

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: VILLA AURORA, LLLP

Case No. 2010-005VW

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**ORDER GRANTING PETITION FOR WAIVER OF UNIVERSAL  
APPLICATION INSTRUCTION PART III.F.2.  
(2005 CYCLE AND 2007 CYCLE)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on April 30, 2010, pursuant to a "Petition for Variance from or Waiver from Universal Application Instruction Part III.F.2. (2005 Cycle and 2007 Cycle)" filed by Villa Aurora, LLLP ("Petitioner") on March 1, 2010 (the "Petition"). Notice of the Petition was published in Volume 36, Number 10, of the Florida Administrative Weekly. 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. During the 2005 Universal Cycle, Villa Aurora, LLLP ("Petitioner") applied for and was subsequently awarded (in 2007) an allocation of housing credits and SAIL funding to help finance the construction of Villa Aurora (the

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*William M. Harrell* / DATE: 5/4/2010

“Development”), a 76-unit rental development, located in Miami-Dade County, Florida, to serve homeless and low-income individuals.

3. The Universal Application Instructions are adopted by reference in Rule 67-48.004(1), F.A.C., and, as such, are themselves rules.

4. Part III.F.2. of the Universal Application Instructions, for both the 2005 and 2007 Universal Application Cycles, states, in relevant part:

2. Qualified Resident Programs for Homeless Developments – SRO and Non-SRO (Maximum 6 Points)

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All Applicants selecting and qualifying for the Homeless Demographic Commitment ... must provide, at no cost to the resident, a Case Manager (at least one for every 25 residents) whose activities are aimed at assessing resident needs...

5. Petitioner’s Development, which is now complete and serves homeless and low-income individuals in the East Little Havana section of Miami, is subject to a LURA and ELIHA, both of which include the requirement (consistent with the above cited instructions) that there be provided “...at no cost to the resident, a Case Manager (at least one for every 25 residents) whose activities are aimed at assessing resident needs...”.<sup>1</sup>

6. In 2009, Part III.F.2. of the Universal Application Instructions, was amended to read:

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<sup>1</sup> A consequence of granting the waiver requested by the Petitioner will be the need to amend this provision in the LURA and the ELIHA in order for those documents to be consistent with the waiver. Petitioner included in its Petition a request for such amendments.

2. Qualified Resident Programs for Homeless Developments – SRO and Non-SRO (Maximum 6 Points)

\*\*\*

All Applicants selecting and qualifying for the Homeless Demographic Commitment ... must provide, at no cost to the resident, a Case Manager (at least one for every 25 Homeless or formerly Homeless resident families) whose activities are aimed at assessing resident needs... (Emphasis added)

7. The change made in 2009 to Part III.F.2. of the Universal Application Instructions was in recognition that the requirement for a Case Manager applies to the Homeless residents in the development, as opposed to all residents regardless of whether such residents are Homeless or not.

8. Petitioner is requesting a waiver to allow the change made in 2009 to the requirement for provision of a Case Manager from one for every 25 residents to one for every 25 Homeless residents be applied to its Development.

9. 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.

10. The requirement for a Case Manager applies to Homeless residents. To require Petitioner to provide a Case Manager for all residents, regardless of whether such families are Homeless or not, would violate principles of fairness.

11. Granting Petitioner's requested waiver will do nothing more than place Petitioner's Development on equal footing with homeless developments

which will be developed under the 2009 Universal Application Instructions. Under these circumstances, principles of fairness will be advanced by requiring Petitioner to provide one Case Manager for every 25 Homeless residents as provided in the 2009 Universal Application Instructions.

**IT IS THEREFORE ORDERED:**

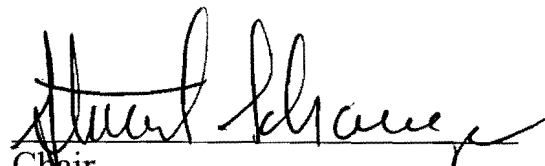
The Petition for waiver of Universal Application Instruction Part III.F.2. (2005 Cycle and 2007 Cycle) is hereby **GRANTED** to the extent that Petitioner's Development be required to provide at least one Case Manager for every 25 Homeless or formerly Homeless resident families as provided in Part III.F.2. of the 2009 Universal Application Instructions.

DONE and ORDERED this 30<sup>th</sup> day of April, 2010.



Florida Housing Finance Corporation

By:

  
Chair

**Copies furnished to:**

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Joint Administrative Procedures Committee  
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## **NOTICE OF RIGHTS**

**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.**