

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

DR. ALICE MOORE APARTMENTS, LLLP,

Petitioner,

vs.

CASE NO.: 2017-077VW

**FLORIDA HOUSING FINANCE
CORPORATION**

APPLICATION NO. 2016-333CL

Respondent.

_____ /

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

Dr. Alice Moore Apartments, LLLP (the “Petitioner”) hereby petitions 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) (2016).

In support of its petition, the Petitioner states:

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

Dr. Alice Moore Apartments, LLLP
c/o Carrfour Supportive Housing, Inc.
1398 SW 1st Street
12th Floor
Miami, FL 33135
(305) 371-8300
(305) 371-1376 (fax)
sberman@carrfour.org

2. The contact person, along with contact information and relationship, for the Petitioner’s Application – Housing Credit (HC) Program (the “Application”) is:

Dr. Alice Moore Apartments, LLLP
c/o Carrfour Supportive Housing, Inc.
1398 SW 1st Street
12th Floor
Miami, FL 33135
(305) 371-8300

(305) 371-1376 (fax)
sberman@carrfour.org
Executive Director – Carrfour Supportive Housing, Inc.
(Petitioner’s developer)

3. For purposes of this Petition, the address, telephone number and facsimile number of the Petitioner’s attorney are:

Gary J. Cohen, Esq.
Shutts & Bowen LLP
200 S. Biscayne Blvd.
41st Floor
Miami, FL 33131
(305) 347-7308
(305) 347-7808 (Fax)
gcohen@shutts.com

4. The Petitioner timely submitted its Application in RFA 2016-103 (Housing Credit and Gap Financing for Affordable Housing Developments for Persons with a Disabling Condition) (Application 2016-333CL) for the development named “Dr. Alice Moore Apartments” (the “Development”). Florida Housing has issued its Preliminary Allocation of Housing Credits and entered into a Carryover Allocation agreement with Petitioner.

5. Equity raised from Housing Credits will be used for the development of Dr. Alice Moore Apartments, a new 36-unit apartment development intended to serve persons receiving disability benefits and/or disabled persons requiring independent living services in Palm Beach 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 Palm Beach County of essential, affordable housing units in a timely manner, and (c) would violate principles of fairness. Section 120.542(2), Fla. Stat. (2017).

7. The waivers being sought are permanent in nature.

THE RULES FROM WHICH WAIVER IS SOUGHT

8. Petitioner requests a waiver from Rule 67-48.004(3)(g), Florida Administrative Code (2016). Specifically, Petitioner is seeking a waiver from the “Development Type” designation identified by Petitioner in its original Application.

Rule 67-48.004(14) provides, in relevant part, as follows:

(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provisions of this rule, 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 Rules are implementing, among other sections of the Florida Housing Finance Corporation Act, the statute that created the HC Program. See Section 420.5099, Florida Statutes.

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

10. Petitioner requests a waiver from Rule 67-48.004(3)(g), Florida Administrative Code (2014). Petitioner is seeking a waiver from the Rules allowing it to change the Development Type listed in the Application from “Garden Apartments” to “Mid-Rise, 4-stories”.

11. Petitioner is requesting a change in Development Type in order to construct a 4 story building rather than a 3 story building. Under the city’s zoning code (which was modified after the Application was submitted to FHFC), the 36 units proposed for the Development can only be built on the site if the building is increased from 3 stories to 4 stories.

12. The Application’s scoring and funding would not have been affected had the Applicant selected the “Mid-Rise, 4-stories” Development Type when it submitted its original Application. The change in Development Type would not have affected the application or its score (108 points) in any manner.

13. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes to provide relief from its rules if strict application of the rules will lead to unreasonable, unfair and unintended results in particular instances. Unless the Petitioner’s request is granted, strict application of the Rules would violate principles of fairness. Moreover, unless the Rule is waived to allow the requested change, Petitioner may not be entitled to receive a final allocation of Housing Credits, thereby resulting in substantial hardship to Petitioner.

WAIVER WILL SERVE UNDERLYING PURPOSE OF THE STATUTE

14. Petitioner believes that a waiver of these Rules will serve the purposes 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 persons of low income. The purpose of the creation of the Housing Tax Credit Program was 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. In addition, the Corporation’s goal of providing housing for disabled persons (an underserved sub-category of low and very low income tenants) will be fostered by granting the requested waiver. The requested waiver will ensure the availability of Housing Credits which might otherwise be lost as a consequence of the change in zoning code described herein.

TYPE OF WAIVER

15. The waiver being sought as permitted in nature.

ACTION REQUESTED

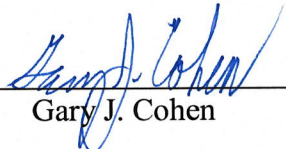
16. Petitioner requests the following:

(a) That the Corporation grant Petitioner a waiver from Rule 67-48.004(3)(g), Florida Administrative Code (2014), allowing it to change the Development Type listed in the application from “Garden Apartments” to “Mid-Rise, 4-stories”, and

(b) That the Corporation treat the Development as a “mid-rise, 4-story” development for all purposes, including but not limited to determining the applicable Total Development Cost Per Unit limitation.

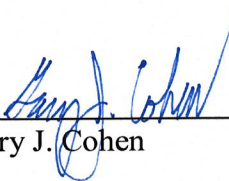
Respectfully submitted,

SHUTTS & BOWEN LLP
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Miami, Florida 33131
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Fax.: (305) 347-7808
E-mail: gcohen@shutts.com

By: 
Gary J. Cohen

CERTIFICATE OF SERVICE

The Petition is being served by overnight delivery for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, City Centre Building, Suite 5000, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 West Madison Street, Tallahassee, Florida 32399-1400, this 13th day of November, 2017.



Gary J. Cohen