

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Tacolcy Edison Gardens, LLC. FHFC CASE NO.: 2019-044VW

ORDER GRANTING WAIVER OF RULE 67-48.0072(21)(b), F.A.C. (2018)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 21, 2019, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on May 16, 2019, from Tacolcy Edison Gardens, LLC (“Petitioner”). Notice of the Petition was published on May 16, 2019, in Volume 45, Number 98, 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 (the “Board”) of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. Tacolcy Edison Gardens, LLC (“Petitioner”) was awarded \$8,500,000 in State Apartment Incentive Loan (“SAIL”) funding under RFA 2017-107 to assist in the rehabilitation of a 100-unit development and the construction of a 100 unit high rise serving families in the Miami-Dade County.
3. Rule 67-48.0072(21)(b), F.A.C. (2018) provides as follows:

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HOUSING FINANCE CORPORATION

Wm. S. Slattery / DATL: 6/24/19

(b) For SAIL, EHCL, and HOME that is not in conjunction with Competitive HC, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within nine (9) months of the Applicant's acceptance to enter credit underwriting. . . .

4. Petitioner received its invitation to enter credit underwriting on March 23, 2018. The SAIL Award Firm Loan Commitment Issuance deadline was December 23, 2018. On December 14, 2018, Petitioner received an extension of this deadline to June 23, 2019, after having paid the 1% extension fee. Petitioner now seeks a further extension of this deadline to December 23, 2019. Petitioner has stated that more time is needed to obtain permits from the City of Miami and, therefore the required firm loan commitment, for the Development. Petitioner thus alleges that without the rule waiver, it will suffer a substantial hardship due to costs already incurred, that Miami-Dade County may be deprived of affordable housing, and failing to grant the waiver would violate principals of fairness.

5. 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.

6. Section 120.542(2), Florida Statutes provides in pertinent part:

Variations 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.

7. Petitioner has demonstrated that the waiver is needed in order to obtain the firm loan commitment and, if the waiver were not granted, Petitioner would suffer a substantial hardship. 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.

8. The Board finds that strict application of the above Rules 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 67-48.0072(21)(b), Fla. Admin. Code (2018) is hereby **GRANTED** to allow Petitioner to extend the Firm Loan Commitment Issuance deadline until December 23, 2019.

DONE and ORDERED this 21st day of June 2019.

Florida Housing Finance Corporation



By:


Chair

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.