

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Coral Bay Cove, LLC.

FHFC Case No.: 2017-79VW

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**AMENDED ORDER GRANTING WAIVER  
OF RULES 67-48.004(3)(c) and 67-21.003(8)(c)**

THIS CAUSE previously came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 8, 2017, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on November 20, 2017, from Coral Bay Cove, LLC (“Petitioner”). Notice of the Petition was published on November 21, 2017, in Volume 43, Number 225, 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 successfully applied for an award of SAIL and ELI Gap funding to be used in conjunction with Florida Housing-Issued MMRB and Non-Competitive Housing Credits under Request for Applications 2016-109 (the “RFA”)

to assist in the construction of a development serving low-income families in Miami-Dade County.

3. Petitioner requests a waiver of Rules 67-48.004(3)(c) and 67-21.003(8)(c), Fla. Admin. Code, to allow it to obtain and use bonds issued by Miami-Dade County instead of the Corporation bonds initially applied for. The Rules provide as follows:

67-48.004(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

\* \* \*

(c) Program(s) applied for;

67-21.003(8) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application is deemed complete. Those items are as follows:

\* \* \*

(c) Program(s) applied for;

4. Petitioner asserted in its Petition that recent actions by the U.S. House of Representatives had created the possibility that private activity bonds may have been abolished after December 31, 2017. Because it is not possible for the Corporation to have issued multifamily mortgage revenue bonds for this development by that date, Petitioner asserted that it was necessary for it to find another source of bonds that it could close on by December 31, 2017, and that Miami-Dade County was expected to be such a source.

5. In addition to this rule waiver request, Corporation staff also received a letter from the Applicant requesting a waiver of the requirement of RFA 2016-109 requiring that the proposed equity amount to be paid prior to or simultaneous with the closing of construction financing be at least 15 percent of the total proposed equity to be provided. Petitioner asserted that it would not be possible to meet this 15 percent requirement at the closing of the construction financing because of the necessity of closing on the Miami-Dade bonds by December 31.

6. RFA 2016-109 includes a requirement that if an Applicant intends to use Non-Corporation-issued Tax-Exempt Bonds, the Applicant must provide a letter from the agency that it has requested bonds from. Since Petitioner applied for Corporation-issued bonds, no such letter was provided in the application. Petitioner therefore also seeks a waiver of this requirement of the RFA.

7. 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

8. Section 120.542(2), Fla, Stat., 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.

9. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income families, 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.

10. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner. The Board further finds that granting this request furthers the Florida Housing’s statutory mandate to provide safe, sanitary and affordable housing to the citizen of Florida.

11. Since the Order Granting Waiver was issued in this case, the U.S. Congress declined to abolish private activity bonds after December 31, 2017. Petitioner was therefore able to delay closing on the Miami-Dade bonds, and has represented that there will be adequate time for it to meet the requirement to provide at least 15 percent of the total proposed equity at the time of closing.

**IT IS THEREFORE ORDERED:**

Petitioner’s request for waiver of Rules 67-48.004(3)(c) and 67-21.003(8)(c), Fla. Admin. Code, is hereby **GRANTED** to allow the use of bonds issued by Miami-Dade County instead of Corporation-issued bonds. Petitioner’s request for waiver of the requirements of RFA 2016-109 so that it will not be required to pay 15% of the total proposed equity by closing of the Miami-Dade bonds is hereby **DENIED**.

Petitioner's request for waiver of the requirements of RFA 2016-109 so that it will not be required to have submitted a letter from Miami-Dade County in its Application is hereby **GRANTED**.

DONE and ORDERED this 26th day of January, 2018.

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 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.**