

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: VALENCIA PARK  
PRESERVATION, LTD.

FHFC CASE NO.: 2020-050VW

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**ORDER GRANTING WAIVER OF RULE 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 September 4, 2020, pursuant to a “Petition for Waiver of Rule 67-21.003(1)(b) and the Non-Competitive Application Instructions” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on August 19, 2020, from Valencia Park Preservation (“Petitioner”). Notice of the Petition was published on August 20, 2020, in Volume 46, Number 162, of the Florida Administrative Register. No public comments regarding the petition have been received. 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 was awarded Corporation bonds and non-competitive housing credits to assist in the acquisition and rehabilitation of Valencia Park Apartments, a 208-unit development in Orange County, Florida.

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

Wm. Slamon DATE: 9/4/2020

3. Rule 67-21.003(1)(b), Fla. Admin. Code, provides:

(b) If the NC Award will not be in conjunction with other Corporation funding made available through the competitive solicitation funding process outlined in rule Chapter 67-60, F.A.C., the Applicant shall utilize the Non-Competitive Application Package in effect at the time the Applicant submits the Application. The Non-Competitive Application Package or NCA (Rev. 04- 2020) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation's website under the Multifamily Programs link labeled Non-Competitive Programs or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-12011>, which shall be completed and submitted to the Corporation in accordance with this rule chapter.

4. The Non-Competitive Application Form provides in relevant part:

The Applicant entity shall be the recipient of the Non-Competitive Housing Credits and the borrowing entity for the MMRB Loan and cannot be changed in any way (materially or non-materially) until after the MMRB Loan closing. After loan closing, (a) any material change will require review and approval of the Credit Underwriter, as well as Board approval prior to the change, and (b) any non-material change will require review and approval of the Corporation, as well as Board approval prior to the change. Changes to the Applicant entity (material or non-material) prior to the loan closing or without Board approval after the loan closing shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes prior to loan closing to the officers or directors of a Non-Profit entity, or the limited partner of an investor limited partnership or an investor member of a limited liability company owning the syndicating interest therein will not result in disqualification, however, the Corporation must be notified of the change. Changes to the officers or directors of a Non-Profit entity shall require Corporation approval.

5. Petitioner requests waiver of the above cited Rule and Instructions to remove an entity and its sole member from two levels of its organizational structure.

Specifically, Petitioner requests to remove 13 Hazeltine LLC, who holds a 5% interest in Valencia Park GP, LLC, and to redistribute its interest among the remaining members, as set forth in the Petition.

6. As a result of this change, 13 Hazeltine LLC's sole member (Ulman) should also be removed from the third disclosure level. The natural person principals otherwise disclosed in the Application will not change.

7. 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.

8. Section 120.542(2), Fla. Stat. provides in pertinent part:

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

10. The Board finds that strict application of the above Rule 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 Rule 67-21.003(1)(b), Fla. Admin. Code, and a waiver of the above-cited portions of the Non-Competitive Application Form, is hereby **GRANTED** to allow Petitioner to remove 13 Hazeltine LLC and its sole member from Petitioner's organizational structure, as set forth in the Petition and its attachments.

DONE and ORDERED this 4th day of September 2020.



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.**