STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Douglas Gardens IV, LTD FHFC Case No.: 2023-085VW
_____/

ORDER GRANTING WAIVER OF
RULE 67-21.003(8)(i), FLA. ADMIN. CODE (2022)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 27, 2023. On October 11, 2023, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.003(8)(i) (the "Petition") from Douglas Gardens IV, LTD. The Petition requests to reduce the Development's Total Set-Aside Percentage as stated in the Total-Set Aside Breakdown Chart Petitioner submitted in its application for 4-Percent Housing Credits, and change the set-aside commitment. Notice of the Petition was published October 12, 2023, in Volume 49, Number 199, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised on the premises, the Board 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
ATTEST: [signature] DATE: 10/30/23

2. Petitioner successfully applied for Non-Competitive 4 Percent Housing Credits to assist in the financing of construction of Douglas Gardens Senor Health and Living, a 410-unit development serving elderly, non-ALF residents in Broward County, Florida (the "Development").

3. Rule 67-21.003(8)(i), Florida Administrative Code (2022), prohibits an Applicant from changing certain items identified in the application and provides in relevant part:

> (8) 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. Those items are as follows:
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> ....
>
> (i) The Total Set-Aside Percentage as stated in the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application; notwithstanding the foregoing, the Total Set-Aside Percentage may be increased after the Applicant has been invited to enter Credit Underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development.

4. The Total-Set-Aside Breakdown Chart in Petitioner's Application identified the set-aside percentage at 100%, committing 95% of units at 60% AMI or lower and 5% of the units @ 30% AMI or lower.

5. Petitioner requests a waiver of the Rule to reduce the total Set-Aside Percentage in the Total Set-Aside Breakdown Chart from 100% of units

(410), to 95% of units (390). In addition, the waiver requests to change the set-asides commitments to 95% of the units at 60% AMI, with the remaining 5% of the units at Market Rate. As justification for its request, Petitioner states that is has closed and drawn on a gap financing loan from Broward County ("Broward Loan") that is vital to the Development's feasibility, and that a Declaration of Covenants and Restrictions executed in connection with the loan conflicts with the Total Set-Aside Percentage of 100%. If Petitioner is not granted a waiver, the Broward Loan is subject to default and repayment, which would create a material hardship for the Petitioner.

6. The Board finds that granting the requested waiver will not impact other participants in funding programs administered by Florida Housing, nor will it detrimentally impact Florida Housing.

7. The Board also finds that Petitioner has demonstrated that the waiver is needed in order to serve elderly residents and that it would suffer a substantial hardship if the waiver were not granted.

8. The Board further finds that Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state," would still be achieved if the waiver is granted. §420.5099, Fla. Stat.

IT IS THEREFORE ORDERED that Petitioner's request for a waiver of Rule 67-21.003(8)(i), Fla. Admin. Code (2022), is hereby **GRANTED** to allow Petitioner to reduce the Total Set-Aside Percentage from 100% of units to 95% of unit, with a set-aside commitment of 95% at 60% AMI, with the remaining 5% at Market Rate.

DONE and ORDERED this 27th day of October, 2023.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.