STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: POAH CM Redevelopment, LLC FHFC Case No.: 2025-003VW

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ORDER GRANTING WAIVER OF RULE 67-48.004(3)(j), FLA. ADMIN. CODE (2024) AND RFA 2024-205

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 7, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.004(3)(j) and RFA 2024-205, (the "Petition") from POAH CM Redevelopment, LLC (the "Petitioner") for a waiver or variance of the Corporation's prohibition on changes to the Total Set-Aside Percentage designated by Petitioner in its application for funding in RFA 2024-205. Notice of the Petition was published on January 9, 2025, in Volume 51, Number 06, 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
/DATE: 1/27/2025

2. Petitioner successfully applied for funding to assist in the construction of CM Redevelopment II, a 132-unit garden development located in Miami-Dade County, Florida (the "Development").

3. Rule 67-48.004(3)(j), Fla. Admin. Code (2024), states in relevant part:

> (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:
> **
> (j) For the SAIL and HC Programs, 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. For the HOME Program, the total number of HOME-Assisted Units committed to in the Set-Aside Commitment section of the Application. Notwithstanding the foregoing, the Total Set-Aside Percentage, or total number of HOME-Assisted Units, as applicable, 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, as well as review of 24 CFR Part 92 to ensure continued compliance for the HOME Program;
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> Section 4 A.6.c.(2)(a)(i) of the RFA, provides:
>
> Set-Aside Commitments per Corporation Requirements

The Corporation has additional minimum set-aside requirements beyond those required by Section 42 of the IRC which must be reflected on the Total Set-Aside Breakdown Chart, as outlined below:

(a) Total Income Set-Aside Commitment

(i) Proposed Developments with a Demographic Commitment of Family or Elderly Non-ALF, or Applications that qualify as Non-Profit Applications and select the Demographic Commitment of Elderly ALF

• If SAIL only is not selected and the Average Income Test is not selected, set aside a total of at least 80 percent of the Development's total units at 60 percent AMI or less.

• If the Average Income Test is selected, set aside a total of at least 80 percent of the Development's total units at 80 percent AMI or less, but the Average AMI of the Qualifying Housing Credit Units* cannot exceed 60 percent.

• If SAIL only is requested, set aside a total of at least 80 percent of the Development's total units at 60 percent AMI or less, of which at least 20 percent must be set aside below 50 percent AMI or less (which may include ELI units)

4. Petitioner requests a waiver of the above rule and RFA requirement to decrease its total set-aside commitment from 106 (80.303%) units to 103 (78.030%) units at 80% AMI to comply with the requirements of the HUD Choice Neighborhoods Initiative ("CNI") program.

5. The Board finds that granting the requested waiver will not adversely impact other participants in funding programs administered by Florida Housing, nor will it detrimentally affect Florida Housing.

6. The Board also finds that Petitioner has demonstrated that the waiver is needed due to circumstances beyond its control and that the strict application of the rule and RFA would impose 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 waiver of Rule 67-48.004(3)(j), Fla. Admin. Code (2024) and RFA 2024-205, to decrease Petitioner's Total Set-Aside Percentage from 80.303% to 78.030% is hereby **GRANTED**.

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



Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Brian J. Mcdonough
Bridget Smitha
Stearns Weaver Miller Weissler Aldhadeff & Sitterson, P.A.
bmcdonough@swmwas.com
bsmitha@swmwas.com
Laura Cox, on Behalf of the Office of the General Counsel

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