

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: MBCDC: VILLA MARIA, LLC

FHFC Case No.: 2009-057VW

**ORDER GRANTING PETITION FOR WAIVER
OF PART III.A.5A.(2)(D) OF THE 2007 FARMWORKER HOUSING
RECOVERY AND SPECIAL HOUSING DEVELOPMENT
APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on January 22, 2010, pursuant to a "Petition for Waiver of Part III.A.5a.(2)(d) of the 2007 Farmworker Housing Recovery and Special Housing Development Application Instructions to Provide Specific Features in Units Developed for Elderly Residents" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on December 3, 2009, from MBCDC: Villa Maria, LLC ("the Petitioner"). On December 18, 2009, the Notice of the Petition was published in Volume 35, Number 50, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After careful review of the record and being

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Debra M. Harrell / DATE: 1/22/10

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 2007 Farmworker Housing Recovery Program (FHRP) and Special Housing Assistance and Development Program (SHADP), MBCDC: Villa Maria, LLC (“Petitioner”) applied for and was awarded SHADP funding to finance the construction of Villa Maria Apartments (the “Development”) located in Miami-Dade County, Florida.

3. Rule 67ER07-03(2)(a) Fla. Admin. Code (2007) provides, in pertinent part:

(a) The Application Package consists of the forms and instructions, obtained from the Florida Housing Finance Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329 or available on the Corporation’s Website at www.floridahousing.org, which shall be completed and submitted to the Corporation in accordance with this rule chapter.

Part III.A.5.a.(2)(d) of the Instructions provides in pertinent part:

(d) The Applicant must provide the following features in the specified percentages of all units in new construction (NC) and Rehabilitation (R) Developments. The requirement to provide the following features is in addition to the features committed to by the Applicant in the Construction Features and Amenities section of this Application...

Tight-napped Berber-type carpet

4. Petitioner has requested a waiver of the above Rule to allow it to install Non-Skid flooring, instead of tight-napped Berber style carpeting. As justification, Petitioner states that in its experience, the Non-Skid flooring provides a better surface for elderly residents to ambulate within their residential units. Additionally, it is an easier surface to maintain and to keep clean. The Petitioner further provides that the Non-Skid flooring is an upgraded amenity for which it is willing to bear the additional cost.

5. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants.

9. Section 120.542(2), Florida Statutes provides in pertinent part:

Variances 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 Board finds that strict application of the above Rule under these circumstances would violate the principles of fairness. Petitioner demonstrated that permitting this change in Development would promote participation by experienced developers in efficient construction of new elderly units and also serve the underlying purpose of the statute by

permitting upgraded features and amenities within residential units developed for elderly residents.


IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Part III.A.5.a.(2)(d) of the Instructions, to allow Petitioner to install Non-Skid Flooring in the residential units in the Development, instead of tight-napped Berber-type carpet is hereby **GRANTED**.

DONE and ORDERED this 22nd day of January, 2010.



Florida Housing Finance Corporation

By:  _____
Chairperson

Copies furnished to:
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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
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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.