

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**


In Re: Village Square Family, Ltd.

FHFC Case No.: 2013-022VW

**ORDER GRANTING PETITION FOR WAIVER
OF PART III.B.4.a OF THE 2011 UNIVERSAL CYCLE
APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on September 20, 2013, pursuant to a “Petition for Waiver of the 2011 Universal Application Instructions, Housing Credit Program, Part III, Section (B)(4)(a)” (“Petition”). Florida Housing Finance Corporation (“Florida Housing”) received the Petition on August 20, 2013, from Village Square Family, Ltd. (“the Petitioner”). On August 23, 2013, the Notice of the Petition was published in Volume 39, Number 165, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. 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:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 09/23/13

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. During the 2011 Universal Cycle, Village Square Family, Ltd. (“Petitioner”) applied for and was awarded an allocation of tax credits to finance the construction of a family development known as Village Square (the “Development”) located in Palm Beach County, Florida.

3. Rule 67-48.004(1)(a) Fla. Admin. Code (2011) provides, in pertinent part:

(a) The Universal Application Package or UA1016 (Rev. 2-11) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation’s Website under the 2011 Universal Application link labeled Instructions and Application, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-00703>, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the HOME and HC Program(s).

Part III.B.4.a. of the Instructions provides in pertinent part:

a. For all construction units:

If the proposed Development includes any new construction units (regardless of the Development Category selected at Part III.A.3.a. of the Application), the eligible new construction units must (i) meet the requirements of Energy Star New Homes per the Energy Star Qualified Homes Florida Builder Option Package, Rev. 01/05/2010, which is incorporated by reference and available on the 2011 Universal Application link labeled Related References and Links, and (ii) achieve a Home Energy Rating System (HERS) Index of 77 or lower...

4. Petitioner requested a waiver of the above Rule to allow it to utilize 16 SEER electric heat strips in lieu of heat pumps in all units in the Development, as required by the Energy Star Qualified Homes Florida Builder Option Package. As justification, Petitioner stated that due to the low differential between inside and outside air temperatures, the use of 16 SEER electric strips is a more cost-effective method of providing air conditioning and does not compromise energy conservation measures. Petitioner demonstrated that utilizing heat pumps in all the units is more costly as they are less efficient than heat strips. The heat pumps are also less durable than heat strips.

5. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants in the 2011 Universal Cycle.

6. 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.

7. The Board finds that strict application of the above Rule under these circumstances would violate the principles of fairness. Petitioner

established that permitting this change in Development would promote construction of energy-efficient systems, achieve a more favorable Home Energy Rating System Index Score, and provide a cost benefit to the low income residents. A denial of the requested waiver would result in a substantial hardship to the Development due to increased costs from the lack of efficiency and durability of the heat pumps.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Part III.B.4.a., of the 2011 Universal Application Instructions, to allow Petitioner to install 16 SEER electric heat strips in lieu of heat pumps in all units in the Development, is hereby **GRANTED.**

DONE and ORDERED this 20TH day of September, 2013.



Florida Housing Finance Corporation

By: _____

Chairperson

Copies furnished to:
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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
Tallahassee, Florida 32399-1300

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL 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.