

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Edward Waters College
Senior Citizens Home, Inc.

FHFC CASE NO.: 2018-010VW

ORDER GRANTING WAIVER OF RULE 67-48.0072(21)(b), F.A.C. (2016)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 16, 2018, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on February 26, 2018, from Edward Waters College Senior Citizens Home, Inc. (“Petitioner”). Notice of the Petition was published on February 27, 2018, in Volume 44, Number 40, 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. Edward Waters College Senior Citizens Home, Inc. (“Petitioner”) was awarded \$750,000 in Elderly Housing Community Loan (“EHCL”) funding under RFA 2016-108 to assist in the rehabilitation of a 192-unit development serving the elderly in Duval County.

3. Rule 67-48.0072(21)(b), F.A.C. (2016) provides as follows:

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HOUSING FINANCE CORPORATION

Wm. M. Lamoreaux / DATE: 3/16/18

(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 December 19, 2016. The EHCL Award Firm Loan Commitment Issuance deadline was September 27, 2017. On September 22, 2017, Petitioner received an extension of this deadline to March 27, 2018, after having paid the 1% extension fee. Petitioner now seeks a further extension of this deadline to September 27, 2018. Petitioner has stated that more time is needed to obtain completed plans and specifications for the rehabilitation of the Development, and to finalize other funding sources necessary for the complete rehabilitation of the Development. Petitioner thus alleges that without the rule waiver, it will suffer a substantial hardship because without the EHCL funding it will be unable to complete this project and will lose the money that it has already spent on the project.

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 efficiently serve low-income elderly persons and that, 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 (2016) is hereby **GRANTED** to allow Petitioner to extend the Firm Loan Commitment Issuance deadline until September 27, 2018. Petitioner is put on notice that Florida Housing does not anticipate granting any further time extensions absent a showing of extraordinary circumstances.

DONE and ORDERED this 16th day of March, 2018.

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.