

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2015-019VW
APPLICATION NO. 2014-403H

GATEWAY TOWNHOMES OF ST. JOE, LLC,

Petitioner

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

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FINANCE CORPORATION

**PETITION FOR WAIVER OF RULE 67-48.004(3)(g)
FOR A CHANGE IN DEVELOPMENT TYPE**

Petitioner, GATEWAY TOWNHOMES OF ST. JOE, LLC, a Florida limited liability company ("Petitioner"), hereby petitions Respondent, FLORIDA HOUSING FINANCE CORPORATION (the "Corporation") for a waiver of the Corporation's prohibition on changes in the "Development Type" of a development. *See* Rule 67-48.004(3)(g), 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:

Gateway Townhomes of St. Joe, LLC
c/o Paces Foundation, Inc.
2730 Cumberland Boulevard
Smyrna, GA 30080
Attn: Mark M. du Mas
Telephone: (770) 431-9696
Email: mark@pacesfoundation.org

2. The contact person, along with contact information and relationship, for the Petitioner's Application to RFA 2014-109 — HOME Financing to be used for Rental Developments in Rural Areas (the "Application") is:

Gateway Townhomes of St. Joe, LLC
c/o Paces Foundation, Inc.
2730 Cumberland Boulevard
Smyrna, GA 30080
Attn: Renee Sandell
Telephone: (770) 431-9696
Email: renee@pacesfoundation.org
(Relationship: Development Associate)

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

Hollie A. Croft, P.A.
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 Application under RFA 2014-109 (Application # 2014-403H) for the development named "Gateway Townhomes of St. Joe" (the "Development").

5. Funds raised from HOME Financing will be used for the development of the Gateway Townhomes of St. Joe, a newly constructed 50-unit multi-family development intended to serve low-income individuals residing within rural areas of Gulf County, Florida.

6. 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, (b) could deprive Gulf County, Florida of essential affordable low-income housing units in a timely manner, and (c) would violate the principles of fairness. *See* Section 120.542(2), F.S. (2013).

7. The waiver being sought is permanent in nature.

THE RULES FROM WHICH WAIVER IS SOUGHT

8. Petitioner requests a waiver from Rule 67-48.004(3)(g), F.A.C. (2013) (the “Rule”). Specifically, Petitioner is seeking a waiver from the “Development Type” designation identified by Petitioner in the Application.

Rule 67-48.004(3)(g), F.A.C., provides, in relevant part, as follows:

(3) Notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below: . . . (g) Development Type; . . .

STATUTES IMPLEMENTED BY THE RULES

9. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act, the statute that created the HOME Investment Partnership Program. *See* Section 420.5089, F.S. (the “Statute”).

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

10. Petitioner requests a waiver from Rule 67-48.004(3)(g), F.A.C. (2013). Petitioner seeks a waiver from the Rule allowing it to change the Development Type listed in the Application from “Townhouses” to “Garden Apartments.”

11. Petitioner is requesting a change in Development Type in order to construct Garden Apartments, rather than Townhouses. By constructing Garden Apartment units, Petitioner will be able to provide the most suitable and desirable accommodations and units to the residents and the community. Furthermore, constructing Garden Apartments permits Petitioner to construct the Development in a manner which is most appropriate given the site of the Development — as the Corporation is aware, the site for the Development has produced

difficulties and impediments due to the site's proximity to wetlands. As such, the total cost of constructing "Townhouses" has increased by more than fifty-five percent (55%) of the total cost planned at the time of the filing of the Application.

12. The Application's scoring and funding would not have been affected had the Applicant selected "Garden Apartments" in the Application. Further, please note that the 50-unit count remains unchanged by this Petition, and the bedroom count increases from a 144-bedroom count to a 146-bedroom count by this Petition.

13. 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. Petitioner needs to change the Development Type to allow for the construction of the Development as outlined above in order for Petitioner to provide the most suitable and desirable accommodations and units to the residents and the community. Furthermore, Petitioner needs to change the Development Type to allow for the construction of the Development as outlined above in order for the construction of the Development to reflect the most prudent and cost effective structures for the site given its proximity to wetlands. This Development will provide much needed multi-family low-income housing for those persons residing in rural areas of Gulf County. 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 may not be entitled to receive HOME Financing, thereby resulting in substantial hardship to petitioner and the Development.

WAIVER WILL SERVE UNDERLYING PURPOSE OF THE STATUTE

14. 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 HOME Investment Partnership 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 Type, 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

15. The waiver being sought is permanent in nature.

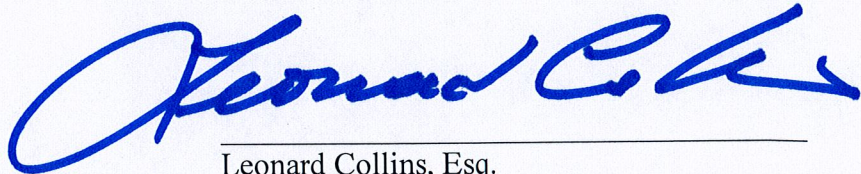
ACTION REQUESTED

16. 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 67-48.004(3)(g), F.A.C., Chapter 67-48 (2013).

WHEREFORE, Petitioner respectfully requests the following:

- A. Grant the Petition and all relief requested herein;
- B. Waive Rule 67-48.004(3)(g), Florida Administrative Code (2013), allowing Petitioner to change the Development Type listed in the Application from “Townhouses” to “Garden Apartments;” and
- C. Grant such further relief as may be deemed appropriate.

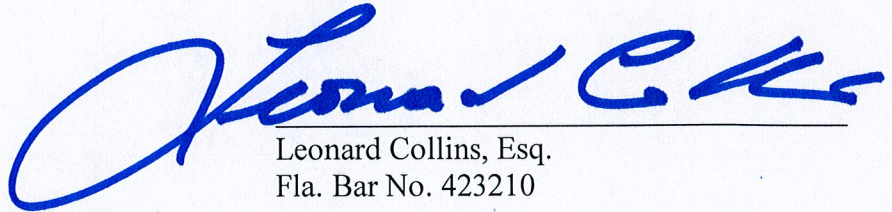
Respectfully submitted,



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Hollie A. Croft, P.A.
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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 20th day of April, 2015.



Leonard Collins, Esq.
Fla. Bar No. 423210