STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: CANAL GROVE SIDE APARTMENTS, LTD.

FHFC Case No.: 2022-036VW

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ORDER GRANTING WAIVER FROM RULE 67-21.003(8)(h), FLORIDA ADMINISTRATIVE CODE (2021)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 17, 2022. Florida Housing Finance Corporation ("Florida Housing") received the Petition for Waiver of Rule 67-21.003(8)(h), Florida Administrative Code (2021), ("Petition") on June 1, 2022, from Canal Grove Side Apartments, Ltd. ("Petitioner"). The Notice of the Petition was published on June 2, 2022, in Volume 48, 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 of Directors ("Board") of Florida Housing hereby finds:

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

2. Petitioner successfully applied for an allocation of 4% Non-Competitive Housing Credits ("HC") and Multifamily Mortgage Revenue

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION

/DATE: 6/17/2022

Bonds ("MMRB") to assist in the construction of Canal Side, a 261-unit multifamily affordable housing development in Miami-Dade County, Florida (the "Development").

3. In its Application, Petitioner provided for 261-units as its total number of units.

4. Rule 67-21.003(8)(h), Florida Administrative Code (2021), provides in relevant part:

> (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:
>
> ...
>
> (h) Total number of units; notwithstanding the foregoing, the total number of units 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;

5. Petitioner requests a waiver from the above Rule to permit a reduction in the total number of units from 261 to 226. Petitioner states that the Rules does not permit it to reduce the total number units after the Application has been deemed complete by the Corporation. At this time, the

Application has been deemed complete and therefore Petitioner requests this waiver of the Rule to decrease the Total Number of Units.

6. Petitioner asserts that since it submitted the Application almost a year ago, construction costs have increased substantially making the Development, as originally anticipated, no longer feasible. Petitioner is able to mitigate the higher construction costs by reducing the total number of units. A decrease of 35 units will allow Petitioner to move forward with construction of 226 much-needed affordable units in Miami-Dade County.

7. Petitioner further argues that the requested waiver will not adversely impact the Development or the Corporation and will ensure that the 226 affordable housing units of the Development will be constructed and made available for low-income families in Miami-Dade County. Strict application of the Rule will result in substantial hardship to the Petitioner as the Development could not be constructed.

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. Granting the requested waiver would not impact other participants in funding programs administered by Florida Housing, nor would it detrimentally impact Florida Housing.

10. Petitioner has demonstrated that it would suffer a substantial hardship if the waiver is not granted.

11. 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.

IT IS THEREFORE ORDERED: Petitioner's request for a waiver of Rule 67-21.003(8)(h), Florida Administrative Code (2021), is hereby **GRANTED** so that Petitioner reduce its total number of units by 35 units, from 261 to 226 total number of units.

DONE and ORDERED this 17th day of June 2022.

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 JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL 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.