

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: AMC HTG I, LTD.

FHFC Case No.: 2015-004VW

**ORDER GRANTING WAIVER OF
NON-COMPETITIVE APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 20, 2015, pursuant to a “Petition for Waiver of Rule 67-21.003(1)(a) and Application Instructions, for a Change in Applicant Structure” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on February 11, 2015, from AMG HTG I, Ltd. (“the Petitioner”). Notice of the Petition was published in Volume 41, Number 32, 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.
2. In November, 2014, Petitioner obtained a preliminary commitment for Non-Competitive (4%) housing tax credits under Application

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 DATE: 3.24.15

2013-514C, to assist in the construction of an 84 unit apartment building serving the Family demographic, to be known as Courtside Family Apartments. IRS Form 8609, which grants the credits to Petitioner, has not yet been issued by Florida Housing.

3. Rule 67-21.003(1), Fla. Admin. Code (Rev. 3-13) incorporates by reference the Non-Competitive Application Package, which includes the Non-Competitive Application Instructions (“Instructions”). Those Instructions provide:

Applicants must use the Non-Competitive Application Form to apply for ...Non-Competitive Housing Credits (4 percent HC) only, to be used for a Tax-Exempt Bond-Financed Development where bonds are issued by a County Housing Finance Authority (HFA) pursuant to Section 159.604, F.S....

2. Applicant:

a. State the name of the Applicant.

(1) If applying for Housing Credits, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Non-Competitive Housing Credits and may not change until after the Final Housing Credit Allocation Agreement has been approved and the IRS Forms 8609 have been issued. The Applicant entity may be changed after a Final Housing Credit Allocation Agreement has been approved and the IRS Forms 8609 have been issued; however, the Corporation must be notified in writing of the change. Changes to the Applicant entity prior to approval of the Final Housing Credit Allocation Agreement and issuance of the IRS Forms 8609 will result in disqualification from

receiving funding and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership or member of a limited liability company owning the syndicating interest therein will not result in disqualification.

4. Petitioner requests a waiver of the above Instructions to permit the transfer of 21% of the membership interests in the Petitioner's non-managing general partner to another entity, prior to the issuance of Form 8609 and the approval of the Final Housing Credit Allocation Agreement.

5. Petitioner's two general partners are AMC HTG I GP, LLC (the "Managing GP") and AM Housing I GP, LLC (the "Administrative GP"). The Administrative GP has a single member, AM Affordable Housing, Inc., a Florida non-profit corporation (the "AGP Member"). Petitioner seeks leave to transfer 21% of its member interests in the Administrative GP to Urgent, Inc., a Florida not-for-profit corporation.

6. The Board finds that this change is necessary to create a "tax disaffiliation" that is required by Petitioner's limited partner (the "Investor"). The Board finds that without this requested change, significant negative tax consequences would ensue which would result in a reduction in the equity payable by the Investor, producing a likely inability to proceed with the Development due to lack of sufficient financial resources.

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 cause substantial hardship to Petitioner and violate the principles of fairness, 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 the above-referenced Instructions to permit a transfer of 21% membership interests from AM Housing I GP, LLC to Urgent, Inc. is hereby **GRANTED**.

DONE and ORDERED this 20th day of March, 2015.



Florida Housing Finance Corporation

By: _____

Chair

Copies furnished to:

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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.