

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

OAKS AT STONE FOUNTAIN LIMITED  
PARTNERSHIP, a Florida limited partnership,

Petitioner,

vs.

APPLICATION NO. 2005-125C  
CASE NO. \_\_\_\_\_

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

**PETITION FOR WAIVER FROM RULES 67-48.004(1)(a) , 67-48.004(14) and (15)**

OAKS AT STONE FOUNTAIN LIMITED PARTNERSHIP, a Florida limited partnership ("Petitioner"), by and through its undersigned counsel, hereby petitions the Florida Housing Finance Corporation (the "Corporation") for a waiver from Rules 67-48.004(1)(a) , 67-48.004(14) and (15), Florida Administrative Code (2005) This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code.

**THE PETITIONER**

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

Oaks at Stone Fountain Limited Partnership  
c/o RLI Beneficial Holdings 2005, LLC  
Donald W. Paxton  
6455 Gateway Avenue, Suite A  
Sarasota, Florida 34231  
(941)-929-1270  
(941)-929-1271 Facsimile

2. The address, telephone number and facsimile number of Petitioner's counsel is:

Maureen McCarthy Daughton  
Broad and Cassel  
215 S. Monroe Street, Suite 400  
Tallahassee, FL 32301  
(850)681-6810  
(850)521-1478 Facsimile

3. Petitioner successfully applied for financing from the Housing Tax Credit ("HC") program in the 2005 Universal Application Cycle – Multifamily Mortgage Revenue Bonds (MMRB) Program; State Apartment Incentive Loan (SAIL) Program; Home Investment Partnership (HOME) Rental Program and Housing Credit (HC) Program (the "Universal Cycle") that the Corporation administers pursuant to Chapter 67-48, Florida Administrative Code. The Petitioner's application number is 2005-125C (the "Application"). Petitioner applied for HC Funds to finance a portion of the costs to develop a multifamily rental apartment complex in Hillsborough County, Florida, to be known as Oaks at Stone Fountain (the "Development"). The Application for which Petitioner received a preliminary award of financing from the Corporation was for a 80 unit apartment complex.

**THE RULES FROM WHICH WAIVER IS SOUGHT**

4. Petitioner requests a waiver from Rule 67-48.004(1)(a), 67-48.004(14) and (15), Florida Administrative Code. More specifically, Petitioner is seeking a waiver from various provisions of the Universal Application Instructions and provisions of the "Application and Selection Procedures for Development," subsections of Rule 67-48.004.

5. Rule 67-48.004(1)(a) provides:

(a) The Universal Application Package or UA1016 (Rev. 2-05) consists of the forms and instructions, obtained from the Corporation at 227 North Bronough Street, STE 5000, Tallahassee, FL 32301-1329, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply

for the SAIL, HOME, HC, or SAIL and HC program(s). The Universal Application Package is adopted and incorporated herein by reference, effective February 7, 2005.

The following provisions of the Universal Application Instruction are applicable to this

Petition:

Part II. Applicant and Development Team

A. Applicant.

(2)(a)(1) If applying for HC, the Applicant must be a limited partnership . . . . Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed a material misrepresentation.

\* \* \*

B. Development Team

1. Developer or principal of Developer.

The identity of the Developer(s) listed in this Application may not change until the construction or Rehabilitation/Substantial Rehabilitation of the Development is complete.

6. Rule 67-48.004(14)(B) provides:

(14) 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 Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

- (a) Name of Applicant;
- (b) Name of each Developer, including each co-Developers;

\* \* \*

7. Rule 67-48.004(15) provides:

(15) A Development will be withdrawn from funding and any outstanding commitments for funds or HC will be rescinded if at any time the Board determines that the Applicant's Development or Development Team is no longer the Development or Development Team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

**STATUTES IMPLEMENTED BY THE RULES**

8. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act,<sup>1</sup> the statute that created the HC Program. See §420.5093, Florida Statutes.

**PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS**

9. The current ownership structure of RLI Beneficial Holdings 2005, LLC, sole member of the General Partner, Beneficial Oaks at Stone Fountain, LLC, is:

Lomas Holding Corp.	1%
AHG, Inc.	46.5%
Paxton Family Holdings	47.5%
O'Grady Family Holdings, LLC	5%

Lomas Holding Corp. is owned 100% by Robert K. Lomas, while AHG, Inc. is owned by The AHG, Inc. Employee Stock Ownership Plan and Trust, of which Robert K. Lomas is the trustee.

The Petitioner seeks to modify the ownership interest as follows:

Paxton Family Holdings, LLC	47.5%
O'Grady Family Holdings, LLC	5%
Hope Shiverick Lomas, LLC	47.5%

<sup>1</sup> The Florida Housing Finance Corporation Act is set forth in Sections 420.501 through 420.516 of the Florida Statutes.

10. The current structure of the Developer, RLI Beneficial Development 5, LLC is:

Lomas Holdings Corp.	1%
AHG, Inc.	46.5%
Paxton Family Holdings, LLC	47.5%
O'Grady Family Holdings, LLC	5%

11. Petitioner wishes to make the following changes to the structure of the Developer entity:

Paxton Family Holdings, LLC	47.5%
O'Grady Family Holding, LLC	5%
Hope Shiverick Lomas, LLC	47.5%

12. Petitioner is requesting this waiver to accommodate the transfer of Robert K. Lomas' interests to his wife for syndication and estate planning purposes. In spite of these changes to the corporate structure, the identity of the operational officers, directors and managers are substantially the same. This change will not adversely impact the Development because the Developer continues to have the requisite expertise and experience to successfully develop and complete the Development. Accordingly, the continuity, progress and quality of the Development will not be disrupted.

13. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes, to provide relief from its rule if strict application of the rule will lead to unreasonable, unfair and unintended consequences in particular instances. Unless the rule is waived to allow the changes described above, certain unreasonable, unfair and unintended consequences will result. Specifically, Robert K. Lomas is engaged in certain estate planning strategies to protect his interests and the interests of his family members. If the Corporation were to deny

Petitioner's request to allow these changes, the result would impair the syndication process and preclude Mr. Lomas from effecting certain of his estate planning strategies, which is an unreasonable, unfair and an unintended consequence of the Rule.

**WAIVER WILL SERVE THE 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 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 requesting and permitting Petitioner to make the aforementioned changes, 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.

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

**ACTION REQUESTED**

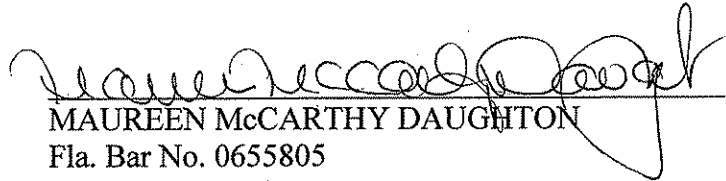
17. Petitioner requests the following:

a. That the Corporation grant the Petitioner a waiver from Rule 67-48.004(1)(a), 67-48.004(14) and (15) such that the Corporation allow a change to the ownership structure of RLI Beneficial Holdings 2005, LLC, sole member of the General Partner and to the structure of the Developer.

18. This waiver would be permanent as to the Petitioner.

19. 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 28 day of June, 2006.



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