STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Vineland Family Apartments, LTD FHFC Case No.: 2023-080VW
_____/

ORDER GRANTING WAIVER OF RULE 67.21.003(1)(b), FLA. ADMIN. CODE (05/18/2021) AND THE NON-COMPETITIVE APPLICATION INSTRUCTIONS (REV. 03-2021 (NCA)).

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 29, 2023, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of 67.21.003(1)(b), Fla. Admin. Code (F.A.C.) (05/18/2021) and the Non-Competitive Application Instructions (Rev. 03-2021 (NCA)) (the "Petition") from Vineland Family Apartments, LTD., (the "Petitioner") to allow the Petitioner to revise its organizational chart to reflect its new structure and to change the principals of the Developer. Notice of the Petition was published October 3, 2023, in Volume 49, Number 192, 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:

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

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

2. Petitioner successfully applied for funding to assist in the construction of The Salix on Vine, a 252-unit development located in Osceola County, Florida (the "Development").

3. Rule 67-21.003(1)(b), Fla. Admin. Code (05/18/21), states in relevant part:

> (1) Applicants shall apply for MMRB, Non-Competitive HC, or a combination of MMRB and Non-competitive HC as set forth below. For purposes of this subsection only, the term NC Award shall refer to MMRB, Non-Competitive HC, or a combination of MMRB and Non-Competitive HC, and Funding from the following Corporation programs will not be considered to be other corporation funding: Predevelopment Loan Program (PLP) and Elderly Housing Community Loan (EHCL) Program.
>
> ***
>
> (b) If the NC Award will not be in conjunction with other Corporation funding made available through the competitive solicitation funding process outlined in rule Chapter 67-60, F.A.C., the Applicant shall utilize the Non-Competitive Application Package in effect at the time the Applicant submits the Application. The Non-Competitive Application Packet or NCA (Rev. 03-2021) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporations website under the Multifamily Programs link labeled Non-Competitive Programs or from http//www.flrules.org/Gateway/reference.asp?No=Ref-13093, which shall be completed and submitted to the Corporation in accordance with this rule chapter.
>
> This Rule incorporates by reference the NCA Package (Rev. 03-2021). The NCA Package includes the following requirement at Part A.6.b.(2):

(2) For Applicants requesting MMRB, with or without Non-Competitive Housing Credits:

The Applicant entity shall be the recipient of the Non-Competitive Housing Credits and the borrowing entity for the MMRB Loan and ownership structure of the Applicant entity as set forth in the Principal Disclosure Form cannot be changed in any way (materially or non-materially) until after the MMRB Loan closing. After loan closing, (a) any material change in the ownership structure of the named Applicant will require review and approval of the Credit Underwriter, as well as Board approval prior to the change, and (b) any non-material change in the ownership structure of the named Applicant will require review and approval of the Corporation, as well as Board approval prior to the change. The Applicant must comply with the Principal disclosure requirements outlined in Rule Chapter 67-21, F.A.C. for the duration of the Compliance Period. Changes to the ownership structure of the Applicant entity (material or non-material) prior to the loan closing or without Board approval after the loan closing shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes prior to loan closing to the officers or directors of the Public Housing Authority, officers or directors of the Non-Profit entity, or the limited partner of an investor limited partnership or an investor member of a limited liability company owning the syndicating interest therein will not result in disqualification, however, the Corporation must be notified of the change. Changes to the officers or directors of a Non-Profit entity shall require Corporation approval.

Petitioner seeks Board approval to change Developer's principals pursuant to Rule 67-21.003(8)(b), F.A.C. (05/18/21), which provides:

(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 Application is deemed complete.

Those items are as follows:

(b) Principles of each Developer, including all co-Developers: notwithstanding the foregoing, the Principals of the Developer(s) may

be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter Credit Underwriting. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of validity and consistency of Application documentation. Principals of a Public Housing Authority or officers and/or directors of a non-profit entity may be changed only by written request of an Applicant to Corporation staff and approval of the Corporation after the Applicant has been invited to enter Credit Underwriting. Any allowable replacement of a Principal that was identified as the experienced Developer in a competitive solicitation must meet the experience requirements met by the original Principal.

4. Petitioner requests a waiver of the above rule and NCA Instructions so that Petitioner's original organizational chart may be revised to reflect its new structure.

5. 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.

6. 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.

7. 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 67.21.003(1)(b), Fla. Admin. Code (F.A.C.) (05/18/2021) and NCA, is hereby **GRANTED** to allow the Petitioner to revise its organizational chart to reflect its new structure and to change the principals of the Developer pursuant to Rule 67-21.003(8)(b), F.A.C (05/18/21) and the NCA.

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

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Brian J. McDonough
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
bmcdonough@sternsweaver.com

Cecilie Dale Sykes, Assistant General Counsel
Melissa Levy, Managing Director of Multifamily Programs
Florida Housing Finance Corporation
Cecilie.Sykes@floridahousing.org
Melissa.Levy@floridahousing.org

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

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.