STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Osprey Sound Apartments, L.P. FHFC Case No.: 2023-077VW

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ORDER GRANTING WAIVER OF RULE 67-21.003(8)(h), FLA. ADMIN. CODE (2021)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 27, 2023. On September 25, 2023, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.003(8)(h), F.A.C. (5/18/21) (the "Petition") from Osprey Sound Apartments, L.P. (the "Petitioner") to allow the Petitioner to divide the development into two construction phases (instead of building all the units in a single phase) and decrease the number of funded units from 294 to 100. Notice of the Petition was published September 27, 2023, in Volume 49, Number 188, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised on the premises, the Board hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
DATE: 10/30/23

2. Petitioner successfully applied for funding to assist in the construction of the Osprey Sound Apartments, a 294-unit development located in Orange County, Florida (the "Development").

3. Rule 67-21.003(8)(h), Fla. Admin. Code (2021), states in relevant part:

> (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:
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> (h) Total number of units; notwithstanding the foregoing, the total number of units may be increased after the Applicant has been invited to enter Credit Underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development;

4. Petitioner requests a waiver of the above rule to divide the development into two construction phases and decrease the number of funded units from 294 to 100. Petitioner cites construction cost increases and loan interest rate increases that have burdened the development over the last 20 months and have made the construction of the entire development in a single phase within the timeframes required by its permits unfeasible.

5. Petitioner states that the Development site comprises 15 acres, and roughly half the site is affected by wetlands. Because the Development will impact a class III wetland, Petitioner further states it was required to obtain certain governmental approvals that will begin to expire on December 22, 2025. Petitioner also states that it must complete mass grading on the development site before that date or be required to submit new wetland permit applications, which would be subject to new standards at both the state and local levels, potentially making development on the parcel unfeasible. Further, Petitioner states that it obtained a Future Land Use Map Amendment from the Orange County Board of Commissioners and variances from the Orange County Board of Zoning Adjustment that will become void if building permits are not issued by 2027.

6. Petitioner states that it will seek to maximize the total units of affordable housing delivered between the two phases of development, subject to funding availability and obtaining necessary governmental approvals.

7. The Board finds that granting the requested waiver will not impact other participants in funding programs administered by Florida Housing, nor will it detrimentally impact Florida Housing.

8. The Board also finds that Petitioner has demonstrated that the waiver is needed because of circumstances beyond its control and that it would suffer a substantial hardship if the waiver is not granted.

9. The Board further finds that Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state," would still be achieved if the waiver is granted. §420.5099, Fla. Stat.

IT IS THEREFORE ORDERED that Petitioner's request for waiver of Rule 67-21.003(8)(h), Fla. Admin. Code (2021), is hereby **GRANTED** to allow the Petitioner to decrease the total number of units from 294 to 100, which will allow the development to be divided into two separate construction phases.

DONE and ORDERED this 27th day of October, 2023.

Florida Housing Finance Corporation

By: _____
Chairperson

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.