

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Caribbean Village, Ltd.

FHFC CASE NO.: 2018-030VW

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**ORDER GRANTING WAIVER OF RULES 67-48.004(3)(G) AND 67-21.003(8)(G), F.A.C., AND RFA 2014-111 REQUIREMENT FOR A CHANGE IN DEVELOPMENT TYPE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on May 4, 2018, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on April 12, 2018, from Caribbean Village, Ltd. ("Petitioner"). Notice of the Petition was published on April 13, 2018, in Volume 44, Number 73, 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. Petitioner was selected to receive SAIL funding to be used in conjunction with Florida Housing-Issued MMRB and Non-Competitive Housing

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

Wm. J. Lamery DATE: 5/4/18

Credits under Request for Applications 2014-111 (the “RFA”) to assist in the construction of a development serving the elderly in Miami-Dade County.

3. Rule 67-48.004(3)(g), F.A.C. provides as follows:

(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provisions of this rule, 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:

\* \* \*

(g) Development Type;

4. Rule 67-21.003(8)(g), F.A.C. (2016) provides as follows:

(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:

\* \* \*

(g) Development Type;

5. Similarly, Part I.A.3.g. of Exhibit E within RFA 2014-111 contains the substantially identical restriction on a change in “Development Type”.

6. Petitioner has previously requested and was granted an increase in the number of units from 82 to 123, all of which are affordable; however, the size of the development site does not allow for an additional building or for the addition of more units to the existing single building by increasing such building’s footprint. Petitioner is requesting a waiver of the above Rules to allow it to build a 7-story building rather than a 5-story building to accommodate the increased number of units

and allow for the total development cost per unit limitation applicable to high-rise to apply rather than the limitation applicable to mid-rise concrete.

7. 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.

8. 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.

9. 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.

10. 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 Rules 67-48.004(3)(g) and 67-21.003(8)(g), Fla. Admin. Code is hereby **GRANTED** to allow the change in development type from "Mid-Rise 5-6 stories" to "High Rise". Additionally, Petitioner's request for a waiver of these Rules is hereby **GRANTED** to treat the Development as a "High Rise" development for all purposes, including but not limited to determining the applicable Total Development Cost Per Unit limitation. Doing so will also grant the requested waiver from the requirements in Part I.A.3.g. of Exhibit E of RFA 2014-111.

**DONE and ORDERED** this 4th day of May, 2018.

Florida Housing Finance Corporation



By:

  
Chair

**Copies furnished to:**

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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.**