

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

LIBERTY MORTGAGE XVI, LLC.,
a Florida limited liability company,

Petitioner,

vs.

FHFC CASE NO. 2007-0201W

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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PETITION FOR WAIVER/VARIANCE FROM RULE 67 – 57.040(1)(k)

LIBERTY MORTGAGE XVI, LLC., a Florida limited liability company (“Petitioner”), by and through its undersigned project manager, hereby petitions the Florida Housing Finance Corporation (the “Corporation”) for a variance from Rule 67-57.040(1)(e) and Rule 67-57.040(1)(k), Florida Administrative Code (2006). This Petition is filed pursuant to Section 120.542, Florida Statutes and Chapter 28-104, Florida Administrative Code.

THE PETITIONER

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

Liberty Mortgage XVI, LLC.
c/o Robert A. Ippolito
VP Project Management
Cornerstone Group Associates
2029 Morning Dove Rd.
Tallahassee, FL 32312
Telephone: 850-591-0856
Facsimile: 850-893-9498

2. Liberty Mortgage XVI, LLC is a joint venture between Cornerstone Interests, Inc. and Liberty Home Lending, Inc. Cornerstone Interests, Inc. is an affiliate of Cornerstone Group

Associates (“Cornerstone”), a housing developer of multifamily and homeownership properties since 1993 with affordable project developments located throughout the state of Florida. Liberty Home Lending, Inc. is a mortgage lender based in Florida.

3. On October 4, 2006, the Petitioner successfully applied and has been approved as a for-profit member of the Homeownership Pool Program (HOP) to participate in the HOP program. As a HOP member, Liberty Mortgage XVI, LLC can reserve financing for qualified homebuyers, on a loan-by-loan basis, by submitting a HOP Reservation and Environmental Checklist once the home is under construction.

4. Liberty Mortgage XVI, LLC desires to provide HOP funding for eligible homebuyers purchasing homes at Cornerstone projects located in South Florida. Since South Florida is a high cost area for land acquisition and development, Cornerstone maximized the unit density and design of each project and thereby reduced the sales price and affordability of the home.

THE RULE FOR WHICH VARIANCE IS SOUGHT

5. Petitioner requests a variance from Rule 67-57, Florida Administrative Code (the “2006 HOP Rule”). More specifically, the rule Petitioner is seeking a variance from Rule 67-57.040(1)(e) and Rule 67-57.040(1)(k), F.A.C., which provides:

“(1) All Units must meet the more stringent of the State of local building code requirements as applicable. All units must contain at a minimum;

(e) Hallways should be no less than 36” wide;

(k) Minimum of 32” clear opening in all interior and bathroom doorways; and”

STATUTES IMPLEMENTED BY THE RULE

6. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act¹, the Statute that specific authority for the HOP program. See §420.507(12),(23), Florida Statutes.

7. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes, and Rule Chapter 28-104, F.A.C., to grant variances to its rule requirements when strict application of such rules would lead to unreasonable, unfair and unintended consequences in particular instances. Variances shall be granted when the person subject to the rule demonstrates that the application of the rule would: (1) create a substantial hardship or violate principals of fairness,² and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. Section 120.542(2), Florida Statutes. Denial of Petitioner's request for a rule variance in this case will present substantial hardship to the Petitioner and will frustrate the underlying purpose of the statute.

FACTS DEMONSTRATING ENTITLEMENT TO VARIANCE

8. Petitioner is attempting to provide affordable homeownership in the high cost area of South Florida with a two-story townhome and one-story flat unit floorplan types at various Cornerstone projects located in Palm Beach, Broward and Dade counties.

¹ The Florida Housing Finance Corporation Act is set forth in Section 420.501 through 420.516 of the Florida Statutes.

² "Substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance "Principles of Fairness" are violated when literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to Rule 120.542(2), Florida Statutes.

9. Since South Florida is a high cost area for land acquisition and development, Cornerstone maximized the unit density and design of each project by using a two-story design and thereby reduced the sales price and affordability of the home price.

10. Subsequently, due to the high density design of the affordable units, the Petitioner is unable to meet HOP Property Standards that require 36" wide hallway widths and 32" clear door openings throughout the entire home without reducing the project unit density and thereby negatively affecting the affordability and increasing the price of the home.

**WAIVER AND/OR VARIANCE WILL SERVE THE UNDERLYING PURPOSE OF THE
STATUTE**

11. Petitioner believes that a variance of this Rule 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 HOP program was to provide deferred payment subordinated mortgage loans to homebuyers to provide affordable homeownership to low income persons. Waiver and/or variance of the rule will allow Liberty Mortgage XVI, LLC to provide affordable homeownership opportunities to families in high cost development areas of Florida.

12. The purpose of the rule is to provide features that will enhance accessibility, visitability and aging in place for the homeowner and visitors. Liberty Mortgage XVI, LLC will still meet the purpose and intent of this rule.

TYPE OF VARIANCE

13. The variance being sought is permanent in nature.

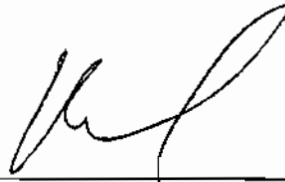
ACTION REQUESTED

14. Petitioner requests a variance from Rule 67-57.040(1)(e) and 67-57.040(1)(k), F.A.C. to allow:

- (a) All interior and bathroom doorways and hallways on the entry level will meet the requirements of the rule by allowing access in to every room on the entry level; and
- (b) At least one bedroom and bathroom on the second floor will meet the requirements of the rule if there is no bedroom on the entry level floor.

15. 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 8th day of May, 2006.



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