

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Royal Palm Place LTD

FHFC Case No.: 2016-047VW

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

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 9, 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 October 31, 2016, from Royal Palm Place, LTD (“Petitioner”). Notice of the Petition was published in Volume 42, Number 214, 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 \$4,750,000 in State Apartment Incentive Loan (“SAIL”) funds from Florida Housing under RFA 2014-111 to assist in the construction of a development serving low income families named “Royal Palm Place” (the “Development”). Petitioner now seeks a waiver to extend the SAIL loan closing date.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 12-9-16

3. Rule 67-48.0072(4)(c), Fla. Admin. Code, 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. . . . 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 invited to credit underwriting on December 19, 2014, and received a 12-month extension to close the loan until December 21, 2016. Petitioner has been unable to close the SAIL loan and does not anticipate being able to close it by December 21, 2016, because Petitioner has encountered unexpected delays in relocating the occupants of the public housing project that currently operates on the site, demolishing the existing public housing project, and obtaining the necessary approvals from the U.S. Department of Housing and Urban Development. Petitioner therefore seeks an extension of the SAIL loan closing date until August 31, 2017.

5. Under Section 120.542(2), Fla. Stat., and Chapter 28-104, Fla. Admin. Code, Florida Housing has the authority to grant waivers to its rule requirements when strict application of these rules would lead to unreasonable, unfair, and unintended consequences in particular instances. Section 120.542(2) 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

The principles of fairness are violated when literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

6. The Board finds that granting the waiver would have no impact on other participants in the program administered by Florida Housing nor allow Petitioner to gain an unfair advantage over other applicants. The Board further finds that granting the waiver would have no detrimental impact on Florida Housing or any of its programs.

7. Petitioner has demonstrated that a 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.

8. The Board finds that strict application of the above rules under these circumstances would cause substantial hardship to Petitioner. The Board further finds 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 waiver of Rule 67-48.0072(4)(c) Fla. Admin. Code, is hereby **GRANTED**, so that the SAIL loan closing deadline may be extended from December 21, 2016 until August 31, 2017.

DONE and ORDERED this 9th day of December, 2016.

Florida Housing Finance Corporation

By: 
Chairperson

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.