STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: SPRINGHILL APARTMENTS, LLC FHFC CASE NO.: 2019-060VW

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ORDER GRANTING WAIVER
OF RULE 67-48.0072(4)(c) and (21)(b), F.A.C.

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on August 2, 2019, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on July 8, 2019, from Springhill Apartments, LLC ("Petitioner" or "Springhill"). Notice of the Petition was published on July 9, 2019, in Volume 45, Number 132, 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 State Apartment Incentive Loan ("SAIL") financing, 4% housing credits, and an Extremely Low Income (ELI) loan under RFA 2017-108 to assist in the development of Springhill Apartments, a 76-unit family housing development in Madison, Florida.

3. Rule 67-48.0072, Fla. Admin. Code, (2017) provides in relevant part:

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
DATE: 8/5/19

(4) If the invitation to enter credit underwriting is accepted: …

(c) For SAIL, EHCL, and HOME that is not in conjunction with Competitive HC, the credit underwriting process must be completed within the time frame outlined in subsection 67-48.0072(21), F.A.C., below and the loan must close within the time frame outlined in subsection 67-48.0072(26), F.A.C., below. For SAIL and HOME that is in conjunction with Competitive HC, the credit underwriting process and loan closing must be accomplished within the time frames outlined in the competitive solicitation.

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(21) Information required by the Credit Underwriter shall be provided as follows: …

(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. Unless an extension is approved by the Corporation in writing, failure to achieve credit underwriting report approval and issuance of a firm loan commitment by the specified deadline shall result in withdrawal of the preliminary commitment. Applicants may request one (1) extension of up to six (6) months to secure a firm loan commitment. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting the extension and shall detail the time frame to achieve a firm loan commitment. In determining whether to grant an extension, the Corporation shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. The Corporation shall charge a non-refundable extension fee of one (1) percent of each loan amount if the request to extend the credit underwriting and firm loan commitment process beyond the initial nine (9) month deadline is approved. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

4. On May 10, 2018, Florida Housing issued an invitation to enter credit underwriting to Petitioner which stated that the firm loan commitment had to be issued within 9 months of the acceptance to enter credit underwriting. The acceptance was acknowledged on May 10, 2018, which gave Springhill a firm loan commitment issuance deadline of February 10, 2019. Per the Rule, applicants were permitted to request one extension of up to six months to secure a firm loan commitment. Springhill requested that extension, which was granted by the Board on February 10, 2019 and extended the deadline to August 10, 2019.

5. Petitioner asserts that it requires additional time to secure its firm loan commitment, which will allow the credit underwriting process to be completed. Springhill states that the additional time is necessary due to unforeseen delays in the preparation and third-party review of project specific engineering drawings and plans to meet Development requirements. Springhill anticipates that the firm loan commitment will issue in early September followed by a closing in October of 2019. Petitioner requests a six-month extension of the firm loan commitment deadline through and including February 10, 2020, in order to allow more time for the firm loan commitment to issue and the credit underwriting report to be approved.

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

7. Section 120.542(2), Florida Statutes provides in pertinent part:

> Variances 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.

8. Petitioner has demonstrated that the waiver is needed in order to obtain the firm loan commitment and, 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.

9. 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(4)(c) and (21)(b), Fla. Admin. Code is hereby **GRANTED** to extend Petitioner's firm loan commitment deadline from August 10, 2019 to until February 10, 2020.

DONE and ORDERED this 2nd day of August 2019.

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.