STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Paces Gateway Manor, LLC FHFC CASE NO.: 2021-096VW

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ORDER GRANTING WAIVER OF RULE 67-48.0072(26)

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 22, 2021, from Paces Gateway Manor, LLC ("Petitioner"). Notice of the Petition was published on November 23, 2021, in Volume 47, Number 227, 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. Petitioner was selected to receive HOME funding under Request for Applications (RFA) 2019-109 to assist in the construction of a Development serving low-income families in Gulf County, Florida.

3. Rule 67-48.0072(26), Fla. Admin. Code (2018), provides:

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

(26) For SAIL, EHCL, and HOME, unless stated otherwise in a competitive solicitation, these Corporation loans and other mortgage loans related to the Development must close within 120 Calendar Days of the date of the firm loan commitment(s), unless the Development is a Tax-Exempt Bond-Financed Development which then the closing must occur within 180 Calendar Days of the firm loan commitment(s). Unless an extension is approved by the Board, failure to close the loan(s) by the specified deadline outlined above shall result in the firm loan commitment(s) being deemed void and the funds shall be de-obligated. Applicants may request one (1) extension of the loan closing deadline outlined above for a term of up to 90 Calendar Days. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The Board shall consider the facts and circumstances of each Applicant's request, inclusive of the Applicant's ability to close within the extension term and any credit underwriting report, prior to determining whether to grant the requested extension. The Corporation shall charge an extension fee of one (1) percent of each Corporation loan amount if the Board approves the request to extend the loan closing deadline beyond the applicable 120 Calendar Day or 180 Calendar Day period outlined above. If an approved extension is utilized, for profit Applicants must pay the extension fee not later than seven (7) Calendar Days after the original loan closing deadline. Non-Profit Applicants may request to pay the extension fee at the time of closing. Any such request must be made in writing to the Corporation. In the event the Corporation loan(s) does not close by the end of the extension period, the firm loan commitment(s) shall be deemed void and the funds shall be de-obligated.

4. Florida Housing issued a firm loan commitment to Petitioner on December 10, 2020. Petitioner's deadline to close the loan was April 9, 2021. On April 30, 2021, Florida Housing's Board of Directors (the "Board") approved Petitioner's request to extend the closing deadline to July 8, 2021. On June 18, 2021, the Board granted an additional waiver of the closing deadline until January 8, 2022.

5. On October 22 Petitioner was awarded a Viability HOME Loan in the amount of $593,037. As a result of receiving this new funding, Petitioner alleges that it needs additional time to recalculate its construction costs and re-bid its construction contracts to appropriately apply the funds and to ensure compliance. Petitioner thus alleges that it will not be able to meet the current deadline to close the loan by January 8, 2022, but instead expects to close on both loans by July 8, 2022.

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:

> 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.

8. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income families. 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 Rule 67-48.0072(26), Fla. Admin. Code (2018) is hereby **GRANTED** so that the loan closing deadline may be extended from January 8, 2022 to July 8, 2022.

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.