitioner has expended its initial 14 months from the date of the acceptance letter to complete underwriting as well as the only 10 month extension granted by the Florida Housing board through Rules 67-58.020(6) and 67-58.070(6), F.A.C. is set to expire on August 3, 2012.

18. It was only after the legislature did not extend House Bill 639 in the 2012 legislative session that Florida Housing gave Petitioner the green light to resume credit underwriting in April 2012.

19. Petitioner cannot finish credit underwriting before the 10 month expiration date of August 3, 2012, after restarting the whole process in April 2012, due to the extensive time constraints of what is required and needed in order to complete the credit underwriting process.

20. Petitioner now seeks this wavier for a second extension of time due to the unusual circumstances that both the de-obligation and House Bill 639 (2011) have presented.

21. 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.

22. The Board finds that Petitioner has demonstrated that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness, in that the Development has been stalled and delayed through no fault of its own and at considerable expense and hardship to Petitioner.

23. The Board finds that denial of this request could result in the Development not being built, which would result in considerable financial losses for and litigation costs for Petitioner.

24. The Board finds that the granting of this Petition would serve the underlying purpose of Chapter 420, Part V, Florida Statutes, by facilitating the development of much needed affordable workforce housing in Pasco County.

IT IS THEREFORE ORDERED:

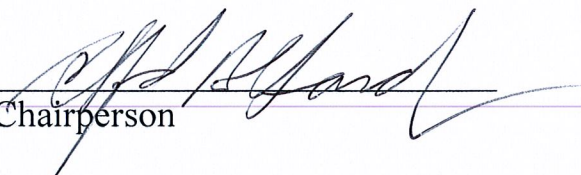
A waiver of Rules 67-58.020(6) and 67-58.070(6), F.A.C. is hereby **GRANTED**. Petitioner shall be permitted a second extension of additional time for 186 days from August 3, 2012 to complete credit underwriting and obtain board approval of its development, conditioned upon Petitioner paying all sums due to the credit underwriter within 30 days of the date of this Order for any required third party reports, studies, or other work necessary to complete credit underwriting.

DONE and ORDERED this 20th day of July, 2012.

Florida Housing Finance Corporation



By:


Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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NOTICE OF RIGHTS

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.