

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: BLUE CASL II, LLC

FHFC CASE NO.: 2019-067VW

ORDER GRANTING WAIVER OF RULE 67-48.004(3)(g)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on September 20, 2019, pursuant to a “Petition for Waiver” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on July 30, 2019, from Blue CASL II, LLC (“Petitioner”). Notice of the Petition was published on August 2, 2019, in Volume 45, Number 150, of the Florida Administrative Register. On August 12, 2019, Petitioner submitted an Amended Petition. 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 9% housing tax credit, SAIL, and ELI funding under Request for Applications (RFA) 2016-113, to assist in the construction of a Development serving homeless persons in Lee County, Florida.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Janifer A. Maishale / DATE: 9/23/2019

3. Rule 67-48.004(3)(g), Fla. Admin. Code (2016), provides:

(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. In Petitioner's response to the RFA ("Application"), Petitioner selected the Development Type of "Mid-Rise, 4-stories." Petitioner alleges that due to a combination of local stormwater, parking, and setback requirements, the only viable way to maintain the size and number of apartment units contemplated in the Application is to add a 5th floor. Adding a 5th floor will also allow Petitioner to increase the amount of common space provided, including adding a swimming pool and more outside common areas. The Application's scoring, ranking, and funding would not have been affected had Petitioner selected Mid-Rise 5 stories in its Application, nor would the Total Development Cost per unit.

5. 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.

6. 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.

7. Petitioner has demonstrated that the waiver is needed in order to efficiently serve homeless persons 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.

8. 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 67-48.004(3)(g), Fla. Admin. Code (2016) is hereby **GRANTED** so that the Development Type is from Mid-Rise 4 stories to Mid-Rise 5 stories.

DONE and ORDERED this 20th day of September, 2019.

Florida Housing Finance Corporation

By:


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.