STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: SAN ALFONSO HOUSING, INC. FHFC CASE NO.: 2022-019VW

_____/

ORDER GRANTING WAIVER OF RULE 67-48.004(3)(i), FLORIDA ADMININSTRATIVE CODE

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 4, 2022, pursuant to a "Petition for Waiver of Rule 67-48.004(3)(i), Florida Administrative Code" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on February 15, 2022, from Meadow Park Apartments, LLC (the "Petitioner"). Notice of the Petition was published on February 17, 2022, in Volume 48, Number 33, 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 applied for funding under RFA 2020-206 – HOME Financing for the Construction of Small, Rural Developments and was invited into Credit Underwriting in March 2021.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
Ann F. Adams /DATE: 3/4/2022

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

> (3) For the SAIL, HOME and Housing Credit Programs ... 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 otherwise approved below:
>
> (i) Total number of units; ...

4. Petitioner requests a waiver of the above Rule to reduce the number of units submitted in its Application from 24 to 21. As grounds for this request, Petitioner reports that it began experiencing construction cost overruns in April 2021, necessitating a revised budget. Further cost overruns resulted in meetings with Corporation staff and the offer of a viability HOME loan ($810,000) to address the financing shortfalls.

5. Despite these and other measures, including a redesign of the site, deferral of more than 40% of the developer fee and requests for additional local government funding, the unexpected cost increases continue to threaten the viability of the Development. With no additional funding currently available, Petitioner reports it must reduce the number of units to ensure the Development remains financially feasible.

6. 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.

7. 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.

8. Petitioner has demonstrated that the waiver is needed to avoid substantial hardship and 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.

9. 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)(i), Fla. Admin. Code (2020) is **GRANTED** to permit Petitioner to reduce the number of units in the Development from 24 to 21.

DONE and ORDERED this 4th day of March, 2022.

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.