STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Puerta Del Sol VOA Affordable Housing, LP

FHFC CASE NO.: 2021-082VW

_____/

ORDER GRANTING WAIVER OF RULE 67-21.003(8)(g)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 10, 2021, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 8, 2021, from Puerta Del Sol VOA Affordable Housing, LP ("Petitioner"). Notice of the Petition was published on November 10, 2021, in Volume 47, Number 219, of the Florida Administrative Register. Florida Housing has received no comments concerning 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. This Development was constructed in 1987 as HUD 202. On June 19, 2020, Petitioner applied for 4% Housing Credits to assist in the rehabilitation of this Development serving elderly persons in Miami-Dade County, Florida.

3. Rule 67-21.003(8)(g), Fla. Admin. Code (2019), provides:

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
Ms. Mumoz /DATE: 12/13/2021

(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:

* * *

(g) Development Type. . . .

4. In its Application for funding under the RFA, Petitioner selected the Development Type of "High Rise." However, the Development being rehabilitated is only four stories tall, and Petitioner asserts that the Development Type identified in the Application was an inadvertent mistake. Petitioner therefore requests a waiver to allow it to change the Development Type in the Application from High-Rise to Mid-Rise 4 stories. Allowing this change would not impact Florida Housing's review of the Application. Petitioner asserts that it will suffer a substantial hardship if the waiver is not granted because it will be unable to proceed with the rehabilitation of this Development using 4% Housing Credits.

5. 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.

6. Section 120.542(2), Florida Statutes provides in pertinent part:

Variances 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. Petitioner has demonstrated that the waiver is needed in order to efficiently serve elderly persons. 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.

8. 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 Rule 67-21.003(8)(g), Fla. Admin. Code (2021) is hereby **GRANTED** to permit Petitioner to change its Development Type from "High Rise" to "Mid-Rise 4 Stories."

DONE and ORDERED this 10th day of December, 2021.

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.