

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In Re: Village Allapattah Phase II, LLC

FHFC Case No.: 2010-001VW

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**ORDER GRANTING PETITION FOR WAIVER
OF PART III.D.1.f OF THE 2006 RENTAL RECOVERY LOAN
PROGRAM APPLICATION INSTRUCTIONS**

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on February 26, 2010, pursuant to a "Petition for Waiver of Part III.D.1.f of the 2006 Rental Recovery Loan Program Instructions to Provide Specific Features in Units Developed for Elderly Residents" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on January 13, 2010, from Village Allapattah Phase II, LLC ("the Petitioner"). On January 22, 2010, the Notice of the Petition was published in Volume 36, Number 3, 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:

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Della M. Harrell / DATE: *2/26/10*

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

2. During the 2006 Rental Recovery Loan Program (RRLP), Village Allapattah Phase II, LLC (“Petitioner”) applied for and was awarded RRLP funding to finance the construction of YMCA Village Allapattah Phase II Apartments (the “Development”) located in Miami-Dade County, Florida.

3. Rule 67ER05-10(1)(a) Fla. Admin. Code (2007) provides, in pertinent part:

(a) The RRLP Application Package or RRLP1016 consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329 or available, without charge, on the Corporation’s Website under the Rental Recovery Loan Program Application and Instructions link, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the RRLP Program. The RRLP Application Package is adopted and incorporated herein by reference, effective July 13, 2005.

Part III.D.1.f of the Instructions provides in pertinent part:

(d) The Applicant must provide the following features in the specified percentages of all units in new construction (NC) and Rehabilitation (R) Developments. The requirement to provide the following features is in addition to the features committed to by the Applicant in the Construction Features and Amenities section of this Application...

Tight-napped Berber-type carpet

4. Petitioner has requested a waiver of the above Rule to allow it to install Non-Skid flooring, instead of tight-napped Berber style carpeting. Petitioner states that the Non-Skid flooring is an upgraded amenity for which it is willing to bear the additional cost.

5. The Board finds that the Non-Skid flooring provides a better surface for elderly residents to ambulate within their residential units than tight-napped Berber style carpet. Further, it is an easier surface to maintain and to keep clean.

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

9. 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.

10. The Board finds that strict application of the above Rule under these circumstances would violate the principles of fairness. Petitioner demonstrated that permitting this change in Development would promote participation by experienced developers in efficient construction of new

elderly units and also serve the underlying purpose of the statute by permitting upgraded features and amenities within residential units developed for elderly residents.

IT IS THEREFORE ORDERED:

Petitioner's request for waiver of Part III.D.1.f of the Instructions, to allow Petitioner to install Non-Skid Flooring in the residential units in the Development, instead of tight-napped Berber-type carpet is hereby **GRANTED.**

DONE and ORDERED this 26TH day of February, 2010.



Florida Housing Finance Corporation

By: 
Chairperson

Copies furnished to:
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Joint Administrative Procedures Committee
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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.