

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Dockside at Sugarloaf Key, LLC FHFC CASE NO.: 2020-042VW

ORDER GRANTING WAIVER OF RULE 67-48.0072(21)(b)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on July 17, 2020, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on June 30, 2020, from Dockside at Sugarloaf Key, LLC (“Petitioner”). Notice of the Petition was published on July 1, 2020, in Volume 46, Number 128, of the Florida Administrative Register. On July 14, 2020, Florida Housing received public comments regarding the petition from Lower Density for Lower Sugarloaf, LLC. 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) funding and 9% Housing Tax Credits under Request for Applications (RFA) 2018-115, to assist in the construction of a workforce housing Development in Monroe County, Florida.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Thomas Delamora /DATE: 7/17/2020

3. Rule 67-48.0072(21), Fla. Admin. Code (2018), provides:

(b) For SAIL, EHCL, and HOME, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within twelve (12) 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.

4. Petitioner was invited to credit underwriting on December 27, 2018.

On December 13, 2019, the Board granted Petitioner's waiver request and extended the deadline to July 1, 2020. Petitioner now requests an additional deadline extension until January 31, 2021. Petitioner alleges that feedback from local residents and local elected officials, proposed flood map changes from FEMA, and slowdowns due to local and state COVID-19 orders have delayed the final design and land acquisition.

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), Fla. Stat. (2018) 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.

7. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income residents. 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 Rule 67-48.0072(21)(b), Fla. Admin. Code (2018), is hereby **GRANTED** so that the firm loan commitment deadline may be extended from July 31, 2020 to January 31, 2021.

DONE and ORDERED this 17th day of July, 2020.



Florida Housing Finance Corporation

By:

A handwritten signature in blue ink, appearing to be "D. J. ...", written over a horizontal line.

Chair

Copies furnished to:

Hugh R. Brown
General Counsel
Florida Housing Finance Corporation
Hugh.Brown@floridahousing.org

Marisa Button
Director of Multifamily Development
Florida Housing Finance Corporation
Marisa.Button@floridahousing.org

Gary J. Cohen
Shutts & Bowen, LLP
gcohen@shutts.com

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

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.