

STATE OF FLORIDA  
HOUSING FINANCE CORPORATION

CASE NO. 2006-074VW

CATHOLIC CHARITIES HOUSING, DIOCESE OF VENICE, INC.

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION

Respondent.

**CATHOLIC CHARITIES HOUSING, DIOCESE OF VENICE, INC.  
PETITION FOR WAIVER OF RULE 67-48.004 (14)**

Petitioner, Catholic Charities Housing, Diocese of Venice, Inc., ("CCH") petitions Respondent, Florida Housing Finance Corporation ("Corporation") for a Waiver of the prohibition to change the name of the Applicant Under Rule 67-48.004(14) and states:

**PETITIONER**

1. The address, telephone number, facsimile number of the Petitioner is:

Catholic Charities Housing, Diocese of Venice, Inc.  
Attention: Peter Routsis-Aroyo, Executive Director  
1000 Pinebrook Road  
Venice, FL 34292  
Telephone: (941) 484-9543  
Facsimile: (941) 484-1121

2. The address, telephone number, facsimile number of the Petitioner's Counsel is:

DiVito & Higham, P.A.  
Attention: Joseph A. DiVito, Esq.  
P.O. Box 40870  
St. Petersburg, FL 33743-0870  
Telephone: (727) 321-1201  
Facsimile: (727) 321-5181

3. Petitioner successfully applied for financing from the State Apartment Incentive Loan Program ("SAIL") that the Corporation administers pursuant to Chapter 67-48 Florida Administrative Code. The Petitioner's Application No. is RFP2004-11-01 (the "Application"). Petitioner applied for SAIL funds to finance a portion of the costs to develop a farmer worker community to be known as Case San Juan, located in the Arcadia, Florida area, (the "Development").

4. The Waiver being sought is permanent in nature.

5. Should the Corporation have questions or require additional information, Petitioner is available to provide any additional information necessary for consideration of this Petition.

### **RULE FROM WHICH WAIVER IS SOUGHT**

6. Petitioner requests a Waiver from Rule 67-48.004(14), Florida Administrative Code, more specifically, Petitioner is seeking a Waiver from the provision of the Universal Application Instructions and provisions of Application and Selection Procedures for Development. Subsection of Rule 67-48.004.

7. Rule 67-48.004(14) provides:

Notwithstanding any other provisions 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.... Any attempted changes to these items will not be accepted. Those items are as follows:

- (a) Name of Applicant;
- (b) Identity of each Developer, including or Co-Developers.....

### **STATUTES IMPLEMENTED BY THE RULES**

8. The Rule implements, among other sections of the Florida Housing Finance Corporation Act, as set forth in Sections 420.501 through 420-516 of the Florida Statutes, the Statute that created the SAIL program. See Florida Statute 420.5087.

### **PETITIONER REQUESTS A WAIVER FROM THE RULE FOR THE FOLLOWING REASONS**

9. The name of the Applicant and Developer for the Development, is in the name of CCH. CCH undertakes various housing programs throughout the geographic area of the Catholic Diocese of Venice, and has received other funding, both grants and loans, through other government sources, federal, state and local. After the hurricanes of 2004 ravaged the geographical area of which CCH serves, additional projects were identified and undertaken by CCH. The Board of Directors for CCH recognized the inherent problems with having multiple projects under the same ownership entity and elected to form a separate legal entity known,

“Casa San Juan Bosco, Inc.” for the Development. This new entity is intended to function as a single purpose corporation, for the sole purpose of constructing and operating the Development. A copy of the Articles of Incorporation are attached hereto as “Exhibit A” for reference.

10. This change will not adversely impact the Development for the following reasons:

- (a) The Development will continue to have the requisite expertise and experience to successfully develop and complete the Development, in that the same development team members shall remain with the new entity;
- (b) The Board of Directors of Casa San Juan Bosco, Inc. consist of the same individuals who currently serve on the Board of Directors of CCH;
- (c) The continuity, progress and quality of the Development will not be disrupted.

11. The change of name and entity will actually benefit the Development, in that the creation of a separate entity for construction and operation of the Development will allow greater accountability with the segregation of funds from the other developments of CCH. The new entity will minimize the risk of liability to the subject Development, by eliminating possible claims of liability from the other developments of CCH. The segregated entity also assures that all funding sources for the Development will be used solely for the intended Development and will avoid confusion from members of the public and others in the community who are served by CCH.

12. A pertinent statute relating to the granting of waivers provides:

“Waivers shall be granted when the Applicant demonstrates that the application of the rule would create a substantial hardship or would violate principles of fairness”. (See Section 120.542(2) Florida Statute). The term “substantial hardship” is defined as a demonstrated economic, technological, legal and other type of hardship to the Applicant. The hardship in this case is related to economic reasons, allowing for the segregation of funds; and also for legal reasons, allowing the Development to be segregated from risks associated with the other developments of CCH. Further, title to the underlying land for the Development has already been acquired in the name of the new entity, and an economic hardship would occur if a Deed transferring ownership back to CCH were required, as a result of documentary stamp taxes, title insurance and other costs in transferring the Deed.

**WAIVER WILL SERVE THE UNDERLYING  
PURPOSE OF THE STATUTE**

13. Granting the requested Waiver will serve the purposes of the Statute which is implemented by the rules for which the Waiver is sought. The Florida Housing Finance Corporation Act (beginning at Section 420.501) was enacted to encourage private and public investment in housing for persons of low income. The SAIL program was created to provide supportive financing for affordable to very low income persons, which the Development will meet, by providing quality housing to persons of very low income, namely, farm workers.

**NEXT TYPE OF WAIVER**

14. The Waiver being sought is permanent in nature.

**ACTION REQUESTED**

15. Petitioner requests the following:

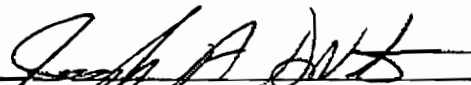
(a) That the Corporation grant the Petition for Waiver and grant Petitioner a waiver from Rule 67-48.004(14) such that the Corporation permits the change of the name of the Applicant and the identity of the Developer, allowing for "Casa San Juan Bosco, Inc." to be substituted in place of "Catholic Charities Housing, Diocese of Venice, Inc."

16. The waiver would be permanent as to the Petitioner.

17. Grant such further relief as may be deemed appropriate.

18. A copy of the Petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, FL 32399-1300.

Respectfully submitted this 13 day of November, 2006

  
\_\_\_\_\_  
JOSEPH A. DIVITO  
Fla. Bar No. 0228915  
DiVito & Higham, P.A.  
P.O. Box 40870  
St. Petersburg, FL 33743-0870  
Telephone: (727) 321-1201  
Facsimile: (727) 321-5181

Counsel for Petitioner

"EXHIBIT A"

ARTICLES OF INCORPORATION

OF

CASA SAN JUAN BOSCO, INC.

FILED

2005 JAN 24 P 12:18  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

ARTICLE I  
NAME

The name of this corporation is CASA SAN JUAN BOSCO, INC., (hereinafter referred to as "the Corporation").

ARTICLE II  
DURATION

The corporation shall have perpetual existence, unless it shall hereafter be dissolved according to law.

ARTICLE III  
INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial principal office of this corporation is 1000 Pinebrook Road, Venice, FL 34285, and the name of the initial registered agent of this corporation is JOSEPH A. DIVITO, and the address of the registered agent is 4514 Central Avenue, St. Petersburg, Florida 33711.

ARTICLE IV  
PURPOSE

The purposes for which the Corporation is formed, and the business and objectives to be carried on and promoted by it, are as follows:

- (A) To provide housing for those persons within the community of Arcadia, Florida in need of quality and affordable housing. Such housing shall include, but not be limited to, housing for low income families; low income elderly; farm workers, and other individuals with special needs. Such purpose shall also include, but not be limited to, the ability to construct, rehabilitate, or otherwise develop housing facilities and manage the same.
- (B) The corporation may exercise the powers permitted non-profit corporations under Chapter 617 of the Florida Statutes; provided, however, that this Corporation, in exercising any one or more of such powers shall do so in furtherance of the exempt purpose for which it has been organized as described in Section 501(c)(3) of the Internal Revenue Code.

- (C) The Corporation is irrevocably dedicated to and operated exclusively for non-profit purposes; and no part of the income or assets of the Corporation shall be distributed to, nor inure to the benefit of any individual.

**ARTICLE V**  
**POWERS**

The Corporation is empowered:

- (A) To buy, own, sell, convey, assign, mortgage or lease or encumber any interest in real estate and personal property, and to construct, maintain and operate improvements thereon necessary or incident to the accomplishment of the purposes set forth in Article IV hereof.
- (B) To borrow money and issue evidence of indebtedness, as well as receive grants from private or public funding sources in furtherance of any or all of the objects of its business, and to secure the same by mortgage, pledge, or other lien on the Corporation's property.
- (C) To do and perform all acts reasonably necessary to accomplish the purposes of the Corporation as permitted non-profit corporations under Chapter 617 of the Florida Statutes.
- (D) In the event of dissolution, winding up, or other liquidation of the assets of this Corporation, the residual assets of the Corporation will be turned over to one or more organizations which themselves are exempt as organizations described in section 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1954 or corresponding sections of any or future law, or to the Federal, State or local government for exclusive public purpose.
- (E) Notwithstanding any other provisions of these articles, this Corporation will not carry on any other activities not permitted to be carried on by (a) a corporation exempt from Federal Income Tax under section 501(c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States Internal Revenue law or (b) a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code of 1954 or any other corresponding provision of any future United States Internal Revenue Law.

**ARTICLE VI**  
**DIRECTORS AND MEMBERS**

- (A) Members - The members of the Corporation shall be established in accordance with the By-laws.

- (B) Directors - The affairs of the Corporation shall be managed by a Board of Directors, consisting of not less than three (3) in number who shall be elected by the members of the Corporation at the Annual Meeting. The Directors of the Corporation need not be members of the Corporation. The names and post office addresses of the persons who shall serve as Initial Directors until their successors are duly qualified, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Dr. Volodymyr Smeryk	1000 Pinebrook Road Venice, FL 34285
Peter Routsis-Arroyo	1000 Pinebrook Road Venice, FL 34285
Sr. Cathy Buster	1000 Pinebrook Road Venice, FL 34285
Jack Martin	1000 Pinebrook Road Venice, FL 34285
Ana Romillo	1000 Pinebrook Road Venice, FL 34285
Dr. Joseph Ravelli	1000 Pinebrook Road Venice, FL 34285
Mary Ann Carroll	1000 Pinebrook Road Venice, FL 34285
Judy Fogarty	1000 Pinebrook Road Venice, FL 34285
Robert Johnson	1000 Pinebrook Road Venice, FL 34285

Directors shall serve without compensation.

Directors shall be elected in accordance with the By-laws.

#### ARTICLE VII OFFICERS

The officers of the Corporation as provided by the By-Laws of the Corporation shall be elected by the Directors of the Corporation in the manner therein set out, and shall

serve until their successors are elected and qualified. The Directors shall elect the regular officers of the Corporation at the annual meeting for terms of one year.

**ARTICLE VIII**  
**SUBSCRIBERS**

The subscribers to these Articles of Incorporation are:

<b><u>NAME</u></b>	<b><u>ADDRESS</u></b>
Peter Routsis-Arroyo	1000 Pinewood Road Venice, FL 34285

**ARTICLE IX**  
**BY-LAWS**

By-Laws of the Corporation may be adopted, made, altered, or rescinded by the Directors at any regular meeting or any special meeting called for that purpose, so long as they are not inconsistent with the provisions of these Articles, subject to approval of the membership.

**ARTICLE X**  
**AMENDMENTS**

Amendment to the Articles of Incorporation may be proposed by any Director at a regular or special business meeting of the Board of Directors at which a majority is present and must be adopted by a two-thirds vote of the Board of Directors present and voting at such meeting properly called and noticed as provided in the By-Laws. Any Amendment must be approved by the membership.

**IN WITNESS WHEREOF**, the undersigned incorporators have executed these Articles of Incorporation on this 13 day of December, 2004.

  
\_\_\_\_\_  
PETER ROUTSIS-ARROYO

STATE OF FLORIDA )  
COUNTY OF SARASOTA )

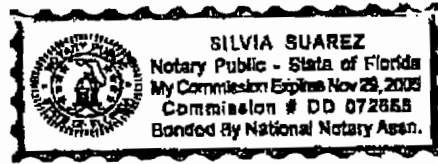
I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared PETER



ROUTSIS-ARROYO who is personally known to me and who executed the foregoing instrument and acknowledged before me that he executed the same freely and voluntarily.

WITNESS my hand and official seal on the 13<sup>th</sup> day of December, 2004.


  
NOTARY PUBLIC, STATE OF FLORIDA  
Print Name: SILVIA SUAREZ  
My Commission Expires:



**ACCEPTANCE BY DESIGNATED REGISTERED AGENT**

CASA SAN JUAN BOSCO, <sup>INC.</sup> having designated JOSEPH A. DIVITO as its Registered Agent at the address located at 4514 Central Avenue, St. Petersburg, Florida, and JOSEPH A. DIVITO, as having been so named to accept service for the above-named corporation at the place above indicated, does hereby accept the designation as Registered Agent.

Dated this 13 day of December, 2004.

  
JOSEPH A. DIVITO  
Registered Agent

2005 JAN 24 P 12:18  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**FILED**

