

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

IN RE: WOODLAND GROVE APARTMENTS, LTD.

FHFC CASE NO.: 2019-039VW

**ORDER GRANTING WAIVER OF RULES 67-48.0072(4)(c)  
AND 67-48.0072(21)(b) (2017)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on May 10, 2019, pursuant to an “Petition for Waiver of Rules 67-48.0072(4)(c) and 67-48.0072(21)(b) (2017)” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on April 16, 2019 from Woodland Grove Apartments, LLC (“Petitioner”). Notice of the Petition was published on April 18, 2019, in Volume 45, Number 76, 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 successfully applied for an award of State Apartment Incentive Loan (SAIL), Multifamily Mortgage Revenue Bond (MMRB), and 4%

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

Tom:slamery /DATE: 5/10/19

Non-Competitive Housing Credit funding under RFA 2017-108 to assist in the construction of Woodland Grove, a Development located in Miami-Dade County. Petitioner has also received National Housing Trust Fund (NHTF) and Extremely Low Income (ELI) funding for this Development.

3. Rule 67-48.0072(4)(c), Fla. Admin. Code (2017), provides:

For SAIL, EHCL, and HOME that is not in conjunction with Competitive HC, the credit underwriting process must be completed within the time frame outlined in subsection 67-48.0072(21), F.A.C., below and the loan must close within the time frame outlined in subsection 67-48.0072(26), F.A.C., below.

4. Rule 67-48.0072(21)(b), Fla. Admin. Code (2017), provides:

For SAIL, EHCL, and HOME that is not in conjunction with Competitive HC, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within nine (9) months of the Applicant's acceptance to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to achieve credit underwriting report approval and issuance of a firm loan commitment by the specified deadline shall result in withdrawal of the preliminary commitment. Applicants may request one (1) extension of up to six (6) months to secure a firm loan commitment. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting the extension and shall detail the time frame to achieve a firm loan commitment. In determining whether to grant an extension, the Board shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. The Corporation shall charge a non-refundable extension fee of one (1) percent of each loan amount if the request to extend the credit underwriting and firm loan commitment process beyond the initial nine (9) month deadline is approved. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

5. Petitioner was invited into Credit Underwriting on May 4, 2018, and had an initial firm loan commitment deadline for the loan financing (SAIL, ELI, NHTF or “the Loans”) of February 9, 2019. Petitioner received a 6-month extension per the Rule provision above, paying the applicable fee and setting a new firm loan commitment deadline of August 9, 2019. As of the date of this Order, Petitioner does not yet have a closing date scheduled.

6. Petitioner now requests a waiver of the above Rules to extend the firm commitment deadline of the Loans to December 31, 2019. In support of this request, Petitioner asserts that the Credit Underwriting process has been delayed by difficulty in obtaining site plan approval and permits from local regulating authorities. Petitioner reports it has timely submitted all requests and information, and that further delays in the process are outside of Petitioner’s control.

7. The Board finds that granting the waiver will not impact other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

8. 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.

9. Petitioner has demonstrated that but for the granting of this waiver request, Petitioner would suffer a substantial hardship. 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.

10. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness. 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(21)(b), Fla. Admin. Code (2017) is **GRANTED**, such that the SAIL/ELI/NHTF firm commitment deadline is extended from August 9, 2019, to December 31, 2019. Petitioner’s request for a waiver of Rule 67-48.0072(4)(c) is **DENIED** as inapplicable, as Petitioner does not yet have a set closing date.

DONE and ORDERED this 10th day of May 2019.



Florida Housing Finance Corporation

By:

  
Chair

**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.**