STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: BDG Royal Park Apartments, LP

FHFC CASE NO.: 2020-063VW

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ORDER GRANTING WAIVER OF
RULES 67-48.004(3)(g) and 67-21.003(8)(g)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on October 16, 2020, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 30, 2020, from BDG Royal Park Apartments, LP ("Petitioner"). Notice of the Petition was published on October 1, 2020, in Volume 46, Number 192, of the Florida Administrative Register. No public comments regarding the petition have been received. 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 SAIL/ELI funding to be used in conjunction with tax-exempt bonds and non-competitive housing tax credits under Request for Applications (RFA) 2019-116, to assist in the construction of a 176 unit Development serving low-income families in Alachau County, Florida.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION
/DA 10/16/2020

3. Rule 67-48.004(3)(g), Fla. Admin. Code, 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:
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> * * *
>
> (g) Development Type. . . .

4. Rule 67-21.003(8)(g), Fla. Admin. Code, provides:

> (3) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application is deemed complete.
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> * * *
>
> (g) Development Type. . . .

5. In its Application for funding under the RFA, Petitioner selected the Development Type of "Mid-Rise 5-6 stories." Petitioner now proposes to amend its application to change its development type to "Garden Apartments." Petitioner alleges that because construction costs have increased and housing credit equity pricing has declined, a change in development type would lead to a more cost-effective design. Had Petitioner selected Garden Apartments in its Application, the ultimate outcome of which applications were selected for funding would not have been affected. Petitioner has agreed to meet the Total Development Cost per Unit Limitation for "Garden Wood" set forth in Section Five A.1. of the RFA.

6. Petitioner has also separately requested to construct an additional 16 affordable units, bringing the total units to 192. This request has been approved by

staff. This change will result in a change to the unit mix, which will be finalized and reviewed after site planning is complete.

7. 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.

8. Section 120.542(2), Fla. Stat. 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.

9. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income familes. 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.

10. The Board finds that strict application of the above Rule 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 Rules 67-48.004(3)(g) and 67-21.003(8)(g), Fla. Admin. Code, is hereby **GRANTED** to permit Petitioner to change its Development Type from "Mid-Rise 5-6 Stories" to "Garden Apartments." Petitioner must use the Total Development Cost Per Unit limitation for the Development of "Garden Apartments."

DONE and ORDERED this 16th day of October, 2020.

Florida Housing Finance Corporation

By: _____
Chair

Copies furnished to:

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NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO ADMINISTRATIVE 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.