

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Osprey Apartments, LLC

FHFC Case No.: 2016-014VW

**ORDER GRANTING WAIVER OF RULE 67-48.0072(4)(c)
FLORIDA ADMINISTRATIVE CODE (2013)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on May 6, 2016, pursuant to a “Petition for Waiver of Rule 67-48.0072(4)(c)” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on April 8, 2016, from Osprey Apartments, LLC (“the Petitioner”). Notice of the Petition was published on April 12, 2016 in Volume 42, Number 71, 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 Low Income Housing Tax Credits (HC) and loan funding under the State Apartment Incentive Loan

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 5-12-16

program (“SAIL”) under RFA 2014-107 (the “RFA”) to assist in the construction of new high-rise apartments serving low-income veteran and chronically homeless tenants in Miami, Florida.

3. Rule 67-48.0072(4)(c), Fla. Admin. Code (2013), provides:

(c) For SAIL, EHCL, and HOME Applicants, the loan must close within 12 months of the date of the invitation to enter credit underwriting. Applicants may request one (1) extension of up to 12 months. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The written request will then be submitted to the Corporation’s Board for consideration. The Board shall consider the facts and circumstances of each Applicant’s request and any credit underwriting report, if available, prior to determining whether to grant the requested extension. The Corporation shall charge a non-refundable extension fee of 1 percent of each loan amount if the Board approves the request to extend the commitment beyond the initial 12 month closing deadline. In the event the loan does not close by the end of the 12 month extension period, the preliminary commitment or firm commitment, as applicable, will be deemed void and the funds will be de-obligated.

4. Petitioner was previously granted a twelve month extension to the closing deadline, extending such deadline to June 19, 2016.

5. Petitioner now seeks a further extension from June 19, 2016 to September 30, 2016.

6. The Board finds that the requested change would neither affect the scoring of Petitioner’s application nor allow Petitioner to gain an unfair

advantage over other applicants. The Board further finds that not granting this waiver could deprive Miami-Dade County, Florida of essential affordable low-income housing units in a timely manner.

11. 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.

12. 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. 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.

13. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and violate the principles of fairness, 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(4)(c), Fla. Admin. Code (2013) is hereby **GRANTED** to permit Petitioner to receive an extension on the closing deadline for SAIL funding from June 19, 2016 to September 30, 2016

DONE and ORDERED this 6th day of May, 2016.

Florida Housing Finance Corporation

By: 
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
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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.