

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Dunbar Improvement Association, Inc.,

FHFC CASE NO.: 2017-026VW

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**ORDER GRANTING WAIVER OF RULE 67-48.0072(4)(c)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on May 5, 2017, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on April 13, 2017, from Dunbar Improvement Association, Inc. (“Petitioner”). Notice of the Petition was published on April 17, 2017, in Volume 43, Number 47, 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 an Elderly Housing Community Loan (“EHCL”) pursuant to Request for Application (“RFA”) 2015-102 to assist in the rehabilitation of Palm City Gardens, a 100-unit housing development serving low-

income elderly tenants in Lee County, Florida. Petitioner's Application Number was 2015-229E (the "Application").

3. Petitioner seeks a waiver from Rule 67-48.0072(4)(c), Fla. Admin. Code to allow Petitioner to extend the EHCL closing date for one year.

4. Rule 67-48.0072(4)(c), Fla. Admin. Code provides the following:

(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.

5. In accordance with the EHCL award under RFA 2015-102, the loan closing deadline was May 23, 2016. Petitioner was granted a 12-month extension of the EHCL closing deadline to May 23, 2017. In December of 2016, Petitioner was awarded additional EHCL funding pursuant to RFA 2016-108. The loan closing deadline under this second RFA will be in January of 2018. Petitioner is requesting

an extension of the first EHCL closing deadline to have additional time to obtain supplemental financing commitments for the Development and complete credit underwriting for both EHCL awards.

6. 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.

7. 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.

8. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income elderly persons and that, if the waiver were not granted, 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.

9. The Board finds that strict application of the above Rules 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(4)(c), Florida Administrative Code is hereby **GRANTED** to allow the RFA 2015-102 EHCL loan closing deadline to be extended until May 23, 2018.

DONE and ORDERED this 5th day of May, 2017.

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.**