

**BEFORE THE FLORIDA HOUSING FINANCE CORPORATION**

LENNARD ROAD PARTNERS, LTD.

Petitioner,

APPLICATION NO. 2013-521C

vs.

FHFC CASE NO.: 2014-076VW

FLORIDA HOUSING FINANCE CORP.,

Respondent.

**PETITION FOR WAIVER FROM FLORIDA  
ADMINISTRATIVE CODE RULE 67-21.003(8)**

LENNARD ROAD PARTNERS, LTD (“Lennard Road”) (“Petitioner”), by and through their undersigned attorney, hereby petition the Florida Housing Finance Corporation (“Florida Housing”) for a waiver from Rule 67-21.003(8), Florida Administrative Code (“FAC”). 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 Petitioners is:

Lennard Road Partners, Ltd.  
c/o Atlantic Housing Partners  
200 East Canton Avenue, Suite 102  
Winter Park, FL 32789  
407-741-8500 (telephone)  
(407) 643-2551 (facsimile)

2. The address, telephone and facsimile number of Petitioners' attorney is:

Kerey Carpenter  
AHG Group, LLC  
700 West Morse Blvd., Suite 220  
Winter Park, FL 32789  
407-691-5605 (direct line)  
407-371-6126 (facsimile)

3. Petitioner successfully applied for financing from the 4% Housing Credits Program that Florida Housing administers pursuant to Chapter 67-21, Florida Administrative Code. Lennard Road's Application Number is: 2013-521C (the "Application"). Lennard Road applied for 4% Housing Credits to finance a portion of the costs to develop a 210-unit multifamily rental apartment community located in St. Lucie County, Florida, to be known as the Grove Park Apartments (the "Development").

**THE RULES FROM WHICH A WAIVER IS SOUGHT**

4. Petitioners request a waiver from Rule 67-21.003(8), as in effect for the 2013 4% Housing Credit Application. Rule 67-21.003(8) provides in relevant part as follows:

(8) 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 is deemed complete. Those items are as follows:

\* \* \*

- (j) The Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application.

\* \* \*

8. The provisions of the aforementioned Rule prohibit a decrease in the “Total Set-Aside Percentage”. In its Application for non-competitive 4% Housing Credits, Petitioner stated that the Total Set-Aside Percentage would be 100%. Subsequently, Petitioner reviewed new market studies for this Development and determined that the Development would benefit from a mix of affordable and market rate units. Petitioner is requesting to decrease the Total Set-Aside Percentage from 100% to 80%.

9. In light of the considerable time that it takes to develop and construct multifamily rental housing, Florida Housing’s statutes and rules are designed to allow the flexibility necessary to respond to changed circumstances, particularly those that arise through no fault of the Petitioner, which might necessitate a modification in a proposed project. Florida Housing routinely approves such changes when they would not have otherwise affected the scoring of the application, because the Applicant thus derives no unfair advantage over its competitors in an application cycle. Since the Application is for non-competitive 4% Housing Credits, allowing this change does not allow the Applicant to gain any possible advantage over competitors (as is the case with a similar provision in the Universal Application). Further, Petitioner could have submitted its Application with a Total Set-Aside Percentage of 80% without consequences as to the evaluation of its Application.

**WAIVER WILL SERVE THE UNDERLYING PURPOSE OF THE STATUTE**

10. Florida Housing’s approval of the requested waiver would serve the purpose of the underlying Florida Statute, Section 420.5093, as well as the Housing Credit Program. The purpose of both the Statute and the program is to facilitate and stimulate the development of multifamily rental housing that is affordable to families of limited means. If the requested

waiver is granted, the Housing Credit allocation in question will be used to fund an affordable multifamily rental housing community for which there is a desperate need in this market.

11. Unless the waiver is granted, Petitioners would not be able to adapt to the market conditions even though the 4% housing credits are allocated on a non-competitive basis.

12. By granting a waiver and permitting Petitioners to decrease the number of set-aside units, Respondent would recognize the economic realities of developing and constructing affordable rental housing. This recognition would promote participation by owners and developers such as Petitioners in meeting Respondent's purpose by providing affordable housing, through new construction, in an economical and efficient manner.

#### **TYPE OF WAIVER**

13. The waiver being sought is permanent in nature.

#### **ACTION REQUESTED**

14. Petitioners request a waiver from Rule 67-21.003(8) to permit a decrease in the Total Set-Aside Percentage submitted in the Application.

Respectfully submitted this 13<sup>th</sup> day of October, 2014.



Kerey Carpenter  
AHG Group, LLC  
700 W. Morse Blvd., Suite 220  
Winter Park, FL 32789  
(407) 691-5605(direct)  
407-371-6126 (facsimile)  
[kcarpenter@ahg-group.com](mailto:kcarpenter@ahg-group.com)  
Florida Bar No. 963781  
Attorney for Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that an original and one copy of the foregoing Petition for Waiver have been filed with Corporation Clerk of the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida, 32301; and that a true and correct copy of the foregoing has been furnished to the Joint Administrative Procedures Committee, Room 680 Pepper Building, 111 West Madison Street, Tallahassee, FL 32399-1400.

  
Kerey Carpenter