

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: ISLES OF PAHOKEE II LLC

FHFC Case No.: 2018-046VW

**ORDER GRANTING WAIVER OF
RULE 67-48.002(95), FLA. ADMIN. CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 15, 2018, pursuant to a "Petition for Waiver or Variance of Rule 67-48.002(95), F.A.C." (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on May 29, 2018, from Isles of Pahokee II, LLC. ("Petitioner"). Notice of the Petition was published on May 30, 2018, in Volume 44, Number 105, 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 under Request for Applications 2015-111, for an award of low income housing tax credits to assist in the preservation of the development for families in Palm Beach County.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

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Tom Delamary /DATE: 6/15/18

3. Rule 67-48.002(95), Fla. Admin. Code (2015), provides:

“QAP” or “Qualified Allocation Plan” means, with respect to the HC Program, the 2015 Qualified Allocation Plan which is adopted and incorporated herein by reference, effective upon approval by the Governor of the State of Florida, pursuant to Section 42(m)(1)(B) of the IRC and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits.

Section II.K of the QAP further provides:

Notwithstanding any other provisions of this QAP, where a Development has not been placed in service by the date required or it is apparent that a Development will not be placed in service by the date required, and such failure is due to circumstances beyond the Applicant’s control and the Applicant has returned its Housing Credit Allocation in the last calendar quarter of the year in which it was otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of Housing Credits returned, and may allocate such Housing Credits to the Applicant for the year after the year in which the Development was otherwise required to be placed in service, provided the following conditions have been met...

4. Per its Carryover Allocation Agreement with the Corporation, Petitioner is required to meet the “10% Test” by June 19, 2017 (by which it must incur costs of 10% of its expected basis), and to have the Development placed in service by December 31, 2018. Petitioner requests that it be permitted to return its 2016 HC Allocation now, rather than wait until the last quarter of 2018, and to receive a 2018 Housing Credit Allocation in exchange, in an amount equal to its original 2016 allocation. As grounds for this request, Petitioner reports

unanticipated delays in the construction of the Development. These delays include awaited approvals from the United States Department of Housing and Urban Development (HUD). Petitioner submitted a Disposition Application to HUD on April 11, 2017, seeking transfer of the subject property from the Pahokee Housing Authority to the Applicant partnership. Disposition approval was finally granted on April 5, 2018. Petitioner still waits for HUD to fund the Tenant Protection Vouchers to begin the relocation of current residents so that construction can commence.

5. On June 15, 2017, and again on November 9, 2017 in accordance with IRS Revenue Procedure 2014-49, the Corporation granted Petitioner's request to extend the deadline for the 10% Test to June 30, 2018. However, in addition to the above, Petitioner's relocation efforts have also been delayed by the effects of Hurricane Irma, which impacted the Development and the surrounding housing stock. Due to these factors, Petitioner does not believe it can achieve the 10% test by the current required date.

6. 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.

7. The Board finds that strict application of the above Rule regarding the Firm Commitment Deadline 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, and that it would have no impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental effect on Florida Housing.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of R. 67-48.002(95), Fla. Admin. Code is hereby **GRANTED** to permit it to return its 2016 Housing Credit Allocation now and receive a 2018 Housing Credit Allocation in the same amount, rather than wait until the last quarter of 2018.

DONE and ORDERED this 15th day of June, 2018.



Florida Housing Finance Corporation

By:


Chair

Copies to:

Hugh R. Brown, General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Kevin Tatreau, Interim Director of Multifamily Programs
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301

Maureen M. Daughton, Esq.
Maureen McCarthy Daughton, LLC
1725 Capital Circle Northeast, Suite 304
Tallahassee, Florida 32308

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

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.