

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In Re: HTG Miami-Dade 5, LLC

FHFC Case No.: 2014-082VW

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**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-  
48.004(14)(i) and (j), FLORIDA ADMINISTRATIVE CODE,**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on December 12, 2014, pursuant to a “Petition for Waiver of Rule 67-48.004(14)(i) and (j) for a Change in Number of Units and in Total Set-Aside Percentage.” Florida Housing Finance Corporation (“Florida Housing”) received the Petition on November 12, 2014, from HTG Miami-Dade 5, LLC (“the Petitioner”). Notice of the Petition was published in Volume 40, Number 222, 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.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

 /DATE: 12.15.14

2. Pursuant to RFA 2013-003, “Affordable Housing Developments located in Broward, Miami-Dade and Palm Beach Counties” (“RFA”), HTG Miami-Dade 5, LLC (“Petitioner”) applied for and was awarded an allocation of tax credits to finance the construction of a development intended to serve families known as Wagner Creek (the “Development”) located in Miami Dade County, Florida.

3. Rule 67-48.004(14) Fla. Admin. Code (2011) provides in relevant part:

“(14) 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 Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

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(i) Total number of units; notwithstanding the foregoing, for the SAIL and HC Programs the total number of units 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;

(j) With regard to the SAIL and HC Programs, the Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application...”.

4. In its application, Petitioner committed to set aside 100% of the Development's 68 units at 60% AMI or less.

6. Petitioner requests waivers of the above rule and instructions. Specifically, Petitioner seeks to increase the total number of units in the Development from 68 to up to 73, and to decrease the Total Set-Aside Percentage from 100% to approximately 93%. Petitioner intends to rent the additional five units at market rates while maintaining the original 68 units as affordable housing.

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 and instruction provisions under these circumstances would constitute a substantial economic hardship and violate the principles of fairness for Petitioner. Local zoning ordinances permit additional housing units that would benefit those families that would not otherwise qualify for the affordable units to obtain housing. Denying the waiver would create a substantial hardship as a consequence of lower rental revenues. Granting the

requested waiver would not only serve the purpose of the underlying statute and the Act as a whole by facilitating the availability of affordable housing to low-income persons and households, but provide the additional benefit of meeting the need for market rate housing.

**IT IS THEREFORE ORDERED:**

Petitioner's request for waivers of Rule 67-48.004(14)(i) and (j), Florida Administrative Code (2011), to permit Petitioner to increase the total number of units from 68 to 73 and to decrease the Total Set-Aside Percentage from 100% to approximately 93%, subject to the condition that not less than 68 units remain Set-Aside Units, is hereby **GRANTED**.

DONE and ORDERED this 12th day of December, 2014.

Florida Housing Finance Corporation



By: \_\_\_\_\_

*[Signature]*  
Chairperson

Copies furnished to:  
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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
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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.**