

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

**AMISTAD APARTMENTS, LTD.,**

**Petitioner,**

vs.

**CASE NO.:** 2012-053VW

**FLORIDA HOUSING FINANCE  
CORPORATION**

**APPLICATION NO. 2011-064CH**

**Respondent.**

**PETITION FOR WAIVER OF RULE 67-48.004(14)(g)  
FOR A CHANGE IN DEVELOPMENT TYPE**

Amistad Apartments, Ltd. (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(14)(g).

In support of its petition, the Petitioner states:

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

Amistad Apartments, Ltd.  
c/o Pinnacle Housing Group, LLC  
9400 S. Dadeland Boulevard  
Suite 100  
Miami, Florida 33156  
(305) 854-7100  
(305) 859-9858 (fax)  
david@pinnaclehousing.com

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

Amistad Apartments, Ltd.  
c/o Pinnacle Housing Group, LLC  
9400 S. Dadeland Boulevard  
Suite 100  
Miami, Florida 33156  
(305) 854-7100  
(305) 859-9858 (fax)

david@pinnaclehousing.com  
Vice President – Pinnacle Housing Group LLC  
(One of Petitioner’s co-developers)

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  
1500 Miami Center  
201 S. Biscayne Blvd.  
Miami, FL 33131  
(305) 347-7308  
(305) 347-7808 (Fax)  
gcohen@shutts.com

4. The Petitioner timely submitted its Application in the 2011 cycle (Application #2011-064CH) for the development named “Amistad” (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 Amistad, a new 89-unit apartment development intended to serve the homeless and low-income individuals and families in Miami-Dade 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 Miami-Dade County of essential, affordable housing units in a timely manner, and (c) would violate principles of fairness. Section 120.542(2), Fla. Stat. (2012).

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(14)(g), Florida Administrative Code (2011). Specifically, Petitioner is seeking a waiver from the “Development Type” designation identified by Petitioner in its original housing credit application.

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

(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 and the Application at the time of the Application Deadline, shall result in rejection of the Application without opportunity to submit additional information. Any attempt to make changes to these items will not be accepted. Those items are as follows:

(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(14)(g), Florida Administrative Code (2011). Petitioner is seeking a waiver from the Rules allowing it to change the Development Type listed in the Application from “Mid-Rise with Elevator (a building comprised of 5 or 6 stories)” to “High-Rise (a building comprised of 7 or more stories)”.

11. Petitioner is requesting a change in Development Type in order to construct a 7 story building rather than a 6 story building. By constructing an additional story/floor, Petitioner will be able to better accommodate all required surface parking, since the taller building will require a smaller footprint, thereby freeing up additional land space for surface parking.

12. The Application’s scoring and funding would not have been affected had the Applicant selected the “High-Rise” Development Type when it submitted its original Application. If anything, Petitioner’s Group A/B leveraging would have improved by virtue of applicability of the “High-Rise” multiplier.

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. Closing of Petitioner’s financing (debt and equity) is imminent, and timing is crucial since Petitioner must complete and place in service the Development by December 31, 2013 in order to avail itself of the full 9% federal low income housing tax credit rate. Failure to place in service by December 31, 2013 will (absent legislative action) result in a decrease in the tax credit percentage, substantially decreasing the tax credit equity invested in the transaction. A decrease in the amount of tax credit equity invested may result in total sources of funds substantially decreasing, which would jeopardize the completion of the proposed Development. This Development will provide much needed homeless housing to Miami-Dade County. Under the Corporation’s qualified allocation plan only one transaction per year is selected in the homeless set-aside, so it is crucial that this Development be able to move forward. Time is of the essence for the successful completion of this Development. 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 person of low-income. In addition, the Corporation's goal of providing homeless housing will be fostered by granting the requested waiver.

TYPE OF WAIVER

15. The waiver being sought as permitted in nature.

ACTION REQUESTED

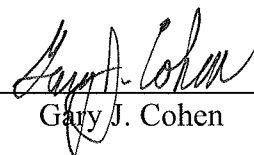
16. Petitioner requests the following:

(a) That the Corporation grant Petitioner a waiver from Rule 67-48.004(14)(g), Florida Administrative Code (2011), allowing it to change the Development Type listed in the application from "Mid-Rise with Elevator (a building comprised of 5 or 6 stories)" to "High-Rise (a building comprised of 7 or more stories)".

17. By submission of this Petition, Petitioner is withdrawing the Emergency Petition For Waiver of Rule 67-48.004(14)(g) For A Change in Development Type submitted earlier today to the Corporation and to the Joint Administrative Procedures Committee. This Petition replaces in its entirety the withdrawn petition referenced immediately above.

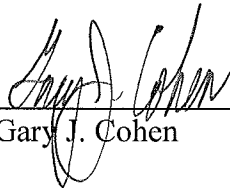
Respectfully submitted,

SHUTTS & BOWEN LLP  
Counsel for Amistad Apartments, Ltd.  
201 S. Biscayne Blvd.  
Suite 1500 Miami Center  
Miami, Florida 33131  
Tel.: (305) 347-7308  
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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, 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 15<sup>th</sup> day of November, 2012.

  
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Gary J. Cohen