

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: VC CATHEDRAL, LLC

FHFC Case No.: 2020-032VW

**ORDER GRANTING WAIVER FROM RULES
67-48.009(5)(d), 67-48.018(1)(c) AND 67-48.023(1)(c)
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 11, 2020. Florida Housing Finance Corporation (“Florida Housing”). On May 11, 2020, Florida Housing received a “” (the “Petition”). Notice of the Petition was published on May 12, 2020, in Volume 46, Number 93, 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 (“Board”) of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. In 1995, the original owner of the Development, Community Connections of Jacksonville, Inc., received State Apartment Incentive Loan (SAIL) program funding to assist in the construction of the Development.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Tommy Williams DATE 6/11/2020

Ownership of the Development has since passed to Petitioner, as further described below.

3. Rules 67-48.009(5)(d) (SAIL), 67-48.018(1)(c) (HOME), 67-48.023(1)(c) (LIHTC), Fla. Admin Code variously provide:

Unless otherwise permitted in a competitive solicitation process, an Applicant is not eligible to apply for [SAIL, HOME, HC] if any of the following pertain [to proposed Development]:

...

The proposed Development site or any part thereof is subject to any Land Use Restriction Agreement or Extended Use Agreement, or both, in conjunction with any Corporation affordable housing financing intended to foster the development or maintenance of affordable housing, unless at least one (1) of the following [exceptions] applies:

1. A LURA recorded in conjunction with the Predevelopment Loan Program or the Elderly Housing Community Loan Program, or
2. A LURA or EUA, or both, for an existing building or buildings, originally constructed at least 25 years prior to the deadline to apply for the applicable [funding], where, in the current Application, the Applicant has selected and qualified for the Homeless demographic commitment with a Development category of Rehabilitation [Moderate/Substantial] Acquisition and Rehabilitation [Moderate/Substantial], Preservation, or Acquisition and Preservation.

4. Petitioner requests a waiver from the above Rules to become eligible to apply for Corporation funding. The subject property is currently subject to a SAIL program LURA regarding the financing described above.

5. In September 2011, the Board approved a request to renegotiate the terms of the SAIL loan to increase the affordability period for an additional 15 years beyond the original 50-year period for a total affordability period of 65 years. The categorical set-aside was also modified such that 100% of the Development's units would serve the Homeless demographic. In connection with the SAIL loan, the original borrower and subsequent landowners are bound by the Original LURA spanning this 65-year period.

6. On or about May 5, 2017, the Corporation received notice that the Original Borrower had ceased to operate and that the first lien holder (City of Jacksonville) had initiated foreclosure proceedings. In May 2017, and prior to foreclosure, the Board approved the transfer of ownership of the Development and assumption of the Original LURA by Billy Goat Hill, Inc. ("First Owner"). The Board at this time also revised the affordability set-aside requirements conditioned upon the full payoff of the SAIL loan.

7. The SAIL loan was subsequently paid in full and satisfied, but the Original LURA remained in effect. Accordingly, the First Owner recorded an Amended and Restated LURA on April 2, 2018 to incorporate the modifications approved by the Board at its May 5, 2017 meeting ("Amended LURA").

8. Petitioner VC Cathedral, LLC (“Second Owner”) purchased the Development, with Corporation approval, from the First Owner and assumed the encumbering loans in February 2020. First Owner, Second Owner, and the Corporation also executed an Assignment and Assumption of the Amended LURA.

9. In support of its request, Petitioner states that it desires to substantially rehabilitate the now vacant Development, to preserve the units as affordable housing and to forestall any foreclosure actions by lenders, which would extinguish the LURA. Petitioner cannot perform this rehabilitation without additional Corporation funding, for which it is currently ineligible by virtue of the Amended LURA. Petitioner also states that the granting of this waiver to permit such application for funding is consistent with and furthers the purposes of the Corporation’s Portfolio Preservation Action Plan.

10. 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.

11. The Board finds that granting the requested waiver would not impact other participants in funding programs administered by Florida Housing, nor would it detrimentally impact Florida Housing.

12. The Board also finds that Petitioner has demonstrated that the waiver is needed because of circumstances beyond its control, and that it would suffer a substantial hardship if the waiver is not granted.


13. The Board further finds that 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.

IT IS THEREFORE ORDERED: Petitioner’s request for a waiver of Rules 67-48.009(5)(d), 67-48.018(1)(c), and 67-48.023(1)(c) Fla. Admin Code is hereby **GRANTED** to permit Petitioner to apply for Corporation funding for the Development, in spite of the existing LURA.

DONE and ORDERED this 11th day of June, 2020.



Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:

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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.