STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: CORE MHP COLLIER, LTD. FHFC Case No.: 2021-036VW

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ORDER GRANTING WAIVER FROM RULE 67-48.004(3)(g) AND 67-21.003(8)(g), FLORIDA ADMINISTRATIVE CODE

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on June 18, 2021. On June 2, 2021 Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rules 67-48.004(3)(g) and 67-21.003(8)(g) (the "Petition"). Notice of the Petition was published on June 3, 2021, in Volume 47, Number 107, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board hereby finds:

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

2. Petitioner successfully applied for competitive State Apartment Incentive Loan ("SAIL") funding, non-competitive housing credits, Extremely Low Income ("ELI") loan funding, and Florida Housing issued Multifamily Mortgage Revenue Bonds ("MMRB") under RFA 2019-116 to

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Ann McNamara DATE: 6/18/2021

finance the construction of a multifamily complex to be known as Allegro at Hacienda Lakes (formerly known as Villa Verde) located in Collier County, Florida (the "Development").

3. Rule 67-48.004(3)(g) Fla. Admin. Code (2019), in relevant part, states:

> (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:
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> ...
>
> (g) Development Type;

4. Rule 67-21.003(8)(g) Fla. Admin. Code (2019), in relevant part, states:

> (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:
>
> ...
>
> (g) Development Type;

5. Petitioner requests a waiver of the prohibition on changing the Development Type selected in its Application, Mid-Rise, 4-stories, to Mid-Rise, 5-6 stories, due to unforeseen circumstances. Petitioner asserts that it originally intended to construct a single 4-story residential building for the

Development, as part of the first phase of a multiphase development (the "Project"). Petitioner states that after submission of its Application, a second phase of restricted elderly housing was subsequently planned on contiguous land within the same legally defined parcel as the Development.

6. According to Petitioner, after performing a detailed engineering of the Development, under the County's land development code, the required setbacks between the phases of the Project were larger than they were required to be as a standalone development. Additionally, Petitioner asserts that although zoning only requires that there be 1 parking space per unit, during the detailed engineering and design phase, Petitioner's property management team concluded that a ratio of one and three-tenths (1.3) parking spaces per unit is necessary and desirable for safe and efficient operation of the Development.

7. Petitioner asserts that the enlarged set-backs and additional parking requirements were unknown at the time the Application was submitted. Petitioner asserts that this proposed modification to the Development Type of Mid-Rise, 5-6 Stories will result in construction efficiencies for the Development and a lower hard cost per square foot basis, which assists in alleviating the hardships of the rising construction costs.

Petitioner states that the change in Development Type is already permissible under the applicable zoning regulations.

8. 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.

9. 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.

10. 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.

11. 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: Petitioner's request for a waiver of Rules 67-48.004(3)(g) and 67-21.003(8)(g), F.A.C., is hereby **GRANTED** to allow Petitioner to change its Development Type from "Mid-Rise, 4-stories" to "Mid-Rise, 5-6 stories."

DONE and ORDERED this 18th day of June 2021.

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.