

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: HTG VALENCIA II, LTD.

FHFC CASE NO.: 2019-076VW

**ORDER GRANTING WAIVER
OF RULE 67-48.004(3)(g) and 67-21.003(8)(g), F.A.C.**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on October 31, 2019, pursuant to a Petition for Waiver of Rule 67-21.003(8)(g) ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 9, 2019, from HTG Valencia II, Ltd. ("Petitioner" or "HTG Valencia"). On October 3, 2019, Florida Housing received an Amended Petition for Waiver of Rules 67-48.004(3)(g) and 67-21.003(8)(g), F.A.C. ("Amended Petition") from Petitioner. Notice of the Petition was published on September 11, 2019, in Volume 45, Number 177, of the Florida Administrative Register. Notice of the Amended Petition was published on October 9, 2019, in Volume 45, Number 197, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition and Amended 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

Thomas R. Alamo ATTY. 10/31/19

2. Petitioner was selected to receive State Apartment Incentive Loan (“SAIL”) financing, Multifamily Mortgage Revenue Bonds (“MMRB”), National Housing Trust Funds (“NHTF”), 4% housing credits, and an Extremely Low Income (“ELI”) loan under RFA 2018-116 to assist in the development of Valencia Grove II, a 110-unit elderly housing development in Eustis, Florida (the “Development”).

3. Rule 67-48.004, Fla. Admin. Code, (2018) provides in relevant part:

(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

(g) Development Type;

4. Rule 67-21.003, Fla. Admin. Code, (2018) provides in relevant part:

(8) 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 is deemed complete. Those items are as follows:

(g) Development Type;

5. Petitioner submitted its application in November 2018 and selected “Mid-Rise, 4 Stories” as its Development Type. Petitioner asserts that it chose Mid-Rise, 4 Stories because at the time of application, the site plan required a large retention pond that encompassed a large portion of the site. The original plan was

designed as Mid-Rise, 4 Stories to ensure the correct amount of units and limit the building footprint. However, after receiving board approval and working through the schematic design, the required retention pond is smaller than originally planned.

6. Accordingly, Petitioner requests to change its Development Type to a more cost-effective design, Garden Style Apartments, 3-Stories. Petitioner asserts that if the waiver were denied, Petitioner would be required to proceed with the more expensive building design.

7. 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.

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 necessary 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.

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 Rules 67-48.004(3)(g) and 67-21.003(8)(g), Fla. Admin. Code (2018) is hereby **GRANTED** to change Petitioner's development type from Mid-Rise, 4-Stories to Garden Style Apartments, 3-Stories.

DONE and ORDERED this 31st day of October, 2019.



Florida Housing Finance Corporation

By:

[Handwritten Signature]
Chair

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.