

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: NORTHWEST PROPERTIES
PHASE III, LTD.

FHFC Case No. 2010-036VW

**ORDER GRANTING PETITION FOR WAIVER OF
RULE 67-48.004(14)(g), F.A.C.**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on October 22, 2010, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(g)" (the "Petition"), filed by Northwest Properties Phase III, Ltd. ("Petitioner") on September 17, 2010. On October 1, 2010, Florida Housing published the Notice of the Petition in Volume 36, Number 39, of the Florida Administrative Weekly. 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

Della M. Harrell / DATE: 10/22/10

2. During the 2009 Universal Cycle, Petitioner applied for an allocation of Low Income Housing Tax Credits to finance the construction of Northwest Gardens III (the “Development”) located in Broward County, Florida.

3. Rule 67-48.004(14)(g), Florida Administrative Code (2009), provides in pertinent part:

Notwithstanding any other provision of these Rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempt to make changes to these items will not be accepted. Those items are as follows:

(g) Development Type;

4. 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.

5. Petitioner requests a waiver of the above rules to permit a change in Development Type from “Garden” to “Townhouses” with no change in the number of units.

6. As grounds for its request for a waiver, Petitioner states that after submission of Petitioner's Application, the Housing Authority of the City of Fort Lauderdale, who is in partnership with Petitioner to develop the Development, required Petitioner to redefine its development plan to offer more three, four and five bedroom townhouse units and fewer two and three bedroom garden- styled units. In order to meet this new requirement, Petitioner re-designed its development plans to include more townhouses. This change has no effect on the score Petitioner received in its original application, and would not give Petitioner an advantage not enjoyed by competing applicants.

7. Petitioner provided correspondence from the Housing Authority of the City of Fort Lauderdale that stated that without the required site modification that Petitioner cannot proceed with construction causing extensive delays which will result in Petitioner losing its allocation of tax credits. In order to meet the requirement, the units must now be townhouse-styled buildings. Strict application of the above Rules under these circumstances would cause Petitioner substantial hardship and would violate the principles of fairness. Petitioner has further demonstrated that permitting this change in Development would also serve the underlying purpose of the statute.

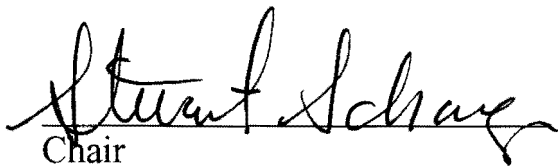
IT IS THEREFORE ORDERED:

The Petition for Waiver of Rule 67-48.004(14)(g), F.A.C. (2009), is hereby **GRANTED**, to allow Petitioner to change the Development Type from “Garden” to “Townhouses.” The Development shall be comprised of 18 townhouses with 84 units and four garden-styled buildings with 66 units for a total of 22 buildings with 150 units.

DONE and ORDERED this 22nd day of October, 2010.



Florida Housing Finance Corporation

By: 
Chair

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
120 Holland Building
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NOTICE OF RIGHTS

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.