STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Tallman Pines HR, Ltd FHFC CASE NO.: 2021-080VW

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ORDER GRANTING WAIVER OF RULE 67-48.004(3)(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 3, 2021, from Tallman Pines HR, Ltd ("Petitioner"). Notice of the Petition was published on November 4, 2021, in Volume 47, Number 215, 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 SAIL funding along with 4% housing tax credits and MMRB under Request for Applications (RFA) 2020-205, to assist in the construction of a Development serving elderly persons in Broward County, Florida.

3. Rule 67-48.004(3)(g), Fla. Admin. Code (2020), provides:

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

(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

* * *

(g) Development Type. . . .

4. In its Application for funding under the RFA, Petitioner selected the Development Type of "High Rise." Petitioner originally intended to construct an eight-story apartment building housing 75 units. Petitioner now alleges that the City of Deerfield Beach, as well as nearby residents, has expressed a desire for Petitioner to lower the height of the proposed building to six stores, a level more commensurate with nearby buildings. To accommodate this request, Petitioner proposes to decrease the height of the building and amend its application to change its development type to "Mid-Rise 5-6 Stories." The total number of units will not change. The Application's scoring, ranking, and funding would not have been affected had Petitioner selected "Mid-Rise 5-6 Stories" in its Application. If this waiver is granted, Petitioner will also meet the Total Development Cost Limitation for "Mid-Rise-ESS."

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 67-48.004(3)(g), Fla. Admin. Code (2020) is hereby **GRANTED** to permit Petitioner to change its Development Type from "High Rise" to "Mid-Rise 5-6 Stories."

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

FLORIDA HOUSING FINANCE CORPORATION Tallahassee Florida

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.