STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: OSPREY SOUND APARTMENTS LP FHFC Case No.: 2025-001VW

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ORDER GRANTING WAIVER OF RULE 67-21.003(8)(i), FLA. ADMIN. CODE (2021)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on January 24, 2025. On January 3, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.003(8)(i) (the "Petition") from Osprey Sound Apartments, L.P., (the "Petitioner"). The Petition requests to decrease the "Total Set-Aside Percentage" in its completed Application to allow for the reduction of its MMRB set-aside commitment. Notice of the Petition was published on January 7, 2025, in Volume 51, Number 04, 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
/s/ Hamons /DATE: 1/27/2025

2. Petitioner successfully applied for funding to assist in the construction of Osprey Sound Apartments, a 294-unit development in Orange County, Florida (the "Development"). Subsequently, the Corporation approved a decrease in the total number of units from 294 to 100 units.

3. Rule 67-21.003(8)(i), Fla. Admin. Code (2021), states in relevant part:

> 67-21.003 Application and Selection Process for Developments.
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> (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:
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> (i) The Total Set-Aside Percentage as stated in the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application; notwithstanding the foregoing, the Total Set-Aside Percentage may be increased after the Applicant has been invited to enter Credit Underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development.

4. Petitioner is requesting a waiver to decrease the Total Set-Aside Percentage committed to in its application under the MMRB Program to align with the Average Income Test ("AIT") set-aside under the Housing Credit Program. At application, Petitioner committed to a minimum Federal set-aside commitment of 40% of the total units at or below 60% AMI and an additional MMRB set-aside of 100% of the total units at or below 60% AMI. Petitioner seeks to reduce the total MMRB set-aside to 40% at or below 60% AMI to allow for the use of the Federal AIT set-aside commitment. The Housing Credits AIT election allows for broader income averaging among units.

5. If the waiver is granted, the new set-asides under the Housing Credit Program will include 30 units at 50% AMI, 52 units at 60% AMI, and 18 units at 70% AMI.

6. 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.

7. 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.

8. 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(8)(i), Fla. Admin. Code (2021), is hereby **GRANTED** to allow Petitioner to reduce its Total Set-Aside Percentage under the MMRB Program from 100% of the total units at or below 60% AMI to 40% of the total units at or below 60% AMI in order to adopt the AIT set-aside commitment for the Development under the Housing Credit Program.

DONE and ORDERED this 24th day of January, 2025.

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.