STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Arbours at Quincy, LLC FHFC Case No.: 2022-046VW

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ORDER GRANTING WAIVER
OF RULE 67-48.0072(26), F.A.C.

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on August 5, 2022. On July 19, 2022, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(26), Florida Administrative Code, (the "Petition") from Arbours at Quincy, LLC (the "Petitioner") to extend the time allowed under the Rule to close Petitioner's loan. Notice of the Petition was published on July 20, 2022, in Volume 48, Number 140 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
Ann Adams DATE: 8/8/2022

2. Petitioner successfully applied for State Apartment Incentive Loan ("SAIL") funding, Extremely Low Income ("ELI"), and Multifamily Mortgage Revenue Bonds ("MMRB") in RFA 2019-116 to assist in the construction of an 80-unit affordable housing development named Arbours at Quincy to be located in Gadsden County, Florida (the "Development").

3. Rule 67-48.0072(26), Fla. Admin. Code (2019), provides in relevant part:

> (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 period outlined above. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the original loan closing deadline. 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. Petitioner requests a waiver of the above-cited Rule to extend the time allowed for Petitioner to close its loan. As justification for the extension, Petitioner claims that the Development has suffered several unforeseen hardships that will prevent the Development from meeting the September 12, 2022, loan closing deadline, including:

a. Delays related to finalizing costs relating to extreme construction material price fluctuations requiring Petitioner to seek FHFC-CHIRP funding. Petitioner entered into FHFC-CHIRP underwriting on May 10, 2022, and the draft of the CUR recommended an increase in the project's SAIL loan funding.

b. The timeline related to HUD 22l(d)(4) financing reviews and approvals.

c. Impacts related to the COVID-19 pandemic. Most of Petitioner's many government agencies have been working remotely, which has delayed document signatures and plan coordination.

5. Despite these delays, Petitioner states that it has been working diligently to close its loans.

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. 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 a waiver of Rule 67-48.0072(26), Fla. Admin. Code (2019), is hereby

GRANTED extending Petitioner's loan closing deadline from September 12, 2022, until December 12, 2022.

DONE and ORDERED this 5th day of August 2022.

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.