STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2024-015VW
APPLICATION NO.: 2020-523C

RECEIVED
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FLORIDA HOUSING FINANCE CORPORATION

BLOCK 55 RESIDENTIAL, LP

Petitioner
vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

PETITION FOR WAIVER OF RULE 67-21.0025(7)(c) and NON-COMPETITIVE APPLICATION PACKAGE (REV. 04-2020) (F.A.C. 2020)

BLOCK 55 RESIDENTIAL, LP, a Florida limited partnership ("**Petitioner**"), by and through its undersigned counsel, hereby petitions Florida Housing Finance Corporation (the "**Corporation**") for a waiver of the Corporation's rules which require natural person principals by the third principal disclosure level ("**Third Disclosure Level Requirement**"). Petitioner previously obtained the Corporation's approval for a waiver of Rules 67-21.0025(7)(c) and Non-Competitive Application Package (Rev. 04-2020). Specifically, Petitioner seeks to modify the previous waiver granted by the Corporation on April 30, 2021 (the "**Prior Waiver**"), further extending the requirement for disclosing natural person principals beyond the sixth principal disclosure level ("**Sixth Disclosure Level**"), as originally permitted under the Prior Waiver. This Petition is filed pursuant to Section 120.542 of the Florida Statutes (2020) and Chapter 28-104, Florida Administrative Code. In support, Petitioner states as follows:

A. THE PETITIONER AND DEVELOPMENT

1. The address, telephone number and e-mail address of Petitioner are:

Block 55 Residential, LP
2901 Florida Avenue, Suite 806
Coconut Grove, Florida 33133
Attention: Flynann Janisse
Telephone: (480) 467-3171
Email: fjanisse@rainbowhousing.org
With a copy to: ccoler@mrkpartners.com

2. For purposes of this Petition, the address, telephone number, facsimile number and e-mail address of Petitioner's counsel are:

Hollie A. Croft, Esq.
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Ave., Suite 1400
Orlando, Florida 32801
Telephone: (407) 669-4239
Facsimile: (407) 425-8377
Email: hollie.croft@nelsonmullins.com

3. Petitioner submitted an application to the Corporation for an allocation of 4% low-income housing tax credits ("**Housing Credits**"), to be used in conjunction with multifamily housing revenue bonds that have been issued by the Housing Finance Authority of Miami-Dade County (the "**HFA**"), to fund a portion of the acquisition and construction of that certain 578-unit affordable housing development, which is intended to be part of a mixed-use development in Downtown Miami, Florida that will be known as Sawyer's Walk (the "**Development**").

B. WAIVER IS PERMANENT

4. The waiver being sought is permanent in nature.

C. THE RULES FROM WHICH WAIVER IS SOUGHT

5. Petitioner requests a waiver from Rule 67-21.0025(7)(c), F.A.C. (2020), which requires Petitioner to disclose natural person principals by the third principal disclosure level (unless the entity is a trust in which case the natural person principals may be identified by the

fourth principal disclosure level) when submitting the Principal Disclosure Form (defined below) in connection with the Application; and the Non-Competitive Application Instructions which are incorporated by Rule 67-21.003(1)(b), F.A.C. (2020) (collectively, the "**Rules**"). The specific provisions of the Rules from which Petitioner is seeking a waiver are as follows:

> Rule 67-21.0025(7)(c), F.A.C. (2020), which provides in relevant part:
>
> (7) Disclosure of the Principals of the Applicant must comply with the following:
>
> > (a) The Applicant must disclose all of the Principals of the Applicant (first principal disclosure level). For Applicants seeking Housing Credits, the Housing Credit Syndicator/Housing Credit investor need only be disclosed at the first principal disclosure level and no other disclosure is required;
> >
> > (b) The Applicant must disclose all of the Principals of all the entities identified in paragraph (a) above (second principal disclosure level);
> >
> > (c) **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**; and
> >
> > (d) If any of the entities identified in paragraph (c) above are a trust, the Applicant must disclose all of the Principals of the trust (fourth principal disclosure level), all of whom must be natural persons.
>
> (emphasis added).

6. Given the Application itself requires the Third Disclosure Level Requirement, Petitioner is also seeking a waiver of various provisions of the Application, as incorporated into the Rule. The specific provisions of the Application from which Petitioner is seeking a waiver are as follows:

> Non-Competitive Application, 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 current Principals Disclosure Form is available on the Website at https://www.floridahousing.org/programs/developers-multifamily-programs/non-competitive.
>
> The Principal Disclosure Form must identify, pursuant to subsections 67-21.002(86) and 67- 21.0025(7) and (8), F.A.C., the Principals of the Applicant and Developer(s)…

(emphasis added).

D. STATUTES IMPLEMENTED BY THE RULES

7. The Rules are implementing, among other sections of the Florida Housing Finance Corporation Act, the statute that created the Housing Tax Credit Program and the Multifamily Mortgage Revenue Bonds Program. See §§ 420.509, 420.5099, Fla. Stat. (2020) (the "**Statute**").

8. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes, and Chapter 28-104, F.A.C., to grant waivers to its rule requirements when strict application of such rules would lead to unreasonable, unfair and unintended results in particular instances. Waivers shall be granted when the person subject to the rule demonstrates that the application of the rule would (1) create a substantial hardship or violate principals of fairness, and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. § 120.542(2), *Fla. Stat.* (2020).

E. JUSTIFICATION FOR GRANTING THE WAIVER OF THE RULES

9. Due to the complexity of the financing plan and multi-tier ownership structure, Petitioner successfully obtained a waiver to allow the ownership structure to include entities at the fifth level of disclosure, with all natural person principals of these entities being disclosed by the

Sixth Disclosure Level. In consideration of our Prior Waiver, the rationale for which has been reiterated below, we request extending this disclosure allowing all natural person principals of these entities to be disclosed beyond the Sixth Disclosure Level.

10. For Petitioner to submit the Principals of the Applicant and Developer(s) Disclosure Form (Rev. 05-2019) (hereinafter, the "Principal Disclosure Form"), as an exhibit to the Application, Petitioner required the Prior Waiver seeking a waiver of Rule 67-21.0025(7)(c), which the Principal Disclosure Form must follow. Specifically, Section A.6.a. of the application requires that the applicant identify the principals pursuant to subsections 67-21.002(86), F.A.C., which provides the definition of who constitutes a "Principal" for disclosure purposes, and 67-21.0025(7), F.A.C., which provides specific requirements an applicant must comply with for the disclosure of "Principals".

11. As such, for Petitioner to submit an Application for 4% housing credits for the Development, it must be able to submit the Principal Disclosure Form in accordance with not only Rule 67-21.002(86), but also Rule 67-21.0025(7)(c). Petitioner's current ownership structure does not comply with the requirements of Rule 67-21.0025(7)(c). Therefore, Petitioner required the Prior Waiver seeking a waiver of 67-21.0025(7)(c), which requires that by the third principal disclosure level of the Principal Disclosure Form, the Principals disclosed must all be natural persons except if the Principal(s) is a trust, in which case the natural persons can be disclosed by the fourth principal disclosure level.

12. Petitioner could not and cannot meet the requirement to have natural person principals by the third principal disclosure level for the following reasons:

a. The Development will consist of 578 affordable residential units of which 96% will serve the elderly population. In addition to the residential units which will cover

11 stories of the building, there will be 3 stories of commercial/retail space including retailers such as Aldi and Target, and the building will also include a 4-story, 955-car parking garage. The contemplated ownership structure for Sawyer's Walk is complex and 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 parking garage will be owned by a Community Development District. Likewise, the financing structure for the Development is complex, and is anticipated to include many grants, a City of Miami loan, Miami Forever Bonds, Miami-Dade Housing Finance Authority tax-exempt bonds, 4% low-income housing tax credits, private equity, and below-market land acquisition pricing from the Southeast Overtown CRA. It is also anticipated that Petitioner will receive project-based vouchers from Miami-Dade County for half of the residential units.

b. The financing plan for the Development, specifically, is anticipated to consist of the local county bonds, 4% tax credits, and the City of Miami loan. To that end, Petitioner has submitted an Application for Housing Credits; however, Petitioner's ownership structure originally identified natural persons by the sixth principal disclosure level and not the third/fourth, as required by the Rule.

c. Petitioner's ownership structure consists of a non-profit general partner, a Class B limited partner and the investor limited partner. The Class B limited partner has three additional levels of entities before reaching the natural person owners, which creates the noncompliance with the Third Disclosure Level Requirement. The multi-tier structure is necessary to accommodate the ownership and financing of

the commercial components. Specifically, it is anticipated that several of the grants will be made to entities at the first through third levels since same will be allocated to the commercial components and therefore cannot flow through Petitioner. Further, the private equity investment, which is in relation to, and will be allocated towards, the commercial component, is anticipated to be made at the second level, which is necessary so that such private investor is not directly a member of the Class B limited partner or the joint venture entity of the developers (the third level).

d. The creation of wholly different entities for the residential and commercial components is not feasible or beneficial to the Development. The Class B limited partner's participation in the ownership of all of the various components of Sawyer's Walk, through the various entities in its structure, will be crucial for the overall success of Sawyer's Walk, including the Development, as it will allow for centralized operations and oversight of all aspects of the development and financing.

e. As the Corporation knows, Stephen Garchik, a disclosed principal of the Petitioner, intends to transfer his 50% membership interest in MG Sawyers Landing Associates LLC, which holds an indirect, but not material, ownership interest in the Special Limited Partner of the Petitioner, to a new entity, New Garchik Universal Limited Partnership, LLLP. This transfer is non-material and solely for estate planning purposes, however, does not allow for all natural person principals to be disclosed until after the Sixth Disclosure Level. The various members of the joint venture entity of the developers will be companies and trusts at the fourth, fifth and sixth levels and all natural person principals of these entities/trusts will be disclosed

by the seventh level. An organizational chart is attached to this Petition as Exhibit A.

13. A waiver of the Rules will permit Petitioner to continue its application for non-competitive tax credits to finance a portion of the construction of the Development. Without this additional source of investor equity, Petitioner will not have sufficient funds to construct these much-needed affordable units to be set aside for families in Miami.

14. In this instance, Petitioner meets the standards for a waiver of the Rules. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes, to provide relief from its rules if strict application of those rules will lead to unreasonable, unfair or unintended results in particular instances. Unless the Rules are waived to allow the Petitioner to continue with its application for non-competitive housing credits with its current ownership structure, certain unreasonable, unfair and unintended results will occur, resulting in a substantial hardship to the Petitioner and the Development. Specifically, the purpose of the Third Disclosure Level Requirement is for the Corporation to know who is participating in its programs. However, strict application of this rule would lead to the unintended result that Petitioner is unable to receive credits simply because natural persons are identified after the Sixth Disclosure Level, rather than by the third. In this specific instance, the Corporation's failure to grant the waiver requested will result in a substantial hardship to Petitioner, stalling progress on the Development, which is intended to address the critical need for affordable housing in Miami. This area of Miami is in dire need of housing and commercial development, as evidenced by the involvement of the Southeast Overtown CRA, the City of Miami, the Miami-Dade County, the various grants, and other components, including the CDD-owned parking garage.

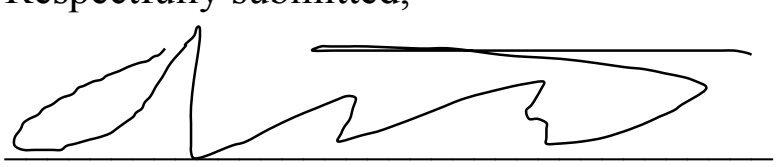
15. The Corporation will not be harmed by granting this Petition as the intent of the Rule will not be violated. The Third Disclosure Level Requirement was implemented to permit the Corporation to ascertain the parties involved in its programs. Petitioner is able to provide to the Corporation natural person principals, but not by the third (or fourth) principal disclosure levels.

16. The requested waiver of the Third Disclosure Level Requirement serves the purpose of the Statute that is implemented by the Rules. The Florida Housing Finance Corporation Act (Section 420.501, *et seq*.) was passed in order to encourage private and public investment in facilities for persons of low-income. The purpose of the creation of the Housing Tax Credit Program and Multifamily Mortgage Revenue Bonds Program is to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this waiver of the Corporation's rules which require a natural person principal by the third principal disclosure level, Petitioner will be able to continue its application for non-competitive housing credits with its current structure, as requested in this Petition, the Corporation would recognize the goal of increasing the supply of affordable housing through private investment in persons of low-income.

F. ACTION REQUESTED

17. For the reasons set forth herein, Petitioner respectfully requests the Corporation (i) grant the requested waiver of the Corporation's rule which requires a natural person principal by the third principal disclosure level (or fourth in the case of trusts); (ii) grant the Petition and all of the relief requested herein; and (iii) grant such further relief as it may deem appropriate.

Respectfully submitted,



Andrew Bennett, Esq.

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Orlando, Florida 32801
Telephone: (407) 669-4239
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Email: drew.bennett@nelsonmullins.com
COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition was filed by electronic delivery to:

Florida Housing Finance Corporation,
Attn: Corporation Clerk
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301
CorporationClerk@floridahousing.org

Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399
Joint.admin.procedures@leg.state.fl.us

The 6th day of March, 2024.

By: _____
Andrew Bennett, Esq.
Fla. Bar No. 0125189

EXHIBIT A
(Organizational Chart)

Sawyer's Walk – Residential
POST-TRANSFER

DAVID ERIC KATZMAN 1997 TRUST
CO-TRUSTEES: SANDRA KATZMAN, SCOTT KATZMAN, STEPHEN GARCHIK, AND JESSICA GARCHIK
BENE: DAVID ERIC KATZMAN

MICHAEL ROSS GARCHIK 2015 LONG TERM TRUST
TTEE: SANDRA KATZMAN
BENE: MICHAEL ROSS GARCHIK

JESSICA KATHERINE GARCHIK 2015 LONG TERM TRUST
TTEE: SANDRA KATZMAN
BENE: JESSICA KATHERINE GARCHIK

MATTHEW JAY KATZMAN 1996 TRUST
CO-TRUSTEES: SANDRA KATZMAN, SCOTT KATZMAN, STEPHEN GARCHIK, AND JESSICA GARCHIK
BENE: MATTHEW JAY KATZMAN

SYDNE MICHELLE GARCHIK 2015 LONG TERM TRUST
TTEE: SANDRA KATZMAN
BENE: SYDNE MICHELLE GARCHIK

JACK MAXWELL GARCHIK 2015 LONG TERM TRUST
TTEE: SANDRA KATZMAN
BENE: JACK MAXWELL GARCHIK

NEW GULP GPNER, LLC
(GENERAL PARTNER)
MEMBERS: SANDRA KATZMAN/ STEPHEN GARCHIK

SIDNEY ATZMON
100%

SIDNEY ATZMON
IRREVOCABLE EXEMPT S TRUST
TTEE: SIDNEY ATZMON
32.50%

GIL ATZMON
100%

GIL ATZMON
IRREVOCABLE EXEMPT S TRUST
TTEE: SIDNEY ATZMON
32.50%

MIRIAM ATZMON
100%

SIDNEY ATZMON
IRREVOCABLE TRUST
TTEE: MIRIAM ATZMON
17.50%

SIDNEY ATZMON
100%

MIRIAM ATZMON
IRREVOCABLE TRUST
TTEE: GIL ATZMON
17.50%

MICHAEL SWERDLOW
(100%)

DOWNTOWN SWERDLOW FAMILY GUARANTY, LLC (FL)
MGR: MICHAEL SWERDLOW
15.00%

MICHAEL SWERDLOW
(70.80%)
MICHAEL DEE
(14.60%)
LARRY OWEN
(14.60%)

DOWNTOWN SWERDLOW ASSOCIATES, LLC (FL)
MGR: MICHAEL SWERDLOW
26.42%

STEPHEN GARCHIK
(51.50%)
STEPHEN MCBRIDE
(48.50%)

SAWYERS LANDING INVESTORS, LLC (FL)
MGRS: STEPHEN GARCHIK/STEPHEN MCBRIDE
15.56%

NEW GARCHIK UNIVERSAL LIMITED PARTNERSHIP, LLLP (50%)
STEPHEN MCBRIDE
(50%)

MG SAWYERS LANDING ASSOCIATES LLC (FL)
MGRS: STEPHEN GARCHIK/STEPHEN MCBRIDE
14.85%

ALBEN DUFFIE
(100%)

DOWNTOWN DUFFIE FAMILY, LLC (FL)
MGR: ALBEN DUFFIE
19.99%

BISCAYNE INVESTMENT HOLDINGS, LLC (FL)
MGR: SIDNEY ATZMON
3.15%

ALAN L. MELTZER
(100%)

THE ALAN L. MELTZER REVOCABLE TRUST
TTEE: ALAN MELTZER
0.10%

EMMER DUFFIE
(50%)
JEREMY DUFFIE
(30%)
THERESA DUFFIE
(20%)

TEJ FAMILY, LLC (FL)
MGR: EMMER DUFFIE
4.93%

MOREY GOLDBERG
(50%)
LESTER LIPSCHUTZ
(50%)

NON-EXEMPT TRUST F/B/O JAMES ARESTY
CO-TRUSTEES: JAMES ARESTY AND MOREY GOLDBERG
41.67%

SANA ZEN CAPITAL LLC (PA)
MGR: MOREY GOLDBERG
4.1667%

JOSEPH KESTENBAUM
16.67%

STEPHEN MICKELBERG
(100%)

STEPHEN MICKELBERG REVOCABLE TRUST
TTEE: STEPHEN MICKELBERG
8.33%

PHILIP HARKINS
(100%)

PHILIP HARKINS REVOCABLE TRUST
TTEE: PHILIP HARKINS
8.33%

HELENE AND GREG JARON
(joint tenants)
4.1667%

STEPHEN GARCHIK
(100%)

STEPHEN GARCHIK REVOCABLE TRUST
TTEE: STEPHEN GARCHIK
16.67%

BLOCK 55 HOLDINGS, LLC (FL)
MGR: MICHAEL SWERDLOW
90.5%

MFLB55 LLC (FL)
MGR: MOREY GOLDBERG
9.5%

BLOCK 55 MEMBER, LLC (FL)
MGR: SG MANAGER, LLC (FL)
100%

General Partner: 0.001%
Pacific Southwest Community Development Corporation, a California nonprofit corporation

Class B LP: 0.009%
Block 55 Owner, LLC, a Florida limited liability company
Manager: SG Manager, LLC

Limited Partner: 99.99%
R4 SLFL Acquisition, LLC

Owner: Block 55 Residential, LP
100%