

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: SPINAL CORD LIVING-
ASSISTANCE DEVELOPMENT, INC.

FHFC Case No. 2017-030VW

**ORDER GRANTING WAIVER OF RULE
67-48.0072(4)(C), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came from consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 16, 2017, pursuant to a Petition of Rule 67-48.0072(4)(c) for an extension of the SAIL loan closing date and ELI Gap closing deadline (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on May 8, 2017, from Spinal Cord Living-Assistance Development, Inc. (“Petitioner”) Notice of the Petition was published in Volume 43, Number 94 of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. Petitioner subsequently filed an Amended Petition with technical changes on June 2, 2017. A copy of the Amended Petition is attached as Exhibit A. 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 \$3,420,000 in SAIL Financing of Affordable Multifamily Housing Developments under RFA 2015-101, in conjunction with local tax exempt bond financing and noncompetitive housing credits, to assist in the construction of, “Le Jeune Gardens” (the “Development”), a Development serving low-income families in Hialeah, Florida. Petitioner now seeks a waiver to extend the closing date on the SAIL loan and ELI Gap deadline.
3. Fla. Admin. Code R. 67-48.0072(4)(c)., provides the following:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 6.16.17

(c) For SAIL, EHCL, and HOME Applicants, the loan must close within 12 months of the date of the invitation to enter credit underwriting. Applicants may request one (1) extension of up to 12 months. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. . . . In the event the loan does not close by the end of the 12 month extension period, the preliminary commitment or firm commitment, as applicable, will be deemed void and the funds will be de-obligated.

4. Petitioner requests a waiver from the above provision to extend the closing deadlines of the SAIL loan and the ELI Gap loan until March 31, 2018. Petitioner asserts that it cannot meet the current deadlines due to unexpected delays involving design revisions to satisfy the Persons with Special Needs Demographic of the development and Total Development Cost set out in RFA 2015-101.

5. Under Section 120.542(2), Fla. Stat., and Chapter 28-104, Fla. Admin. Code, Florida Housing has the authority to grant waivers to its rule requirements when strict application of these rules would lead to unreasonable, unfair, and unintended consequences instances. Section 120.542(2) 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 substantial hardship or would violate principles of fairness.

The principles of fairness are violated when literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

6. The Board finds that granting the amended waiver would not have any impact on other participants in funding programs administered by Florida Housing nor allow Petitioner to gain an unfair advantage over other applicants. The Board further finds

that granting the amended waiver would have no detrimental impact on Florida Housing or any of its programs.

7. Petitioner has demonstrated that it would suffer a substantial hardship if the amended waiver is not granted. 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 amended waiver is granted.

8. The Board finds that strict application of the above rules under these circumstances would cause substantial hardship to Petitioner. The Board further finds 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 waiver of Rule 67-48.0072(4)(c), Fla. Admin. Code, is hereby **GRANTED**, so that the deadline for the SAIL loan and ELI Gap closing are March 31, 2018.

DONE and ORDERED this 16th day of June, 2017.

Florida Housing Finance Corporation

By: 
Chairperson

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.