STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: OHG FL Lee III Colonial LP FHFC Case No.: 2025-020VW

_____/

ORDER GRANTING WAIVER OF RULE 67-21.003(1)(b), FLA. ADMIN. CODE (2024), AND CERTAIN PROVISIONS OF THE NON-COMPETITIVE APPLICATION PACKAGE (2024)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on May 9, 2025. On April 23, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.003(1)(b) (8/27/24) and the Non-Competitive Application Instructions (Rev. 06-2024) (the "Petition") from OHG FL Lee III Colonial LP ("Petitioner") to allow Petitioner to exceed the 300-unit limit for new construction developments requesting Corporation issued MMRB and 4% Housing Credits. Notice of the Petition was published April 24, 2025, in Volume 51, Number 080, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised on the premises, the Board hereby finds:

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

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION

_____ /DATE: 5/12/2025

2. Petitioner successfully applied for funding to assist in the construction of Wave at Colonial, a 358-unit mid-rise development located in Lee County, Florida (the "Development").

3. Rule 67-21.003(1)(b), F.A.C. (2024), incorporates by reference the Non-Competitive Application Package (2024) ("NCA"). The NCA requires, in relevant part:

> (9) Units and Buildings:
>
> a. State the total number of units in the proposed Development.
>
> Note: the following unit limit applies only to Applications requesting Corporation-issued MMRB with 4 percent HC:
>
> Proposed Developments with a Development Category of new construction, Redevelopment, or acquisition and Redevelopment may not exceed 300 total units…

4. Petitioner requests a waiver from the above rule and corresponding provision of the NCA to allow the Development to exceed the 300-unit limit. As justification, Petitioner states that the Development has been awarded $20 million in CDBG-DR funds from Lee County, which is contingent on the Development including more than the 300-unit maximum imposed by the Rule and NCA. Denial of the Petition would require a reduction in the number of affordable housing units provided by this Development, placing the CDBG-DR funding at risk. Petitioner further states that limiting the Development to less than 300 units would have rendered it

ineligible for this critical source of soft funding, which is necessary to achieve financial feasibility and proceed to closing and construction.

5. Due to separate requirements of the CDBG-DR funding, specifically the Davis Bacon wage requirements, Petitioner states that the additional units are necessary to reduce per unit costs and expenses to allow for additional permanent loan proceeds and remain financially feasible.

6. The Board finds that granting the requested waiver will not impact other participants in funding programs administered by Florida Housing, nor will it detrimentally impact Florida Housing.

7. The Board also finds that Petitioner has demonstrated that strict application of the rule would impose a substantial hardship if the waiver is not granted.

8. The Board further finds that Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state," would still be achieved if the waiver is granted. §420.5099, F. S.

IT IS THEREFORE ORDERED that Petitioner's request for waiver of Rule 67-21.003(1)(b), F.A.C. (2024), and the referenced provision of the Non-Competitive Application Instructions (Rev. 06-2024) is hereby **GRANTED** to allow Petitioner to exceed the 300-unit limit for new

construction developments requesting Corporation issued MMRB and 4% Housing Credits.

DONE and ORDERED this 9th day of May, 2025.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.