

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: HTG Freedom, LLC


FHFC Case No.: 2015-028VW

**ORDER GRANTING WAIVER OF RULE 67-48.004(3)(g),
FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on September 18, 2015, pursuant to a "Petition of Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on August 14, 2015, from HTG Freedom, LLC ("the Petitioner"). Notice of the Petition was published in Volume 41, Number 160, of the Florida Administrative Register on August 18, 2015. 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:

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

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 MATL: 9-21-15

2. Petitioner successfully applied for Housing Credits to assist in the development of Freedom Gardens in Hernando County, Florida, Application 2015-039C.

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

(3) Notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

...
(g) Development Type;

4. Petitioner requests a change in development type, an increase in site, an increase of number of units, and a change in construction to concrete¹. After civil engineering studies and a detailed wetland delineation, Petitioner requests a waiver or variance to permit it to change the following:

- 1) Change the Development Type from “Mid-Rise” to “Garden Apartments;”
- 2) Change the construction type from wood to concrete².

¹ Petitioner made the request to increase the Site for the Development and increase the total number of units after Petitioner was invited to enter credit underwriting. According to Fla. Admin. Code R. 68-48.004(3)(e) and (i), such increases do not require a waiver or variance. Therefore, staff internally reviewed and subsequently approved those requests.

² The change in construction type from wood to concrete does not require a waiver or variance according to Rule 67-48.004(3), Fla. Admin. Code. However, as it is a deviation from the specifications in the RFA, it does require board approval. The requested change is being included with the waiver request in order to streamline the approval process.

5. The requested changes do not affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants. Further, the Total Development Costs per unit remain unchanged.

6. 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.

7. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner and would violate the principles of fairness, by unnecessarily depriving Hernando County, Florida of essential affordable low-income housing units in a timely manner. The Board further finds 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 67-48.004(3), Fla. Admin. Code is hereby **GRANTED** to permit it to amend its application to change Development Type from "Mid-Rise" to "Garden Apartments" and to change construction type from wood to concrete. Petitioner is subject to and must

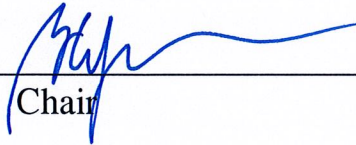
complete the development within the Total Development Cost limits of the new Garden Apartments Development Type.

DONE and ORDERED this 18th day of September, 2015.



Florida Housing Finance Corporation

By: _____


Chair

Copies furnished to:

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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.