

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Northwest Properties II, Ltd.

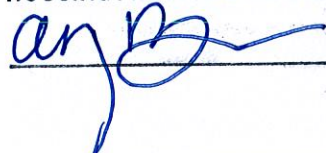
FHFC Case No.: 2013-028VW

_____/

**ORDER GRANTING WAIVER
OF PART III.B.2.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 November 1, 2013, pursuant to a "Petition for Waiver of the 2011 Universal Application Instructions, Housing Credit Program, Part III, Section (B)(2)(a)" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 30, 2013, from Northwest Properties II, Ltd. ("the Petitioner"). On October 2, 2013, the Notice of the Petition was published in Volume 39, Number 192, 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: 11/01/13

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

2. During the 2011 Universal Cycle, Northwest Properties II, Ltd. (“Petitioner”) applied for and was awarded an allocation of tax credits to finance the redevelopment of an elderly development known as Northwest Gardens II (the “Development”) located in Broward 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).

4. Part III.B.2.a. of the Instructions provides in pertinent part:

2. Required Universal Design and Visitability Features (Threshold)

All universal design and visitability features must meet the specifications outlined in the FHFC Universal Design and Visitability Manual (the Manual). The Manual, effective 11-3-2010, 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 which Development Category was 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 states:

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

5. Petitioner requested a waiver of the above Rule to allow it to employ a community-wide access control intercom system installed at a single entry point at each building in the Development, except for the two-unit building in the Development, in lieu of an electric doorbell at individual unit doors.

6. The requested change would neither affect the scoring of Petitioner’s application nor allow Petitioner to gain an unfair advantage over other applicants.

7. Section 120.542(2), Florida Statutes 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.

8. Were the Waiver not granted, Petitioner would incur additional expense, as its engineers would have to revise the electrical and architectural plans to include doorbells, and resubmit the plans to the permitting authorities for additional approvals. Installing doorbells could delay substantial completion of these projects by 30-45 days, possibly resulting in contractual liquidated damages totaling \$150,000 or more. Retrofitting doorbells would delay completion and add no value to the security of the residents. Also, a denial of the requested waiver would result in the Housing Authority of the City of Fort Lauderdale not being able to move in their qualified residents as contemplated and scheduled by the developer and the Housing Authority.

9. This change in Development would provide greater security by restricting access to the buildings, as the intercom system is an integrated doorbell and intercom device. Only invitees will be allowed to gain access.

10. The Board finds that strict application of the above Rule under these circumstances would create a substantial hardship.

11. Granting the waiver will allow the Development to include an upgraded security system without added expense, thereby serving the underlying purpose of the statute by providing safe decent and affordable housing to the residents of the development.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Part III.B.2.a., of the 2011 Universal Application Instructions, to allow Petitioner to install community-wide access control intercom system installed at a single entry point at each building in the Development, except for the two-unit building in the Development, in lieu of an electric doorbell at individual unit doors is hereby **GRANTED**.

DONE and ORDERED this 1st day of November, 2013.



Florida Housing Finance Corporation

By:  _____
Chair

Copies furnished to:
Wellington H. Meffert II, Esq.
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Ken Reecy
Director of Multifamily Programs
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Brian McDonough
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street
Miami, Fl 33130

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.