

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Ambar Key Homes, Ltd.

FHFC CASE NO.: 2018-057VW

ORDER GRANTING WAIVER OF RULE 67-48.0072(21)(b)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on July 27, 2018, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on July 5, 2018, from Ambar Key Homes, Ltd. (“Petitioner”). Notice of the Petition was published on July 6, 2018, in Volume 44, Number 131 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 award of non-competitive housing credits, State Apartment Incentive Loan (“SAIL”) financing, and Multifamily Mortgage Revenue Bonds (“MMRB”) under Request for Application (“RFA”) 2016-112 to assist in the construction and redevelopment of Ambar Key Homes, a

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HOUSING FINANCE CORPORATION

Amc. Blamsey /DATE: *7/27/18*

155-unit family housing development in Miami-Dade County, Florida. Petitioner's Application Number was 2017-167BS (the "Application").

3. Petitioner seeks a waiver from Rule 67-48.0072(21)(b), Fla. Admin. Code, which in relevant part provides:

For SAIL, EHCL, and HOME that is not in conjunction with Competitive HC, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within nine (9) months of the Applicant's acceptance to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to achieve credit underwriting report approval and issuance of a firm loan commitment by the specified deadline shall result in withdrawal of the preliminary commitment. Applicants may request one (1) extension of up to six (6) months to secure a firm loan commitment. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting the extension and shall detail the time frame to achieve a firm loan commitment. In determining whether to grant an extension, the Board shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. The Corporation shall charge a non-refundable extension fee of one (1) percent of each loan amount if the request to extend the credit underwriting and firm loan commitment process beyond the initial nine (9) month deadline is approved. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

4. Petitioner accepted its invitation to enter credit underwriting on April 28, 2017 and received a firm loan commitment issuance deadline of January 28, 2018. Petitioner's request to extend the deadline to secure a firm loan commitment to July 28, 2018 in order to address delays caused in part by Hurricane Irma was

granted. Petitioner now seeks a six-month extension of the time from to obtain a firm loan commitment to until January 28, 2019.

5. In support of its request, Petitioner alleges that it has worked diligently to overcome the setbacks caused by Hurricane Irma, however additional delays resulted from a rise in construction costs and changes in the equity market which delayed the credit underwriting report. Petitioner asserts that there are no known obstacles preventing Florida Housing's issuance of the firm loan commitment after the credit underwriting report is approved.

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 strict application of the above Rule under these circumstances would constitute a substantial hardship and violate the principals of fairness. 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 Rule 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 the above Rule regarding the firm loan commitment deadline is **GRANTED**, so that the firm loan commitment deadline is extended from July 28, 2018 until January 28, 2019.

DONE and ORDERED this 27th day of July, 2018.



Florida Housing Finance Corporation

By:


Chair

Copies furnished to:

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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.