

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Sunset Pointe Associates, Ltd.,

FHFC CASE NO.: 2017-002VW

---

**ORDER GRANTING WAIVER OF RULE 67-48.0072(26)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on February 3, 2017, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on January 11, 2017, from Sunset Pointe Associates, Ltd. (“Petitioner”). Notice of the Petition was published on January 17, 2017, in Volume 43, Number 10, 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 HOME funding in conjunction with Florida Housing-Issued MMRB and Non-Competitive Housing Credits under Request for Application (“RFA”) 2015-110 to assist in the construction of Sunset

Pointe, an 82-unit family housing development in Miami-Dade County, Florida. Petitioner's Application Number was 2016-107H (the "Application").

3. Petitioner seeks a waiver from Rule 67-48.0072(26), Fla. Admin. Code.
4. Rule 67-48.0072(26), Fla. Admin. Code provides the following:

For SAIL, EHCL, and HOME, that is not in conjunction with Competitive HC, these Corporation loans and other mortgage loans related to the Development must close within 120 Calendar Days of the date of the firm loan commitment(s), unless the Development is a Tax-Exempt Bond-Financed Development which then the closing must occur within 180 Calendar Days of the firm loan commitment(s). Unless an extension is approved by the Board, failure to close the loan(s) by the specified deadline outlined above shall result in the firm loan commitment(s) being deemed void and the funds shall be de-obligated. Applicants may request one (1) extension of the loan closing deadline outlined above for a term of up to 90 Calendar Days.... In the event the Corporation loan(s) does not close by the end of the extension period, the firm loan commitment(s) shall be deemed void and the funds shall be de-obligated.

5. Petitioner requests a waiver of the above Rule to allow a further extension of the HOME closing deadline. Petitioner asserts that it was previously granted a ninety-day extension of the HOME loan closing deadline from December 24, 2016 to March 24, 2017. Petitioner is requesting the further extension of the HOME loan closing date from March 24, 2017 to January 14, 2018. Petitioner asserts that the extension is necessary due to delays in the process for obtaining building and development permits and to account for any further unforeseen delay.

6. 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.

7. Section 120.542(2), Florida Statutes 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.

8. Petitioner has demonstrated that strict application of the above Rules 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.

9. Petitioner has not, however, demonstrated that an extension to January 14, 2018 is necessary or serves the underlying purpose of Chapter 420, Part V.

10. The Board finds that strict application of the above Rules 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.

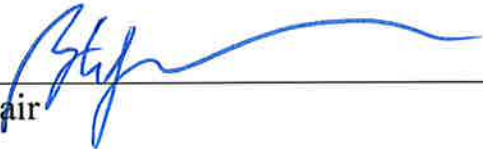
**IT IS THEREFORE ORDERED:**

Petitioner's request for a waiver of Rule 67-48.0072(26), Florida Administrative Code is hereby **GRANTED** to allow an extension of the HOME loan closing date of ninety days from March 24, 2017 to June 22, 2017.

DONE and ORDERED this 3rd day of February, 2017.

Florida Housing Finance Corporation

By:

  
Chair

**Copies furnished to:**

Hugh R. Brown  
General Counsel  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

Ken Reecy  
Director of Multifamily Development Programs  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301

Brian J. McDonough, Esq.  
Stearns Weaver Miller Weissler Alhdadef & Sitterson, P.A.  
150 West Flagler Street, Suite 150  
Miami, Florida 33131

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

## **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.**