

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Northwest Properties II, Ltd.

FHFC Case No.: 2013-003VW

**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 April 26, 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 March 26, 2013, from Northwest Properties II, Ltd. (“the Petitioner”). On March 28, 2013, the Notice of the Petition was published in Volume 39, Number 61, 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:

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

Oella M Farrell /DATE: 4/26/13

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).

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

a. For all new 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...

4. Petitioner requested a waiver of the above Rule to allow it to install heat strips, instead of heat pumps in all units in the Development; and

allow it to install windows having a U-Value ranging from 0.71 to 0.77, instead of windows with a U-Value of 0.52 or less. As justification, Petitioner states that the use of heat pumps would be inefficient and costly, as opposed to the use of heat strips, which were not an option in the Builder Option Package. Petitioner also states that its proposed windows have a lower Solar Heat Gain Coefficient (“SHGC”) and results in a more energy efficient unit than is required. Further, the required windows have vinyl frames which are less durable than the proposed windows, which have aluminum frames. The Petitioner further provides that the Development will achieve substantially lower Home Energy Rating System Index score, increase durability, and will reduce costs of operation.

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

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 and also serve the underlying purpose of the statute by permitting upgraded features and amenities within the residential units. A denial of the requested waiver would result in a substantial hardship due to increased costs of installation and operation of heat pumps and installation of less efficient and less durable windows.


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 heat strips in all of the units in the Development, instead of heat pumps; and install windows having a U-Value ranging from 0.71 to 0.77, with a SHGC ranging from 0.23-0.28, instead of windows with a U-Value of 0.52 or less is hereby **GRANTED**.

DONE and ORDERED this 26TH day of April, 2013.



Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:
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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.