

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2014-078VW
APPLICATION NO. 2014-138CGS

THE VILLAGES AT NOAH'S LANDING, LLC,

Petitioner

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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FLORIDA HOUSING
FINANCE CORPORATION

**PETITION FOR WAIVER OF RULE 67-48.004(3)(g)
FOR A CHANGE IN DEVELOPMENT TYPE**

Petitioner, THE VILLAGES AT NOAH'S LANDING, LLC, a Florida limited liability company ("Petitioner"), hereby petitions Respondent, 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(3)(g), F.A.C. (2013).

In support of its petition, the Petitioner states:

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

The Villages at Noah's Landing, LLC
c/o Noah's Ark of Central Florida, Inc.
2225 E. Edgewood Drive, Suite 6
Lakeland, FL 33803
Attn: Jack Kosik
Telephone: (863) 687-0804
Email: director@noahsarkflorida.org

2. The contact person, along with contact information and relationship, for the Petitioner's Application to RFA 2013-004 – Financing to Build Larger Permanent Supportive Housing Properties for Persons with Developmental Disabilities (the "Application") is:

The Villages at Noah's Landing, LLC
c/o Noah's Ark of Central Florida, Inc.
2225 E. Edgewood Drive, Suite 6
Lakeland, FL 33803
Attn: Jack Kosik
Telephone: (321) 626-8040
Email: director@noahsarkflorida.org
(Relationship: Executive Director)

3. For purposes of this Petition, the address, telephone number, facsimile number and e-mail address of Petitioner's counsel is:

Hollie A. Croft, Esq.
Broad and Cassel
390 N. Orange Avenue, Suite 1400
Orlando, FL 32801
Telephone: (407) 839-4200
Facsimile: (407) 425-8377
Email: hcroft@broadandcassel.com

4. The Petitioner timely submitted its Application under RFA 2013-004 (Application # 2014-138CGS) for the development named "The Villages at Noah's Landing" (the "Development").

5. Equity raised from Housing Tax Credits will be used for the development of The Villages at Noah's Landing, a newly constructed 52-unit development intended to serve low-income individuals with developmental disabilities in Polk 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 Polk County, Florida of essential affordable low-income housing units in a timely manner, and (c) would violate the principles of fairness. See Section 120.542(2), F.S. (2013).

7. The waiver being sought is permanent in nature.

THE RULES FROM WHICH WAIVER IS SOUGHT

8. Petitioner requests a waiver from Rule 67-48.004(3)(g), F.A.C. (2013) (the “Rule”). Specifically, Petitioner is seeking a waiver from the “Development Type” designation identified by Petitioner in the Application.

Rule 67-48-004(3)(g), F.A.C., provides, in relevant part, as follows:

(3) Notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below: . . . (g) Development Type; . . .

STATUTES IMPLEMENTED BY THE RULES

9. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act, the statute that created the Housing Tax Credit Program. *See* Section 420.5099, F.S. (the “Statute”).

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

10. Petitioner requests a waiver from Rule 67-48.004(3)(g), F.A.C. (2013). Petitioner seeks a waiver from the Rule allowing it to change the Development Type listed in the Application from “Townhouse, Duplex, Triplex, and Quadraplex” to “Duplex, Garden Style, and Single Family.”

11. Petitioner is requesting a change in Development Type in order to construct duplexes, garden-style, and single-family units, rather than townhouses, duplexes, triplexes, and quadraplexes. By constructing a blend of duplexes, garden-style, and single-family units, Petitioner will be able to provide the most suitable and desirable accommodations and units to the residents and the community. Furthermore, constructing a blend of duplexes, garden-style,

and single-family units permits Petitioner to construct the Development in a manner which is most appropriate given the site of the Development.

12. The Application's scoring and funding would not have been affected had the Applicant selected "Duplex, Garden Style, and Single Family" in the Application. Further, please note that the 52-unit count and 132-bedroom count remain unchanged by this Petition.

13. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes, to provide relief from its rules if strict application of those rules will lead to unreasonable, unfair or unintended results in particular instances. Petitioner needs to change the Development Type to allow for the construction of the Development as outlined above in order for Petitioner to provide the most suitable and desirable accommodations and units to the residents and the community. Furthermore, Petitioner needs to change the Development Type to allow for the construction of the Development as outlined above in order for the construction of the Development to reflect the most prudent structures for the site. This Development will provide much needed low-income housing for person with developmental disabilities to Polk County. Time is of the essence for the successful completion of this Development. Unless the Petitioner's request is granted, strict application of the Rule 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 Tax Credits, thereby resulting in substantial hardship to Petitioner and the Development.

WAIVER WILL SERVE UNDERLYING PURPOSE OF THE STATUTE

14. Petitioner believes that a waiver of the Rule will serve the purpose 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 facilities for

persons of low-income. The purpose of the creation of the Housing Tax Credit Program is 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 persons of low-income.

TYPE OF WAIVER

15. The waiver being sought is permanent in nature.

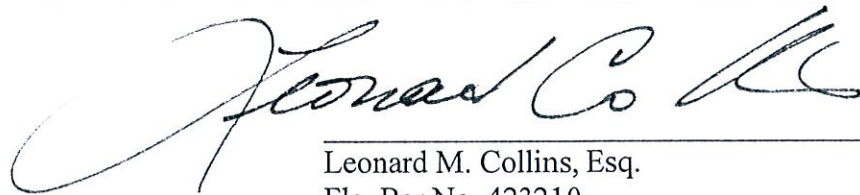
ACTION REQUESTED

16. Should the Corporation require additional information, Petitioner is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Rule 67-48.004(3)(g), F.A.C., Chapter 67-48 (2013).

WHEREFORE, Petitioner respectfully requests the following:

- A. Grant the Petition and all relief requested herein;
- B. Waive Rule 67-48.004(3)(g), Florida Administrative Code (2013), allowing Petitioner to change the Development Type listed in the Application from “Townhouse, Duplex, Triplex, and Quadraplex” to “Duplex, Garden Style, and Single Family;” and
- C. Grant such further relief as may be deemed appropriate.

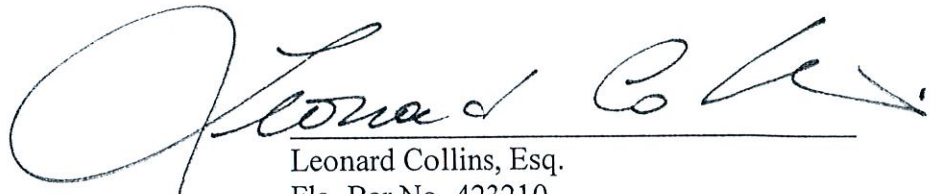
Respectfully submitted,



Leonard M. Collins, Esq.
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BROAD AND CASSEL
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COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

The Petition is being served by hand-delivery for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 Bronough Street, Suite 5000, Tallahassee, FL 32301, with copies served by hand-delivery to the Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 West Madison Street, Tallahassee, Florida 3299-1400, this 15th day of October, 2014.



Leonard Collins, Esq.
Fla. Bar No. 423210