

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2015-039VW  
APPLICATION NO. 2014-008C

SUMMERSET APARTMENTS LIMITED  
PARTNERSHIP

Petitioner

vs.

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

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FINANCE CORPORATION

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

Petitioner, Summerset Apartments Limited Partnership (“Petitioner” or “Applicant”), by and through its undersigned attorney, hereby petitions Florida Housing Finance Corporation (the “Corporation”) for a waiver from Rule 67-48.004(14)(g), Florida Administrative Code (2011), which prohibits changing the “Development Type” designation of a development. This Petition is filed pursuant to Section 120.542, Florida Statutes (2015), and Rule Chapter 28-104, Florida Administrative Code.

In support of this Petition, Petitioner states as follows:

PETITIONER

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

Summerset Apartments Limited Partnership  
c/o Beneficial Development  
3550 S. Tamiami Trail  
Sarasota, Florida 34239

Attention: Donald W. Paxton  
Telephone: (941) 929-1270  
Facsimile: (941) 929-1271  
E-Mail: [dpaxton@beneficialcom.com](mailto:dpaxton@beneficialcom.com)

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

Hollie A. Croft, P.A.  
Broad and Cassel  
390 North Orange Avenue, Suite 1400  
Orlando, Florida 32801  
Telephone: (407) 839-4200  
Facsimile: (407) 425-8377  
E-Mail: [hcroft@broadandcassel.com](mailto:hcroft@broadandcassel.com)

3. Petitioner successfully applied for an allocation of Housing Credits under the Housing Credit Program, pursuant to RFA 2013-001 – Housing Credit Financing for Affordable Housing Developments Located in Medium and Small Counties (Application # 2014-008C) (the “Application”).

4. Equity financing raised from the Housing Credits will be used to construct a 96-unit affordable housing development in Pasco County, Florida to be known as Summerset Apartments (the “Development”), which will provide decent, safe and affordable homes to families earning low and very-low incomes.

5. 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 Pasco 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. (2015).

THE RULE FROM WHICH WAIVER IS SOUGHT

6. Petitioner requests a waiver from Rule 67-48.004(14)(g), F.A.C. (2011) (the “Rule”). Specifically, Petitioner is seeking a waiver from the “Development Type” designation identified by Petitioner in the Application.

7. The Rule 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 in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

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(g) Development Type;

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STATUTES IMPLEMENTED BY THE RULE

8. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act, Section 420.5099, Florida Statutes (the “Statute”), which created the Housing Credit Program.

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR

THE FOLLOWING REASONS:

9. Petitioner requests a waiver from Rule 67-48.004(14)(g), F.A.C. (2011). Petitioner seeks a waiver from the Rule allowing it to change the Development Type listed in the Application from “Garden Apartments” to “Mid-Rise with Elevator (a building comprised of 4 stories)”.

10. Petitioner is requesting a change in Development Type in order to construct Mid-Rise with Elevator (a building comprised of 4 stories), rather than Garden Apartments. It is not

uncommon for development changes to occur after submission of an application to Florida Housing. In this case, during the permitting/final design process for the Development, the design professionals determined that in order to meet all of the necessary elements of the project as a whole, including such factors as cost, features, amenities, accessibility, adaptability and visitability for the Development, a mid-rise/4-story design would be required instead of a garden-style apartment design. By constructing the Development using the mid-rise/4-story design, Petitioner will be able to minimize the costs related to site work, reduce the overall footprint, and better accommodate amenity spaces and residential units within the Development. Petitioner will also be able to better accommodate adaptability, accessibility and visitability within the Development by the addition of two elevators.

11. The Application's scoring and funding would not have been affected had the Applicant selected "Mid-Rise with Elevator (a building comprised of 4 stories)" in the Application.

12. 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.

13. 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 and cost effective structures for the site.

14. 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 an allocation of Housing Credits, which would impair its ability to close on its equity financing, thereby resulting in substantial hardship to Petitioner and the Development.

WAIVER WILL SERVE PURPOSES OF UNDERLYING STATUTE

15. 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 (Chapter 420, Part V, F.S.) was passed to increase the supply of affordable multifamily rental housing. Furthermore, the purpose of the Housing Credit Program is to encourage development of low-income housing in the State. By granting this waiver, and permitting Petitioner to change its Development Type, as requested in this Petition, the Corporation would further the goal of increasing the supply of affordable housing for persons with low and very-low income.

TYPE OF WAIVER

16. The waiver being sought is permanent in nature.

ADDITIONAL INFORMATION

17. 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(14)(g), F.A.C. (2011).

WHEREFORE, Petitioner respectfully requests the following:

- A. Grant the Petition and all relief requested herein;
- B. Waive Rule 67-48.004(14)(g), F.A.C. (2011), allowing Petitioner to change the Development Type listed in the Application from “Garden Apartments” to “Mid-Rise with Elevator (a building comprised of 4 stories)”; and
- C. Grant such further relief as may be deemed appropriate

Respectfully submitted,

/s Leonard M. Collins  
Leonard M. Collins, Esq.  
Florida Bar No. 423210  
Hollie A. Croft, P.A.  
Florida Bar No. 886181  
Broad and Cassel  
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Counsel for Petitioner

CERTIFICATE OF SERVICE

This 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 32399-1400, this 9th day of November, 2015.

/s Leonard M. Collins  
Leonard M. Collins, Esq.  
Fla. Bar No. 423210