STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re:	HTG Luna, LLC	FHFC CASE NO.: 2021-056VW
	HTG Addison, LLC	FHFC CASE NO.: 2021-057VW
	HTG Creekside, LLC	FHFC CASE NO.: 2021-058VW
	HTG Palms, LLC	FHFC CASE NO.: 2021-059VW
	HTG Osprey Pointe, LLC	FHFC CASE NO.: 2021-060VW
	Lake Beulah, Ltd.	FHFC CASE NO.: 2021-061VW
	HTG Paradise, LLC	FHFC CASE NO.: 2021-062VW
	HTG Hammock Ridge II, LLC	FHFC CASE NO.: 2021-063VW
	HTG Village View, LLC	FHFC CASE NO.: 2021-065VW
	HTG Liberty, LLC	FHFC CASE NO.: 2021-066VW

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ORDER GRANTING WAIVER OF RULES 67-48.002(9), 67-48.002(93), 67-21.002(9), and 67-21.002(85), FLA. ADMIN. CODE (2016 and 2017)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on September 10, 2021, pursuant to 10 "Petitions for Waiver" ("Petitions"). Florida Housing Finance Corporation ("Florida Housing") received the Petitions on August 24, 2021, from 10 business entities associated with Housing Trust Group (HTG). On August 25, 2021, Notice of the Petitions for HTG Luna, LLC, HTG Addison, LLC, HTG Palms, LLC, HTG Osprey Pointe, LLC, Lake Beulah, Ltd., HTG Paradise, LLC, and HTG Hammock Ridge II, LLC were published in the Florida Administrative Register in Volume 47, Number 165. On August 26, 2021, Notice of the Petitions for HTG Liberty, LLC and HTG Village View, LLC were published in the Florida Administrative Register in Volume 47, Number 166. To date, Florida Housing has

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
DATE: 9/13/2021

received no comments concerning the Petitions. 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. For estate planning purposes, each Petitioner would like to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to 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. Five of the ten petitions have already been issued 8609s.

3. Rule 67-48.002(9) and (93) 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."
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> (93) "Principal" means:
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> (a) With respect to an Applicant that is: . . . .
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> 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) are essentially identical to Rules 67-48.002(9) and (93), Fla. Admin. Code.

5. In each of the 10 applications, the first and second principal disclosure levels will not change. In each of the 10 applications, the third principal disclosure level currently discloses the natural person principals of a business entity disclosed at the second disclosure level. Each Petitioner now wishes to replace these natural

person principals with four trusts, and to disclose the natural person trustees and beneficiaries at a new fourth principal disclosure level. The natural persons originally disclosed at the third disclosure level will be the same persons as the trustees and beneficiaries at the new fourth disclosure level, and two new beneficiaries (children of one of the principals) will be added at the fourth disclosure level. The details of the proposed new organizational structures are spelled out in each of the 10 petitions.

6. Petitioners wish to make these organizational changes for estate planning purposes. If the waiver requests are denied, the members of the applicant entities will be required to form entities specifically for each Development, which will not ultimately roll up to a trust. This will create an administrative burden upon each member's passing as the entities created if these Petitions are denied will have to pass through probate rather than be governed by trusts. 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 Luna, LLC's request for waiver of Rules 67-48.002(9) and (93), Fla. Admin. Code (2016), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.
2. HTG Addison, LLC's request for waiver of Ruless 67-48.002(9) and (93), Fla. Admin. Code (2016), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are

trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.

3. HTG Creekside, LLC's request for waiver of Rules 67-48.002(9) and (93), Fla. Admin. Code (2017), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.
4. HTG Palms, LLC's request for waiver of Rules 67-48.002(9) and (93) and Rules 67-21.002(9) and (85), Fla. Admin. Code (2017), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.
5. HTG Osprey Pointe, LLC's request for waiver of Rules 67-48.002(9) and (93) and Rules 67-21.002(9) and (85), Fla. Admin. Code (2017), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its amended petition.

6. Lake Beulah, Ltd's request for waiver of Rules 67-48.002(9) and (93) and Rules 67-21.002(9) and (85), Fla. Admin. Code (2016), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.
7. HTG Paradise, LLC's request for waiver of Rules 67-48.002(9) and (93), Fla. Admin. Code (2017), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.
8. HTG Hammock Ridge II, LLC's request for waiver of Rules 67-48.002(9) and (93), Fla. Admin. Code (2016), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.
9. HTG Village View, LLC's request for waiver of Rules 67-48.002(9) and (93), Fla. Admin. Code (2017), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are

trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.

10. HTG Liberty, LLC's request for waiver of Rules 67-48.002(9) and (93) and Rules 67-21.002(9) and (85), Fla. Admin. Code (2016), is hereby **GRANTED** to permit Petitioner to replace its current members with trusts of which those members are trustees and/or beneficiaries, causing such trustees and beneficiaries to fall to the fourth principal disclosure level, as described in its petition.

DONE and ORDERED this 10th day of September, 2021.



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.