

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

FHFC CASE NO.: 2018-051VW

In Re: Suncrest Court Redevelopment, LLC

ORDER GRANTING WAIVER OF RULE 67-48.0072(21)(b)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on July 27, 2018, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on June 25, 2018, from Suncrest Court Redevelopment, LLC (“Petitioner”). Notice of the Petition was published on June 27, 2018, in Volume 44, Number 125 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 non-competitive housing credits, State Apartment Incentive Loan (“SAIL”) financing, Multifamily Mortgage Revenue Bonds (“MMRB”) and Extremely Low Income (“ELI”) loan funding under Request for Application (“RFA”) 2016-109 to assist in the redevelopment of

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

James McLamory / DATE: 7/27/18

Suncrest Court, a 116-unit family housing development in Broward County, Florida.

Petitioner's Application Number was 2016-378S (the "Application").

3. Petitioner seeks a waiver from Rule 67-48.0072(21)(b), Fla. Admin.

Code, which in relevant part provides:

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 Board 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.

(emphasis supplied).

4. Petitioner accepted its invitation to enter credit underwriting on August 8, 2017 and received a firm loan commitment issuance deadline of May 8, 2018. On March 16, 2018, Florida Housing's Board of Directors (the "Board") granted Petitioner's request to extend the deadline to secure a firm loan commitment to until

November 8, 2018. Petitioner now seeks a six-month extension of the time to obtain a firm loan commitment to until May 7, 2019.

5. In support of its request, Petitioner alleges that Suncrest Court involves the demolition of 66 units of traditional public housing and the rebuilding of 116 new affordable rental units under the United States Department of Housing and Urban Development's ("HUD") Rental Assistance Demonstration ("RAD") program. According to Petitioner, this process involves compliance with various provisions under HUD's authority and Petitioner has encountered significant delays in securing HUD's required approvals. First, approvals to remove existing five-bedroom units, which are no longer supported by the multifamily market, caused significant delay but was ultimately obtained on May 1, 2018. Second, HUD has rejected Suncrest Court under the Fair Housing Act and Title VI of the Civil Rights Act of 1964 based on certain surrounding neighborhood factors. Petitioner asserts that it expects to receive HUD's approval on this issue in due course.

6. 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.

7. 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.

8. Petitioner has demonstrated that strict application of the above Rule under these circumstances would constitute a substantial hardship and violate the principals of fairness. 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 Rule 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 the above Rule regarding the firm loan commitment deadline and extensions to that deadline is **GRANTED**, so that the firm loan commitment deadline may be extended from November 8, 2018 until May 7, 2019.

DONE and ORDERED this 27th day of July, 2018.

Florida Housing Finance Corporation



By:


Chair

Copies furnished to:

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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.