**STATE OF FLORIDA**
**FLORIDA HOUSING FINANCE CORPORATION**

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| In Re: HTG LAFAYETT, LLC | FHFC CASE NO. 2022-009VW |
| HTG FIORI, LLC | FHFC CASE NO. 2022-010VW |
| HTG OAK VALLEY, LTD. | FHFC CASE NO. 2022-011VW |
| HTG HERON ESTATES FAMILY, LLC | FHFC CASE NO. 2022-012VW |
| HTG VALENCIA II, LTD. | FHFC CASE NO. 2022-013VW |
| HTG BANYAN, LLC | FHFC CASE NO. 2022-014VW |
| HTG RAINBOW HOUSING, LTD. | FHFC CASE NO. 2022-015VW |

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**ORDER GRANTING WAIVER OF RULES 67-48.002(9), (93), AND (94), AND RULES 67-21.002(9) AND (85), FLA. ADMIN. CODE (2017 AND 2018)**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 4, 2022, pursuant to seven "Petitions for Waiver" ("Petitions"). Florida Housing Finance Corporation ("Florida Housing") received the Petitions on February 9, 2022, from seven business entities associated with Housing Trust Group (HTG). On February 10. 2022, Notice of the Petitions for HTG Banyan, LLC, HTG Fiori, LLC, HTG Heron Estates Family, LLC, HTG Lafayette, LLC, HTG Oak Valley, Ltd., HTG Rainbow Housing, Ltd., and HTG Valencia II, Ltd. were published in the Florida Administrative Register in Volume 48, Number 28. To date, Florida Housing has received no comments concerning the Petitions. After careful review of the record and being

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
AMcMillamon DATE 3/4/2022

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. For estate planning purposes, each Petitioner would like to insert a newly created limited liability company at the second disclosure level flowing from Petitioner's manager and Petitioner's non-investor member. This would cause the trusts (currently disclosed at the second principal disclosure level) to fall to the third level and the natural person principal trustees and beneficiaries would not be disclosed until the fourth principal disclosure level. While this is now permitted under the current version of the rules, it was not permitted at the time the applications were submitted.

3. Rule 67-48.002(9) and (94), Fla. Admin. Code (2018) provide, in relevant part:

> (9) "Applicant" means any person or legal entity of the type and with the management and ownership structure described herein that is seeking a loan or funding from the Corporation by submitting an Application or responding to a competitive solicitation pursuant to Rule Chapter 67-60, F.A.C., for one or more of the Corporation's programs. . . . Unless otherwise stated in a competitive solicitation, as used herein, a 'legal entity' means a legally formed corporation, limited partnership or limited liability company with a management and ownership structure that **consists exclusively of all natural persons by the third principal disclosure level.** . . . The terms 'first principal disclosure level' and 'third principal disclosure level' have the meanings attributed to them in the definition of "Principal."

(94) "Principal" means:

(a) With respect to an Applicant that is: . . . .

2. A limited partnership, at the first principal disclosure level, any general partner or limited partner of the Applicant limited partnership, and, unless otherwise excluded at subsection 67-48.002(9), F.A.C., with respect to any general partner or limited partner of the Applicant limited partnership, at the second principal disclosure level, that is:

a. A corporation, any officer, director, executive director, or shareholder of the corporation,

b. A limited partnership, any general partner or limited partner of the limited partnership,

c. A limited liability company, any manager or member of the limited liability company, or

d. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and,

with respect to any entity identified at the second principal disclosure level that is:

e. A corporation, by the third principal disclosure level, any officer, director, executive director, or shareholder of the corporation, each of whom must be a natural person,

f. A limited partnership, by the third principal disclosure level, any general partner or limited partner of the limited partnership, each of whom must be a natural person,

g. A limited liability company, by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person, or

h. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and,

3. A limited liability company, at the first principal disclosure level, any manager or member of the Applicant limited liability company, and, unless otherwise excluded at subsection 67-48.002(9), F.A.C., with respect to any manager or member of the Applicant limited liability company, at the second principal disclosure level, that is:

a. A corporation, any officer, director, executive director, or shareholder of the corporation,

b. A limited partnership, any general partner or limited partner of the limited partnership,

c. A limited liability company, any manager or member of the limited liability company, or

d. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and

with respect to any entity identified at the second principal disclosure level that is:

e. A corporation, by the third principal disclosure level, any officer, director, executive director, or shareholder of the corporation, each of whom must be a natural person,

f. A limited partnership, by the third principal disclosure level, any general partner or limited partner of the limited partnership, each of whom must be a natural person,

g. A limited liability company, by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person, or

h. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons.

(emphasis added).

4. Rules 67-21.002(9) and (85), Fla. Admin. Code (2018) and Rule 67-48.002(93), Fla. Admin. Code (2017) are essentially identical to Rules 67-48.002(9) and (94), Fla. Admin. Code.

5. In each of the seven applications, the first principal disclosure level will not change. In each of the seven applications, a newly created limited liability company will be inserted at the second disclosure level, the members of which will be trusts with natural persons as trustees and beneficiaries at the fourth disclosure level. The third principal disclosure level currently discloses the natural person

principals of a trust disclosed at the second disclosure level. Inserting the newly created limited liability company at the second level will push the trusts down to the third principal disclosure level and the natural person principal trustees and beneficiaries to the fourth principal disclosure level. It should also be noted that two trusts are being removed from the organizational structures (the Matthew Rieger Trust dated 02/28/2017 and the Randy Rieger Rev Trust dated 12/08/2005) and are being replaced with four trusts (the Matthew A. Rieger Family Trust, the Matthew A. Rieger Irrevocable MGM Trust, the Gina Rieger Irrevocable MGM Trust and the Meredith Branciforte Irrevocable MGM Trust). The details of the proposed new organizational structures are spelled out in each of the seven petitions.

6. Petitioners wish to make these organizational changes for estate planning purposes so that the trusts can be held by a limited liability company. If the waiver requests are denied, the members of the applicant entities will suffer a substantial and unnecessary operational hardship. As noted above, Florida Housing revised its rules in 2019 to expressly permit these same organizational structures.

7. The Board finds that granting the waivers 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), 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.

9. Petitioners have demonstrated that the waivers are needed in order to efficiently serve low-income residents. Petitioners have 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 waivers are granted.

10. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioners, and that granting these requests furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

**IT IS THEREFORE ORDERED as follows:**

1. HTG Lafayette, LLC's request for waiver of Rules 67-48.002(9) and (94), Fla. Admin. Code (2018), is hereby **GRANTED** to permit Petitioner to insert a newly created limited liability company at the second disclosure level causing the trusts to be disclosed at the third principal disclosure level and the natural person principal trustees and beneficiaries to be disclosed at the fourth principal disclosure level, as described in its Petition.

2. HTG Fiori, LLC's request for waiver of Rules 67-48.002(9) and (94), Fla. Admin. Code (2018), is hereby **GRANTED** to permit Petitioner to insert a

newly created limited liability company at the second disclosure level causing the trusts to be disclosed at the third principal disclosure level and the natural person principal trustees and beneficiaries to be disclosed at the fourth principal disclosure level, as described in its Petition.

3. HTG Oak Valley, Ltd's request for waiver of Rules 67-48.002(9) and (94), Fla. Admin. Code (2018), is hereby **GRANTED** to permit Petitioner to insert a newly created limited liability company at the second disclosure level causing the trusts to be disclosed at the third principal disclosure level and the natural person principal trustees and beneficiaries to be disclosed at the fourth principal disclosure level, as described in its Petition.

4. HTG Heron Estates Family, LLC's request for waiver of Rules 67-48.002(9) and (94) and Rules 67-21.002(9) and (85), Fla. Admin. Code (2018), is hereby **GRANTED** to permit Petitioner to insert a newly created limited liability company at the second disclosure level causing the trusts to be disclosed at the third principal disclosure level and the natural person principal trustees and beneficiaries to be disclosed at the fourth principal disclosure level, as described in its Petition.

5. HTG Valencia II, Ltd's request for waiver of Rules 67-48.002(9) and (94) and Rules 67-21.002(9) and (85), Fla. Admin. Code (2018), is hereby **GRANTED** to permit Petitioner to insert a newly created limited liability company at the second disclosure level causing the trusts to be disclosed at the third principal

disclosure level and the natural person principal trustees and beneficiaries to be disclosed at the fourth principal disclosure level, as described in its Petition.

6. HTG Banyan, LLC's request for waiver of Rules 67-48.002(9) and (94), Fla. Admin. Code (2018), is hereby **GRANTED** to permit Petitioner to insert a newly created limited liability company at the second disclosure level causing the trusts to be disclosed at the third principal disclosure level and the natural person principal trustees and beneficiaries to be disclosed at the fourth principal disclosure level, as described in its Petition.

7. HTG Rainbow Housing, Ltd's request for waiver of Rules 67-48.002(9) and (93), Fla. Admin. Code (2017), is hereby **GRANTED** to permit Petitioner to insert a newly created limited liability company at the second disclosure level causing the trusts to be disclosed at the third principal disclosure level and the natural person principal trustees and beneficiaries to be disclosed at the fourth principal disclosure level, as described in its Petition.

DONE and ORDERED this 4th day of March, 2022.

Florida Housing Finance Corporation

By: _____
Chair

**Copies furnished to:**

Hugh R. Brown, General Counsel
Marisa Button, Managing Director of Multifamily Development

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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.**