

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Sunset Pointe Associates, Ltd.

FHFC Case No.: 2017-75VW

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**ORDER GRANTING WAIVER OF RULE 67-48.0072(26)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 8, 2017, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 6, 2017, from Sunset Pointe Associates, Ltd ("Petitioner"). Notice of the Petition was published on November 8, 2017, in Volume 43, Number 217, 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. In 2015, Petition was selected for an award of HOME funding to be used in conjunction with Florida Housing-Issued MMRB and Non-Competitive Housing Credits to assist in the construction of a development serving low-income families in Miami-Dade County.

3. Petitioner was previously granted several extensions of the HOME loan closing deadline from December 24, 2016 to December 31, 2017. Petitioner is requesting a further extension of the HOME loan closing date from December 31, 2017 to February 15, 2018. Petitioner asserts that the extension is necessary due to delays in the process for obtaining building and development permits due at least partly to the impact of Hurricane Irma on Miami-Dade County.

4. Petitioner seeks a waiver of Rule 67-48.0072(26), F.A.C., which would allow Petitioner to extend the closing date for the HOME loan. Rule 67-48.0072(26) provides as follows:

For SAIL, EHCL, and HOME, that is not in conjunction with Competitive HC, these Corporation loans and other mortgage loans related to the Development must close within 120 Calendar Days of the date of the firm loan commitment(s), unless the Development is a Tax-Exempt Bond-Financed Development which then the closing must occur within 180 Calendar Days of the firm loan commitment(s). Unless an extension is approved by the Board, failure to close the loan(s) by the specified deadline outlined above shall result in the firm loan commitment(s) being deemed void and the funds shall be de-obligated. Applicants may request one (1) extension of the loan closing deadline outlined above for a term of up to 90 Calendar Days.... In the event the Corporation loan(s) does not close by the end of the extension period, the firm loan commitment(s) shall be deemed void and the funds shall be de-obligated.

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), Fla, Stat., 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 efficiently serve low-income families, and that it would suffer a substantial hardship if the waiver is not granted. 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 Rule under these circumstances would cause substantial hardship to Petitioner. The Board further finds that granting this request furthers the Florida Housing’s statutory mandate to provide safe, sanitary and affordable housing to the citizen of Florida.

9. Petitioner also requests that no further extension fee be imposed. Rule 67-48.0072(26), Fla. Admin. Code, states: “The Corporation shall charge an extension fee of one (1) percent of each Corporation loan amount if the Board approves the request to extend the loan closing deadline beyond the . . . 180 Calendar Day period outlined above.” Petitioner has not provided any justification or explanation for this request.

**IT IS THEREFORE ORDERED:**

Petitioner's request for waiver of Rule 67-48.0072(26), Fla. Admin. Code, is hereby **GRANTED** to allow an extension of the HOME loan closing date to February 15, 2018. Petitioner's request for waiver of that portion of Rule 67-48.0072(26), Fla. Admin. Code that requires the payment of an extension fee is hereby **DENIED**.

DONE and ORDERED this 8th day of December, 2017.



Florida Housing Finance Corporation

By:

Chair

A handwritten signature in blue ink is written over a horizontal line. The signature appears to be "Stef" followed by a long, sweeping flourish.

Copies furnished to:

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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
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Tallahassee, Florida 32399-1300

**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.**