STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Apopka Leased Housing Associates I, LLLP

FHFC Case No.: 2024-034VW

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ORDER GRANTING WAIVER OF
RULE 67-21.003(8)(i), FLA. ADMIN. CODE (2021)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on June 28, 2024. On June 12, 2024, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.003(8)(i) (the "Petition") from Apopka Lease Housing Associates I, LLLP (the "Petitioner"). The Petition requests to decrease the "Total Set-Aside Percentage" in its completed Application to allow for the reduction of its MMRB set-aside commitment. Notice of the Petition was published June 13, 2024, in Volume 50, Number 116, 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
[signature] DATE: 6/28/2024

2. Petitioner successfully applied for funding to assist in the construction of The Mira, a 300-unit development located in Orange County, Florida (the "Development").

3. Rule 67-21.003(8)(i), Fla. Admin. Code (2021), states, in relevant part:

> 67-21.03 Application and Selection Process for Developments.
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> (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:
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> (i) The Total Set-Aside Percentage as stated in the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application; notwithstanding the foregoing, the Total Set-Aside Percentage may be increased after the Applicant has been invited to enter Credit Underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development;

4. Petitioner is requesting the waiver to decrease the Total Set-aside Percentage committed to in its Application under the MMRB Program so that Petitioner may elect the Average Income Test (AIT) set-aside commitment under the Housing Credit Program. At application, Petitioner committed to a MMRB set-aside commitment of 100% of the total units at or below 60%

AMI. Petitioner states it needs to change its set-aside commitment for the Development to remain feasible while complying with the more restrictive set-aside requirements for funding it subsequently received from the Orange County Housing Finance Authority ("OCHFA"). OCHFA required the Petitioner to set-aside 30% of the total units at 50% AMI ("Local Subsidy Set-Aside"). The Local Subsidy Set-Aside combined with the current commitment of 100% of the total units at or below 60% AMI, significantly reduces the rental income to operate the Development and by reducing the MMRB set-aside commitment to allow for the use of AIT, Petitioner will receive the rental income needed to pay its projected debt service, operating expenses, and receive mortgage funding in the amounts needed to construct, develop, and operate the Development.

5. 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.

6. The Board also finds that Petitioner has demonstrated that the waiver is needed because of circumstances beyond its control and that it would suffer a substantial hardship if the waiver is not granted.

7. 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, Fla. Stat.

IT IS THEREFORE ORDERED that Petitioner's request for a waiver of Rule 67-21.003(8)(i), Fla. Admin. Code (2021), is hereby **GRANTED** to allow Petitioner to reduce its Total Set-Aside Percentage under the MMRB Program from 100% of the total units at or below 60% AMI to 40% of the total units at or below 60% AMI in order to adopt the AIT set-aside commitment for the Development under the Housing Credits Program

DONE and ORDERED this 28th day of June, 2024.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Nicholas Heckman, Esq
Nelson Mullins Riley and Scarborough LLP
Nick.heckman@nelsonmullins.com

Laura Cox, on Behalf of the Office of the General Counsel
Rhonda Morris, Assistant General Counsel
Melissa Levy, Managing Director of Multifamily Programs
Florida Housing Finance Corporation
Laura.Cox@floridahousing.org
Rhonda.Morris@floridahousing.org
Melissa.Levy@floridahousing.org

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

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.