STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Block 55 Residential, LP

FHFC CASE NO.: 2021-025VW

_____/

ORDER GRANTING WAIVER OF RULES
67-21.0025(7)(c) and 67-21.003(1)(b)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on April 30, 2021, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on April 14, 2021, from Block 55 Residential, LP ("Petitioner"). Notice of the Petition was published on April 15, 2021, in Volume 47, Number 73, of the Florida Administrative Register. Florida Housing has received no comments concerning 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 has applied for an award of non-competitive Housing Credits to be used in conjunction with multifamily housing revenue bonds issued by Miami-Dade County to assist in the construction of a 578-unit affordable housing development in Miami-Dade County known as Sawyer's Walk. The mixed-use

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
DATE: 4/30/202

development will also include commercial and retail space and a parking garage, and 96% of the affordable units will serve an elderly population.

3. Rule 67-21.0025(7)(c), Fla. Admin. Code, provides in relevant part:

> The Applicant must disclose all of the Principals of all of the entities identified in paragraph (b) above (third principal disclosure level). Unless the entity is a trust, all of the Principals must be natural persons.

4. Rule 67-21.003(1)(b), Fla. Admin. Code adopts and incorporates by reference the Non-Competitive Application (NCA) Package (Rev. 04-2020). The NCA package includes the following requirements:

Section A.6.a., provides in relevant part:

> 6. Principals Disclosure for Petitioner and each Developer:
> a. Provide the Principals of the Applicant and Developer(s) Disclosure Form in effect at the time of Application submission ("Principal Disclosure Form"), as "Exhibit 3" to the Application form.

The Instructions provide in relevant part:

> The Non-Competitive Application Form can be submitted anywhere from the time the Applicant completes Credit Underwriting for the Bonds up until the last Corporation business day of December of the year the Development is placed in service

Section 13(c)(2)(a) requires in relevant part:

> If the Credit Underwriting for the bonds was prepared by a Credit Underwriter under contract with the Corporation, provide a complete copy of the final Credit Underwriting Report as "Exhibit 7".

Section 15(k) provides in relevant part:

> 15. Applicant Certification:
> By completing, executing and submitting this Application form and all applicable exhibits, the Applicant certifies and acknowledges that:
>
> ***
>
> k. The proposed equity amount to be paid prior to or simultaneous with the closing of construction financing is at least 15 percent of the total proposed equity to be provided (the 15 percent criteria) …

5. The contemplated ownership structure for this large, mixed use development is especially complex. It is anticipated to include condominium ownership for the various components, with partial common upper tier ownership of the commercial/retail space and the residential units. The financing plan is also complex, and a multi-tier ownership structure is necessary to accommodate the ownership and financing of the commercial components. For these reasons the anticipated ownership structure will include entities to the fifth level of disclosure, with all natural person principals of these entities being disclosed by the sixth level. The creation of wholly different entities for the residential and commercial components is not feasible or beneficial to the Development.

6. Petitioner also asserts that it will not be possible to complete the Credit Underwriting Report until final action is take on this waiver request. Petitioner asserts that it was necessary to submit an Application in order to submit this waiver request. It will therefore not be possible to submit the Application after completing

Credit Underwriting, and Petitioner requests that it be allowed to submit its Application without a final Credit Underwriting Report.

7. The total proposed equity for this Development is approximately $70,000,000. Petitioner is proposing that the equity amount to be paid by closing of construction financing be 10% of the total proposed equity ($7,000,000) rather than the 15% required by the NCA package. Petitioner asserts that the size and complexity of the Development and the unusually long construction schedule mean that investors will not receive the Housing Credits for substantially longer than is typical in this type of transaction. Further, Petitioner asserts that since it must prioritize spending bond proceeds before using other financing sources, and since the construction schedule is approximately three years, it will not have any need for more than 10% of the total proposed equity at construction closing. For these reasons Petitioner asserts that if the 15% criteria is not waived it will create a hardship because the credit pricing will be reduced if it must request an additional $3,500,000 from the investor up front.

8. 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.

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

11. 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 Rules 67-21.0025(7)(c) and 67-21.003(1)(b), Fla. Admin. Code, as well as the above-cited provisions of the Non-Competitive Application Package, is hereby **GRANTED** to permit Petitioner to:

1. Submit a Principal Disclosure Form modified as necessary to allow disclosure of all natural person principals by the sixth disclosure level;

2. Submit a Non-Competitive Application package prior to completing Credit Underwriting; and

3. Assure that the proposed equity amount to be paid prior to or simultaneous with the closing of construction financing is at least 10 percent of the total proposed equity to be provided.

DONE and ORDERED this 30th day of April, 2021.

Florida Housing Finance Corporation

By: _____
Chair

Copies furnished to:

Hugh R. Brown, General Counsel
Florida Housing Finance Corporation
Hugh.Brown@floridahousing.org

Marisa Button, Director of Multifamily Development
Florida Housing Finance Corporation
Marisa.Button@floridahousing.org

Hollie Croft
Nelson Mullins Broad and Cassel
Holly.croft@nelsonmullins.com

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

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.