STATE OF FLORIDA FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2013-028VW
Application No. 2011-185C

NORTHWEST PROPERTIES II, LTD.

Petitioner,

VS.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

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PETITION FOR WAIVER OF 2011 UNIVERSAL APPLICATION INSTRUCTIONS, HOUSING CREDIT PROGRAM, PART III, SECTION B(2)(a)

Petitioner, Northwest Properties II, Ltd., a Florida limited partnership ("Northwest II") petitions Respondent Florida Housing Finance Corporation ("Florida Housing") for a waiver of the requirement to provide electric doorbells in all but two of units located in the Development (as defined below). *See* 2011 Universal Application Instructions, Housing Credit Program, Part III, Section B(2)(a) (the "Instructions"), which incorporate the Visitability and Universal Design Manual (the "Manual").

Pursuant to Section 120.542, Fla. Stat., and Rule 28-104.001 through 28-104.006, F.A.C., Northwest II requests a waiver of the Instructions in order to allow for the use of a community-wide access control intercom system installed at a single entry point at each building in the Development (the "Visitor Notification System") in lieu of an electric doorbell at individual unit doors in the Development (the "Required Doorbell"). Notwithstanding the foregoing, there is a two-unit building in the Development for which the Required Doorbell will be retained and coupled with security cameras for additional protection. The Visitor Notification System will

not be installed in that two-unit structure and therefore, references to a "building" or "residential

building" in which the Visitor Notification System will be installed mean the applicable

buildings other than the two-unit structure. The Visitor Notification System, coupled with gates

at all entrances to each building, provides greater security for the residents of the Development

than the Required Doorbell. Unwelcome visitors would be unable to gain access to any

residential building in the entire Development, if not admitted through the Visitor Notification

System; the Required Doorbell alone would allow unwanted visitors to reach every unit front

door before being detected. Because the Visitor Notification System is an integrated doorbell

and intercom device, a resident can be certain that the visitor seeking entry is, in fact, a welcome

invitee through voice communication before the visitor enters the property. With the Visitor

Notification System in place, individual doorbells would be superfluous. Specifications for the

Audio Entrance Station and the Tenant Station that comprise the Visitor Notification System are

attached hereto as Exhibit "A". Specifications for the building fences and gates are attached

hereto as Exhibit "B".

A. THE PETITIONER

> 1. The name, address, telephone and facsimile numbers, and email address for

Northwest II and its qualified representative are:

Northwest Properties II, Ltd.

c/o Carlisle Development Group, LLC

Attention: Lindsay Lecour

2950 SW 27th Avenue, Suite 200

Miami, Florida 33133

Telephone:

305-476-8118

Facsimile:

305-476-1557

E-mail: llecour@carlisledevelopmentgroup.com

The name, address, telephone and facsimile numbers, and e-mail address of 2.

Northwest II's attorney, for purposes of this Petition, are:

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Brian J. McDonough, Esquire STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON, P.A. 150 West Flagler Street

Miami, Florida 33130

Telephone:

305-789-3350

Facsimile:

305-789-3395

E-mail:

bmcdonough@stearnsweaver.com

B. THE DEVELOPMENT

3. In 2011, Northwest II applied for low-income housing tax credits from Florida Housing pursuant to the 2011 Universal Cycle. *See* Application No. 2011-185C. The Universal Application package has been adopted and incorporated into Chapter 67-48 by Rule 67-48.004(1)(a), F.A.C. (2011). Northwest II received an allocation of low income housing tax credits from Florida Housing.

- 4. Northwest II has closed on the financing and housing credit syndication which will provide funds for the construction of 128 units in 7 residential buildings and 1 non-residential building intended to serve low-income persons in Fort Lauderdale, Broward County, Florida (the "Development").
- 5. The provisions of the 2011 Universal Cycle Application, by incorporation of the Manual, as more particularly described below, require the installation of an electric doorbell for each unit. However, it has been determined by Northwest II that the use of the Visitor Notification System would provide greater security to the residents.
- 6. The requested waiver will not adversely affect the Development. However, a denial of this Petition (a) would provide residents with a less secure visitor control system; (b)

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could result in delay in completing construction of the Development; and (c) would violate principles of fairness¹. § 120.542(2), Fla. Stat. (2011).

7. The waiver being sought is permanent in nature.

C. Rule from Which Relief is Requested and Statute Implemented by the Rule

- 8. Northwest II realleges and incorporates Paragraphs 1 through 7 as though fully set forth herein.
- 9. Northwest II requests a waiver of Part III, Section B(2)(a) of the Universal Application Instructions that provides as follows:
 - 2. Required Universal Design and Visitability Features (Threshold):

All universal design and visitability features must meet the specification outlined in the FHFC Universal Design and Visitability manual (the Manual). The Manual, effective 11-3-29010 is incorporated by reference and available on the 2011 Universal application link labeled Related References and Links.

(a) For all new construction units:

In addition to meeting the requirements outlined in Item III B.1 above, all proposed Developments that involve any new construction units, regardless of the Development Category selected at Part III.A.3.a. of the Application, must include the universal design and visitability features and amenities outlined in Part A.1 of the Manual in all of the new construction units.

Part A.1 of the Manual includes the following:

Feature: Electrically-wired door bell accessible to a seated person at the entrance of unit, not more than 48" from finished floor of primary entry door.

10. The Florida Housing Finance Corporation Act² designates Florida Housing as the State of Florida's housing credit agency within the meaning of Section 42(h)(7)(A) of the

¹"Substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. "Principles of Fairness" are violated when literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. Section 120.542(2), Florida Statutes.

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Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits. § 420.5099(1) and (2), Fla. Stat. (2011). The Allocation Procedures were established in Rule Chapter 67, Florida Administrative Code. Accordingly, the Instruction that is the subject of Northwest II's waiver request is implementing, among other sections of the Act, the statutory authorization for Florida Housing's establishment of Allocation Procedures for Housing Credit Programs. § 420.5099(1) and (2), Fla. Stat. (2011).

D. <u>Justification for Petitioner's Requested Waiver</u>

- 11. Northwest II realleges and incorporates Paragraphs 1 through 10 as though fully set forth herein.
- 12. Under Section 120.542(1), Fla. Stat., and Chapter 28-104, F.A.C., Florida Housing has the authority to grant waivers to its rule requirements when strict application of these rules would lead to unreasonable, unfair and unintended consequences in particular instances. Waivers shall be granted when the person who is subject to the rule demonstrates that the application of the rule would (1) create a substantial hardship or violate principles 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. (2011).
 - 13. In this instance, Northwest II meets the standards for a waiver.
- 14. The Visitor Notification System provides greater security for the residents of the Development than the Required Doorbell. The Required Doorbell provides no access control to buildings within the Development, only to individual units. However, the Visitor Notification

² The Florida Housing Finance Corporation Act is set forth in Sections 420.501 through 420.516 of the Florida Statutes (the "Act"). See also, Rule 67.40.020(1), F.A.C. (" 'Act' means the Florida Housing Finance Corporation Act, section 420.501 through 420.516 of the Florida Statutes") #3114876 v1 34756-0344

System prevents unwelcome visitors from gaining access to the buildings of the Development. Because the Visitor Notification System is an integrated doorbell and intercom device, a resident can be certain that the visitor seeking entry is, in fact, a welcome invitee through voice communication before the visitor enters the property. Other entry points to the Development will be controlled by gates for which all residents will have swipe-card access.

- 15. The intent of the 48" measurement in the Manual is intended to make the doorbell accessible to a wheelchair-bound visitor to the Development in accordance with the Fair Housing Act. The Visitor Notification System will be equally accessible to visitors and residents of the Development, because design criteria for its installation at the entry gate and intercom boxes in each unit reflect the requirements of the Fair Housing Act and ADA guidelines for forward and parallel wheelchair approaches.
- Notification System, in the best interests of its tenants. Installation of the Required Doorbells would involve cutting through drywall and stucco, which would not only cause delay in the completion of construction of the Development, but would add no value to the security of the residents in their homes. With the Visitor Notification System in place, individual doorbells would be a redundant expense for Northwest II. It should be noted that, in any unit designated for hearing-impaired residents, Northwest II is installing strobe alerts as an accompaniment to the Visitor Notification System.

E. Conclusion

17. Controlling statutes and Florida Housing's Rules are designed to allow the flexibility necessary to provide relief from rule requirements when strict application, in particular circumstances, would lead to unreasonable, unfair, or unintended results. Waivers should be

granted when the applicant subject to the rule demonstrates that strict application would: (a) create a substantial hardship or violate principles of fairness; and (b) the purpose of the underlying statute has been or will be achieved by other means. §120.542(2), Fla. Stat. (2011).

- 18. The requested waiver will not adversely impact the Development or Florida Housing. The goal of incorporating enhanced security into the Development will be achieved through the installation of the Visitor Notification System, with no detriment to any party.
- 19. A denial of the requested waiver could result in a substantial hardship for Northwest II which would be required to install a product which is redundant and costly to install compared to the benefit provided by it.
- 20. Finally, by granting the requested waiver, Florida Housing would recognize the economic realities and principles of fundamental fairness in the development of affordable rental housing. This recognition would promote participation by experienced developer entities in meeting the purpose of the Act through providing appropriate features and amenities within residential units developed for low-income residents.
- 20. Should Florida Housing require additional information, Northwest II is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Part III, Section B(2)(a) of the Instructions which accompany the 2011 Universal Cycle Application.

WHEREFORE, Petitioner Northwest Gardens II, Ltd., respectfully requests that the Florida Housing Finance Corporation provide the following relief:

- A. Grant the Petition and all relief requested herein;
- B. Waive the requirement for the use of the Required Doorbell; and

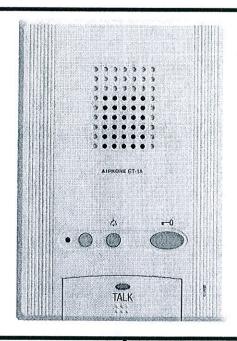
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CERTIFICATE OF SERVICE

The original Petition is being served by overnight delivery, with a copy served by electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, this **20** day of September, 2013.



GT-1A Audio Only Tenant Station



DESCRIPTION:

The GT-1A is an audio only tenant station for the GT series Multi-Unit entry system. It is equipped with a Talk, Door Release, and optional Service Button.

When a visitor calls, the tenant station rings and is answered by one touch of the Talk button. The GT-1A also has the capability of calling the Concierge/Security Guard station(s), turning on a light while speaking with a visitor at the entrance, receiving an emergency tone from a pull cord or panic call button, and releasing a door.

The GT-1A is designed to be surface mounted, and has a slim streamlined design. Up to four GT-1A units can be used in the same tenant location.

Communication is hands-free at the entrance station when a tenant answers the call, and is either VOX hands-free or push-to-talk at the tenant station when speaking with the visitor.

GT-1A FEATURES:

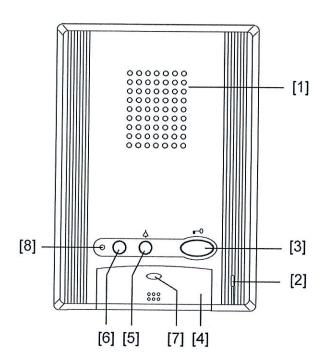
- Hands free audio communication
- Door release to the door where communication is established
- Call to Security Guard / Concierge station
- Optional individual doorbell rings unique tone, notifying resident that someone is at their door
- Optional activation of outside light while talking to entrance station
- Optional connection of panic call station (GFK-PS), alerting with tone and call to Concierge
- Separate volume controls for call tone and communication
- Simply 2-conductor common bus wiring
- Surface mounts to a wall on 1-gang box or ring
- ABS plastic construction

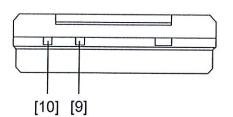
Aiphone Corporation 1700 130th AVE NE * Bellevue, WA 98005 Ph: (800) 692-0200 * Fax: (425) 455-0071

tech@aiphone.com

GT-1A Spec Sheet 0611 Pg.1

FEATURE CALL-OUT:





FEATURE CALL-OUT DEFINITIONS:

- [1] Speaker
- [2] Microphone
- [3] Door release button
- [4] Talk button
- [5] Light button / Security guard station call button
- [6] Service button (option)
- [7] Talk LED
- [8] Call tone off LED
- [9] Receive volume control
- [10] Call tone volume control

SPECIFICATIONS:

Power Source:

Call:

24V DC, supplied from GT-BC Varying ring tones from entrance

panel, concierge, or doorbell

Communication:

Hands-free or Press-to-talk

Capacity:

Max. 4 tenant stations per

resident location

Wiring:

2-conductor, PE insulated.

common bus

Mounting:

Wall mount

Temperature:

32-104°F (0-40°C)

Dimensions:

6-7/8" H x 4-15/16" W x 1-1/4" D

Weight:

Approx. 0.70 lbs (330g)



GTA-DES

Audio Entrance Station with Digital Directory



DESCRIPTION:

The GTA-DES is an audio entrance station for the GT Multi-Unit entry system. This unit is equipped with an audio module for communication, a 10-key keypad for direct digital dialing, and a VFD display for a greeting message, tenant names & numbers, and system status. The GTA-DES offers a user guide that can be configured to display any one of six languages. The guide provides operational assistance by lighting the appropriate icon as well as offers audible guidance.

The GTA-DES works on a common bus wiring system, carrying the calling and communication functions on a 2 conductor wire. A separate power supply provides voltage to the digital display, while the power for the audio is supplied on the common bus wires.

The entrance station is designed to be semi-flush mount and has an optional rain hood or hooded surface mount box to be used as necessary.

Audio and video entrance panels are intermixable within a system. Audio and video tenant stations are also intermixable, allowing up to two video stations and two audio stations to be used in the same tenant location. (If using the GT-2C, use only additional GT-2H for total of 4 stations within a tenant location).

Communication is hands free at the entrance station when a tenant answers the call.

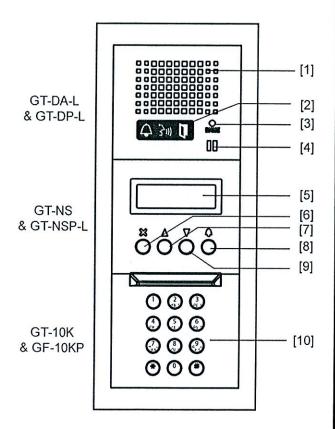
FEATURES:

- Hands free audio communication
- Direct digit dialing, alphabetical scrolling, or "jump" scrolling by letter to select tenant name
- Digital panel can store up to 500 tenant name/number locations
- Alpha-numeric room numbers and/or names can be programmed
- Access Control door entry with keypad with up to 500 unique codes to activate door release
- Scrolling welcome message, up to 160 characters, adjustable scroll speed
- VFD (Vacuum Fluorescent Display) displays calling unit name and number
- PC program for loading resident information, access codes, and welcome message (Via USB)
- Semi-flush mount, with the option of a rain hood (GT-103H), or surface mounted with hooded box (GT-103HB)
- · Zinc die cast weather resistant construction

GTA-DES

Audio Entrance Station with Digital Directory

FEATURE CALL-OUT:



KIT COMPONENTS:

The GTA-DES kit is made up of the following components:

GT-DA-L: Audio Module with Guidance

GT-DP-L: Audio Module Panel

GT-NS: Scroll Module

GT-NSP-L: Scroll Module Panel

GT-10K: Keypad Module

GF-10KP: Keypad Module Panel

GT-3B: Module Back Box GT-3F: 3 Module Frame

FEATURE CALL-OUT DEFINITIONS:

Speech Module GT-DA-L & GT-DP-L

[1] Speaker

[2] Guidance indicators Door call-in / Talk / Door release

[3] In use LED (orange)

[4] Microphone

Digital name scrolling module GT-NS & GT-NSP-L [4] Display

[5] Cancel button (or set and return)

[7] Back search button (or move cursor to the left)

[8] Call button (or set and move forward)

[9] Forward search button (or mover cursor to the right)

Digital keypad module GT-10K & GF-10KP [10] 10-key (0~9, *, #)

SPECIFICATIONS:

Power:

24V DC, use specified number of

Calling:

PS-2420UL per system configuration Electronic ring tone from entrance

panel

Communication:

Hands free from entrance panel to

tenant station

Capacity:

Max. 16 Entry panels per system Max. 4 Concierge stations per system Max. 500 Tenant stations per system

Max. 4 Tenant stations per unit

Wire:

Two sets of 2-conductor, PE insulation (two common buses for audio & video)

Aiphone #872002, 2 conductor PE insulated, non-shielded, 11.05 pf/ft Aiphone #871802, 2 conductor PE insulated, non-shielded, 11.05 pf/ft

Wiring Distance:

GT-BC to farthest entrance: 980' GT-BC to farthest tenant (audio): 980'

Talk Path:

Single channel with privacy 12-%" H x 5-5/16" W x 9/16" D

Dimensions:

(Outer panel dimensions, not including optional rain hood or surface mount

box.)

