

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING
FINANCE CORPORATION

WALTON COUNTY WORKFORCE
HOUSING CORPORATION,

Petitioner

CWHIP APPLICATION NO. 06-31

v.

CASE NO. 2008-041VW

FLORIDA HOUSING
FINANCE CORPORATION,

Respondent.

**PETITION FOR WAIVER OR VARIANCE FROM
RULES 67-58.020(6) AND 67-58.070(6), F.A.C.**

Petitioner, WALTON COUNTY WORKFORCE HOUSING CORPORATION, ("WCWHC"), by and through its undersigned counsel, hereby petitions the Florida Housing Finance Corporation ("FHFC") for a waiver or variance from Rules 67-58.020(6) and 67-58.070(6), Florida Administrative Code. This Petition is filed pursuant to Chapter 28-104, Florida Administrative Code and Section 120.542, Florida Statutes.

THE PETITIONER

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

WALTON COUNTY WORKFORCE HOUSING CORPORATION
P.O. Box 1616
Santa Rosa Beach, Florida 32459
Phone: (850) 231-3177
Fax: (850) 231-3178
Email Address: fran@pbmgmt.com

2. The address, telephone number, telefax number and e-mail address of Petitioner's counsel is:

JON MOYLE
Anchors, Smith Grimsley Law Firm
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32312
Phone: (850) 681-3828
Telcfax: (850) 681-8788
Email Address: jmoyle@asglegal.com

3. Petitioner successfully applied for funding during the Community Workforce Housing Innovation Pilot ("CWHIP") funding during the FHFC's 2006 funding period and was subsequently invited into credit underwriting. Petitioner's 2006 CWHIP application was assigned application number CWHIP 06-31. Petitioner sought CWHIP funding to assist with financing a workforce housing project in Walton County, Florida that will consist of 242 home ownership units once completed.

THE RULES FOR WHICH A WAIVER OR VARIANCE IS SOUGHT

4. Petitioner requests of waiver or variance from Rules 67-58.020(6) and 57-58.070(6), Florida Administrative Code.

5. The language of both these rules is the same and is set forth below:

The Applicant has 14 months from the date of the acceptance of the letter of invitation to complete credit underwriting and receive Board approval unless an extension of up to 10 months is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and detail the timeframe to close the loan. The written request will be submitted to the Corporation's Board for consideration. The Corporation shall charge an extension fee of 1 percent of the CWHIP loan amount if the Board approves the extension request.

6. Petitioner has previously provided a written request for a four month extension of time in which to complete credit underwriting and receive Board approval. That request, set forth in a letter dated May 26, 2008 is attached hereto as Exhibit 1 and incorporated by reference. Petitioner is specifically seeking a waiver or variance of that portion of the rule which authorizes FHFC to charge an extension fee of 1 percent of the CWHIP loan should the extension request be approved. The portion of Rule 67-58.020(6) and 67-58.070(6) for which a waiver or variance is sought is underlined above in paragraph 5.

STATUTES IMPLEMENTED BY THE RULE

7. Rules 67-58.020(6) and 67-58.070(6), F.A.C., set forth above, implement section 420.5095, Florida Statutes.

8. FHFC has the express authority pursuant to section 120.542(1), Florida Statutes, to grant variances or waivers to its rules under certain circumstances. Specifically, FHFC may grant relief from strict application of a rule in particular instances when application of the rule would lead to unintended consequences, an unreasonable result, or an unfair result. A waiver should be granted when the person subject to the rule demonstrates that the application of the rule would 1) create a substantial hardship or violate principles of fairness; and 2) the purpose of the underlying statute has been or will be achieved by other means. The Legislature has indicated that a "substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver.

9. Petitioner seeks a waiver of that portion of Rules 67-58.020(6) and 67-58.070(6) which imposes a 1% extension fee if the Board approves Petitioner's pending request for additional time in which to complete credit underwriting and obtain Board approval of its project.

10. WCWHC is a not-for-profit entity which is working hard to provide much needed workforce housing in Walton County, Florida. Its resources are limited and it has been funded and capitalized to date by contributions from the local community. The credit underwriting process has taken additional time due to unforeseen circumstances more fully explained in Exhibit 1. Imposing the 1% fee will burden the proposed project with additional costs in the amount of Fifty Thousand Dollars (\$50,000) and will present an economic hardship to WCWHC. If the variance or waiver request is granted, these funds will be available for the project and assist in providing much needed workforce housing in Walton County. Given the above, an economic hardship is demonstrated and Petitioner's request for a variance or waiver from Rule 67-58.020(6) should be granted.

**GRANTING THE VARIANCE OR WAIVER WILL
SERVE THE UNDERLYING PURPOSE OF THE STATUTE**

11. Granting the variance or waiver as requested will serve the purpose of the underlying statute. Specifically, section 420.5095 which is implemented by the rules in question seeks to provide safe, sanitary and affordable workforce housing to essential services personnel of Walton County who are working and classified as income and occupational eligible workforce housing beneficiaries. The Representative Mike Davis Community Workforce Housing Innovation Pilot program specifically targeted counties, such as Walton County, that were facing critical shortages of affordable housing for teachers, fire fighters, police, health care workers and other essential personnel necessary for the economic well being of their communities. Specifically, Ch. 420.5095 identifies the need for funding for housing in high cost, high growth areas of Florida, like Walton County, where affordable housing for key employees is lacking.¹

¹ 420.5095 Community Workforce Housing Innovation Pilot Program.--

12. Walton County was ranked in the Top Tier of High Growth Counties in the 2006 CWHIP application cycle, demonstrating to the dramatic need for workforce housing funding. Walton County is one of the fastest growing counties in the state and, coupled with the lack of available private and public land available for housing development, one of the most difficult in the state to develop workforce housing. In addition, the statute directed the Florida Housing Finance Corporation to award funding to high cost high growth counties that would agree to form creative public private partnerships and develop innovative solutions to their local housing needs. The WCWHC has demonstrated that it is a community wide public private partnership with a very innovative workforce housing solution to local housing needs.

13. In sum, acting favorably on WCWHC's Petition will promote the development of workforce housing in Walton County and serve the underlying purpose of the statute, Section 420.5095, Florida Statutes.

REQUEST FOR PERMANENT RELIEF

14. The variance or waiver being sought is permanent in nature.

RELIEF REQUESTED

15. Petitioner requests the following:

- a. WCWHC's request for additional time in which to complete credit underwriting and secure Board approval for the project be granted;

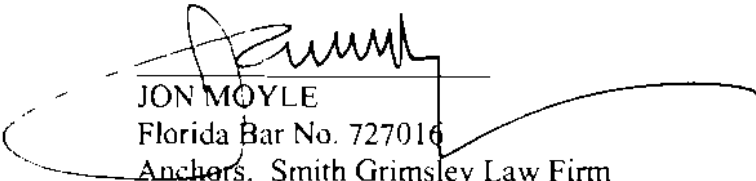
(1) The Legislature finds and declares that recent rapid increases in the median purchase price of a home and the cost of rental housing have far outstripped the increases in median income in the state, preventing essential services personnel from living in the communities where they serve and thereby creating the need for innovative solutions for the provision of housing opportunities for essential services personnel.

(2) The Community Workforce Housing Innovation Pilot Program is created to provide affordable rental and home ownership community workforce housing for essential services personnel affected by the high cost of housing, using regulatory incentives and state and local funds to promote local public-private partnerships and leverage government and private resources.

- b. WCWHC's request for a variance or waiver of Rule 67-58.020(6) be granted so that a \$50,000 extension fee is not due and owing to FHFC, but can be used to assist WCWHC, a not-for-profit corporation, and the proposed project; and
- e. WCWHC requests such other relief as the Board deems appropriate.

16. A copy of this Petition has been provided by U.S. Mail to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300.

Respectfully submitted this 6th day of June, 2008.



JON MOYLE
Florida Bar No. 727016
Anchors, Smith Grimsley Law Firm
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
Phone (850) 681-3828
Telefax (850) 681-8788
Email: jmoyle@asglegal.com

Counsel for Petitioner, WCWHC

CERTIFICATE OF SERVICE

I hereby certify that this Petition was provided by hand-delivery for filing to the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301 with a copy being provided by U.S. Mail to the Joint Administrative Procedures Committee, Room 120, 600 Calhoun Street, The Holland Building, Tallahassee, Florida 32399 this 6th day of June, 2008.



Jon Moyle

WOLF CREEK VILLAGE
Walton County Workforce Housing Corporation
Post Office Box 1616
Santa Rosa Beach, FL 32459

May 26, 2008

Mr. David Westcott
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, FL 32301

Re: CWHIP06-31

Dear Mr. Westcott:

I am writing to you on behalf of the Walton County Workforce Housing Corporation (WCWHC), the developer for the 242 home ownership unit Wolf Creek Village community approved for funding under the 2006 CWHIP program. Due to a variety of circumstances, most of which were beyond our control, we are requesting an extension of our underwriting timeline for an additional 4 months and a waiver of rule 67-58.020(6) to waive the required 1% of CWHIP grant amount extension fee. The WCWHC is a nonprofit, sole purpose organization created to develop and construct the first major affordable housing community in Walton County. As you know, Walton County is one of the fastest growing counties in the state and, coupled with the lack of available private and public land available for housing development, one of the most difficult in the state to develop workforce housing.

The Corporation has been working diligently to move the project forward through underwriting with Seltzer Management, but has been delayed on several fronts. Our request for the underwriting extension is based on the following factors:

1. After paying the underwriting fee, WCWHC was informed for the first time by the underwriter that the business plan submitted, as part of the grant application, was no longer acceptable to the Housing Corporation. That plan had been carefully developed to provide essentially no risk to the CWHIP grant funds and would have made the underwriting much easier. Additionally, that rejection of our business plan was caused, according to the underwriter's discussions with the Housing Corporation, by the Court ruling on the challenge to the CWHIP awards and the interpretation of the Court ruling by the legal staff at the Housing Corporation. The ensuing negotiations with, and through, the underwriter to change our business plan in order to put the grant funds "more at risk" in the construction

process and subsequently prove the risk added was not substantial, resulted in a great deal of delay.

2. The time consuming requirement for the corporation board to approve all elements of underwriting and development activities. Being a new organization with community wide membership, our goal has been to ensure broad stakeholder input and understanding. With CWHIP being a new program and many of our board members representing major organizations in the community, we have strived to keep them engaged, informed and supportive. This has been successful but has required double the time we anticipated.
3. The unprecedented shifts in the regional housing market have required the board and local governments to be very methodical in their review and approval of the program. We have spent more time than anticipated on initiating and evaluating the Walton County affordable housing market study to ensure that there is adequate absorption capacity for the workforce housing homes. We are confident that this is the case, but went through a much more protracted due diligence to ensure the market was still viable.
4. As a public-private partnership created by the Walton County Commission, we were motivated to ensure an open government approach with total transparency of the Corporation's activities. This required us to make sure that any contracts for professional and construction services were publicly noticed, bid out in an open manner and evaluated by committee. We realize this may have been more bureaucratic than necessary compared to a project done totally in the private sector, but since this project was so highly visible in the community and supported by so many stakeholders, we felt this approach would ensure public trust and commitment to the workforce and affordable housing projects in the future in Walton County. This also extended our time for underwriting.

All of these factors combined, in addition to the learning curve our staff has been through in familiarizing itself with the FHFC underwriting process, has led us to exceed our projected time to get through underwriting and request the extension of time. We believe we can complete the remaining items required by the underwriting by September and be ready for board approval in October or sooner.

Our request for a waiver of rule 67-58.020(6) to waive the required 1% of CWHIP grant amount is based on the limited availability of cash remaining in the Corporation's budget for the project. The WCWHC is a nonprofit sole purpose organization funded from contributions from the community. We are the developer. We allotted funds for the application, underwriting fee, market study, engineering reports and limited staff expenses, but have not budgeted, nor have the finances to afford the \$50,000 fee for extension. Although it is clearly included in the rule, we believe our justifications for the underwriting extension are valid and that the project would be penalized if the fee were

required. We want to ensure that all funds possible are contributed to the project to make the housing extremely affordable.

The majority of this community realizes how important it is to provide innovative workforce housing for teachers, nurses, fire and police and other essential services workers to ensure the economic vitality of our region. The Corporation has recognized that Walton County continues to be one of the highest growth rate Counties in the State, and that we should all partner together to make sure this project is a success.

Thank you for your consideration of this request.

Sincerely,

F. Lloyd Blue Jr., Chairman
Walton County Workforce Housing Corp.

FLB/fbt