

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

OSCEOLA PALOS VERDES, LTD.,

FHFC CASE NO.: 2018-050VW

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**ORDER GRANTING WAIVER OF RULE 67-48.0072(4)(c)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 15, 2018, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on May 31, 2018, from Osceola Palos Verdes, Ltd. (“Petitioner”). Notice of the Petition was published on June 1, 2018, in Volume 44, Number 107, 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 an award of SAIL and ELI Gap funding under Request for Applications 2016-109 (the “RFA”) to assist in the construction of a development serving families in Ocoola County.
3. Rule 67-48.0072(4)(c), Fla. Admin. Code, provides:

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*Thomas Alamory* / DATE: 6/15/18

(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. Rule 67-48.0072(21)(b), Fla. Admin. Code, provides:

(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.

5. Petitioner was invited to credit underwriting on April 6, 2017 and received a six-month extension of its firm commitment due date until July 6, 2018.

Because of construction cost increases that were exacerbated by the 2017 hurricane

season, Petitioner applied for a Development Viability Loan in the amount of \$975,000 in the recently conducted RFA 2018-109. Palos Verdes was preliminarily deemed ineligible for funding in that RFA and has timely challenged that determination with a formal written protest. Without the certainty of the requested Development Viability Loan funding, Petitioner cannot complete the credit underwriting process by the current deadline.

6. Additionally, Petitioner paid a non-refundable one percent extension fee with their initial request for an extension of the loan commitment deadline. The Rules cited above do not require a fee for any subsequent extensions, and Petitioner specifically requests that it not be assessed a further extension fee for extending the firm loan commitment date.

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 persons with disabilities 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:**

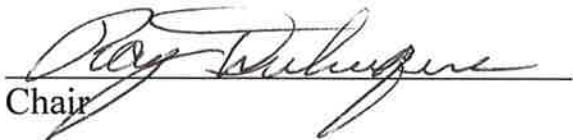
Petitioner’s request for a waiver of Rule 67-48.0072(4)(c), Fla. Admin. Code is hereby **GRANTED** to allow the deadline for closing on the SAIL and ELI loans to be extended until January 6, 2019.

DONE and ORDERED this 15th day of June, 2018.



Florida Housing Finance Corporation

By:

  
Chair

**Copies furnished to:**

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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
120 Holland Building  
Tallahassee, Florida 32399-1300

#### **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.**