

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2014-090VW
APPLICATION NO. 2014-327S

MARIANNA GARDENS PRESERVATION, L.P.,

Petitioner

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

**PETITION FOR WAIVER OF RULE 67-21.003(8)(f)
FOR A CHANGE IN DEVELOPMENT CATEGORY**

Petitioner, MARIANNA GARDENS PRESERVATION, L.P., a Florida limited partnership ("Petitioner"), hereby petitions Respondent, FLORIDA HOUSING FINANCE CORPORATION (the "Corporation") for a waiver of the Corporation's prohibition on changes in the "Development Category" of a development. See Rule 67-21.003(8)(f), F.A.C. (2013).

In support of its petition, the Petitioner states:

1. The address, telephone number, facsimile number and e-mail address of the Petitioner are:

Marianna Gardens Preservation, L.P.
c/o Royal American Development, Inc.
1002 West 23rd Street, Suite 400
Panama City, FL 32405
Attn: Kimberly Murphy
Telephone: (850) 914-3226
Facsimile: (850) 769-1294
Email: kim.murphy@royalamerican.com

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FINANCE CORPORATION

2. The contact person, along with contact information and relationship, for the Petitioner's Application to RFA 2014-103 — Financing of Affordable Multifamily Housing

Developments with SAIL Funding to be Used in Conjunction with Tax-Exempt Bond Financing and Non-Competitive Housing Credits (the “Competitive Application”) is:

Royal American Development, Inc.
1002 West 23rd Street, Suite 400
Panama City, FL 32405
Attn: Kimberly Murphy
Telephone: (850) 914-3226
Facsimile: (850) 769-1294
Email: kim.murphy@royalamerican.com
(Relationship: Senior Vice President of Royal American)

3. For purposes of this Petition, the address, telephone number, facsimile number and e-mail address of Petitioner’s counsel is:

Hollie A. Croft, Esq.
Broad and Cassel
390 N. Orange Avenue, Suite 1400
Orlando, FL 32801
Telephone: (407) 839-4200
Facsimile: (407) 425-8377
Email: hcroft@broadandcassel.com

4. The Petitioner timely submitted its Competitive Application under RFA 2014-103 (Application # 2014-327S) for the development named “Marianna Gardens” (the “Development”).

5. The Petitioner also timely submitted an application pursuant to Rule 67-21, Florida Administrative Code (2013), for non-competitive Housing Tax Credits (the “Non-Competitive Application”) for the Development because the Housing Tax Credits will be generated from the Corporation’s issuance of tax-exempt Multifamily Mortgage Revenue Bonds.

6. Equity and debt financing raised from Housing Tax Credits, the SAIL Loan, and the Multifamily Mortgage Revenue Bonds will be used for the development of Marianna Gardens, an acquisition/rehabilitation of a previously-constructed 100-unit development intended to serve low-income families living in Jackson County, Florida.

7. The requested rule waiver will not adversely affect the Development. However, a denial of this Petition (a) will result in substantial economic hardship to Petitioner, and (b) would violate the principles of fairness. See Section 120.542(2), F.S. (2013).

8. The waiver being sought is permanent in nature.

THE RULES FROM WHICH WAIVER IS SOUGHT

9. Petitioner requests a waiver from Rule 67-21.003(8)(f), F.A.C. (2013) (the “Rule”). Specifically, Petitioner is seeking a waiver from the “Development Category” designation identified by Petitioner in the Non-Competitive Application.

Rule 67-21.003(8)(f), F.A.C., provides, in relevant part, as follows:

(8) 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 is deemed complete. Those items are as follows: . . . (f) Development Category; . . .

STATUTES IMPLEMENTED BY THE RULES

10. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act, the statute that created the Housing Tax Credit Program and the Multifamily Mortgage Revenue Bonds Program. See Sections 420.509, 420.5099, F.S. (the “Statute”).

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

11. Petitioner requests a waiver from Rule 67-21.003(8)(f), F.A.C. (2013). Petitioner seeks a waiver from the Rule allowing it to change the Development Category listed in the Non-Competitive Application of “Acquisition/Preservation” to match what is stated within the Competitive Application of “Acquisition/Rehabilitation.”

12. Petitioner is requesting a change in Development Category in order to complete an Acquisition and Rehabilitation of the Development as indicated in the Competitive Application, rather than an Acquisition and Preservation.

13. The Non-Competitive Application's scoring and funding would not have changed if the Applicant selected "Acquisition/Rehabilitation" rather than "Acquisition/Preservation." Further, please note that the 100-unit count and 264-bedroom count remain unchanged by this Petition.

14. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes, to provide relief from its rules if strict application of those rules will lead to unreasonable, unfair or unintended results in particular instances. This is of particular importance in the current situation because the inconsistency in the Competitive Application and the Non-Competitive Application is an inadvertent error for which a correction will not alter the current plans for rehabilitation of the Development. Also, this Development will provide much needed low-income housing for families living in Jackson County, Florida. Time is of the essence for the successful completion of this Development. Unless the Petitioner's request is granted, strict application of the Rule would violate principles of fairness. Moreover, unless the Rule is waived to allow the requested change, Petitioner will not be entitled to proceed with the tax-exempt Multifamily Mortgage Revenue Bonds, thereby resulting in substantial hardship to Petitioner and the Development.

WAIVER WILL SERVE UNDERLYING PURPOSE OF THE STATUTE

15. Petitioner believes that a waiver of the Rule will serve the purpose of the Statute which is implemented by the Rule. The Florida Housing Finance Corporation Act (Section 420.501, *et seq.*) was passed in order to encourage private and public investment in facilities for

persons of low-income. The purpose of the creation of the Housing Tax Credit Program and Multifamily Mortgage Revenue Bonds Program is to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this waiver and permitting Petitioner to change its Development Category, as requested in this Petition, the Corporation would recognize the goal of increasing the supply of affordable housing through private investment in persons of low-income.

TYPE OF WAIVER

16. The waiver being sought is permanent in nature.

ACTION REQUESTED

17. Should the Corporation require additional information, Petitioner is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Rule 67-21.003(8)(f), F.A.C., Chapter 67-21 (2013).

WHEREFORE, Petitioner respectfully requests the following:

- A. Grant the Petition and all relief requested herein;
- B. Waive Rule 67-21.003(8)(f), Florida Administrative Code (2013), allowing Petitioner to change the Development Category listed in the Non-Competitive Application of "Acquisition/Preservation" to match what is stated within the Competitive Application of "Acquisition/Rehabilitation;" and
- C. Grant such further relief as may be deemed appropriate.

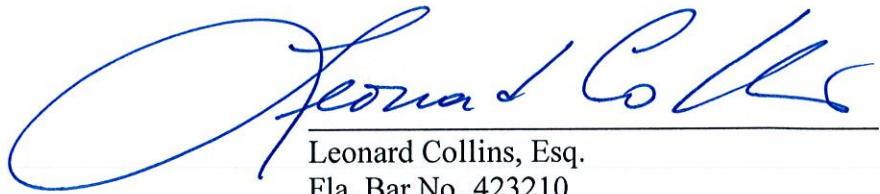
Respectfully submitted,



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COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

The Petition is being served by hand-delivery for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 Bronough Street, Suite 5000, Tallahassee, FL 32301, with copies served by hand-delivery to the Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 West Madison Street, Tallahassee, Florida 3299-1400, this 23rd day of December, 2014.



Leonard Collins, Esq.
Fla. Bar No. 423210