

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: NVC Haley Park, Ltd.

FHFC Case No.: 2014-079VW

**ORDER GRANTING WAIVER OF RULE 67-48.004(3)(g),
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(3)(g) for a Change in Development Type” (the “Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on October 31, 2014, from NVC Haley Park, Ltd. (“the Petitioner”). On November 5, 2014, Notice of the Petition was published in Volume 40, Number 216, 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 2014-103, Financing of Affordable Multifamily Housing Developments with SAIL Funding to be used in conjunction with Tax-Exempt Bond Financing and Non-Competitive Housing Credits (the “RFA”), Petitioner applied for and was awarded an allocation of State Apartment Incentive Loan (SAIL) and Extremely Low Income (ELI) Gap funding to finance the construction of a development in Hillsborough County, Florida.

3. At the time of Application, Petitioner’s civil engineer and architect agreed that to achieve a density of 80-units on the heavily-treed site would require a four-story (Mid-Rise) building to accommodate preservation of trees, storm water retention, ingress and egress, parking spaces and to comply with the required setbacks. Petitioner accordingly selected the Mid-Rise w/elevator as its Development Type.

4. Subsequently, Petitioner determined that a re-orientation of the building would allow more latitude in regards to the setbacks, parking and storm water issues, and which could be accomplished with a three-story Garden style development type still providing 80 units.

5. Rule 67-48.004(3)(g), Florida Administrative Code, provides in pertinent part:

(3) 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;

6. Petitioner now requests a waiver of the above Rule to permit a change in Development Type from Mid-Rise w/elevator (4 stories) to Garden Style (3 stories).

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

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. The Board finds that strict application of the above Rule under these circumstances would create a substantial hardship for Petitioner. The granting of this request for waiver will also serve the purpose of the underlying statute by avoiding unnecessary expense and delay in the provision of this affordable housing Development to the residents of Hillsborough County.

10. The Board further finds that as a condition of granting this waiver, Petitioner will be subject to and must complete the Development within the Total Development Cost limits of the new Garden development type.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Rule 67-48.004(3)(g), Florida Administrative Code is hereby **GRANTED**, subject to and conditioned upon the Petitioner completing the Development within the Total Development Cost limits of the new Garden Development Type.

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



Florida Housing Finance Corporation

By:  _____
Chairperson

Copies furnished to:

Wellington H. Meffert II, Esq.
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Ken Reecy
Director of Multifamily Programs
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Brian J. McDonough, Esquire
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street
Miami, Florida 33130

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

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.