

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

In Re: SP BP Apartments, LLC  
(Lake Worth Commons)

FHFC CASE NO. 2015-040 VW  
Application No. 2014-416S

**PETITION FOR WAIVER OF RULE 67-48.004(3)(e) TO CHANGE  
THE SITE OF THE LAKE WORTH COMMONS DEVELOPMENT**

Petitioner SP BP Apartments, LLC, a Florida limited liability company (“Petitioner”), pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code, petitions the Florida Housing Finance Corporation (“the Corporation”) for a waiver of Rule 67-48.004(3)(e), F.A.C. (the “Rule”), to allow a change in the Site for the Lake Worth Commons Development.

In support of this petition, the Petitioner states:

Identification of the Petitioner

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

SP BP Apartments, LLC  
c/o Southport Development, Inc.  
5403 West Gray Street  
Tampa, FL 33609  
Attn: Michael Molinari  
Telephone: (727) 669-3660  
Email: [mmolinari@sphome.com](mailto:mmolinari@sphome.com)

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

Lawrence E. Sellers, Jr.  
Holland & Knight LLP  
315 S. Calhoun Street, Suite 600  
Tallahassee, FL 32301  
Phone: 850-224-7000  
Email: [larry.sellers@hklaw.com](mailto:larry.sellers@hklaw.com)

The Lake Worth Commons Development

3. The Petitioner timely submitted its Application No. 2014-416S for the Lake Worth Commons Development (the "Development") under RFA 2014-111-- SAIL Financing of Affordable Multifamily Housing Developments to be used in connection with Tax-Exempt Bond Financing and Non-Competitive Housing Credits. The Corporation approved an allocation of \$4,666,680 to the Development on December 12, 2014. The Corporation also approved an ELI loan of \$453,000.

4. This allocation of loan proceeds is a critical part of the financing for the construction of Lake Worth Commons, a 120-unit development intended to serve low-income families living in Lake Worth in Palm Beach County, Florida. There is an immediate need for this affordable housing, and Petitioner had planned to commence construction in late 2015.

The Rule For Which Waiver Is Sought

5. Petitioner requests a waiver of Rule 67-48.004(3)(e), F.A.C. (the "Rule"), which provides as follows:

(8) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changes by the Applicant after the applicable submission, unless otherwise proved below: ...

(e) Site for the Development ...

### Statutes Implemented By The Rule

6. The Rule implements, among other sections of the Florida Housing Finance Corporation Act, Sections 420.501, et seq, Florida Statutes, the statutes that establish the State Apartment Incentive Loan (SAIL) Program and the Low-Income Housing Tax Credit Program. *See* Sections 420.508 and 420.5099, F.S. (the "Statute").

### The Specific Action Requested

7. Petitioner seeks a waiver of the Rule to allow it to change the Site of its Development to a location across the street in order to allow the timely construction of the proposed Development. The address of the development site listed in the Application is 3300 Boutwell Road, Lake Worth, Florida; the new site is only approximately 515 feet away, on the north side of 10th Avenue, approximately 250 feet west of the intersection of 10th Avenue and Boutwell Road.

### The Specific Facts that Demonstrate A Substantial Hardship

8. Petitioner learned only after the allocation had been approved that construction at the originally selected site could not commence without obtaining a permit from the Army Corps of Engineers that typically takes many months (or years) to obtain-- if it can be obtained at all. Obtaining this approval (assuming it could be obtained) would result in a substantial delay in (and additional expenses related to) the construction of the needed affordable housing that will be provided by the proposed Lake Worth Commons Development, thereby imposing a substantial legal and economic hardship on Petitioner. Likewise, the inability to obtain this approval would result in substantial legal and economic hardship to Petitioner. In an effort to mitigate this delay and the associated substantial hardship, Petitioner has identified an alternate site across the street (and only approximately 515 feet) from the originally selected site that will allow for the timely construction

of the proposed Development. Accordingly, Petitioner seeks a waiver of the Rule to allow it to change the Site of its Development to this new location.

9. Had this new site (instead of the original site) been identified as the Development Site in Petitioner's Application, it would not have affected the scoring of the Application. As such, granting the requested change in the Site for the Development would not provide Petitioner with an unfair advantage over other applicants.

10. The Corporation has approved similar requests to waive the Rule to change the Site for the Development. *See, e.g., In re: Town Parke LTD*, FHFC Case No. 2011-018VW (final order entered Jan. 27, 2012) (authorizing relocation to a new development site some 2.5 miles from the original location); *In re Pebble Hills Estates Limited Partnership*, FHFC Case No. 2007-039VW (amended final order entered May 2, 2008).

The Requested Waiver Will Serve The Underlying Purpose of The Statute

11. A waiver of the Rule will serve the purpose of the statute that is implemented by the Rule. The stated purpose of the SAIL Program is to provide affordable housing to very-low income persons. See Section 420.5087. Likewise, the Florida Housing Finance Corporation Act (Section 420.501. *et seq.*) was enacted in order to encourage private and public investment in facilities for persons of low-income. The granting of the requested waiver would serve this purpose of increasing the supply of affordable housing by facilitating the development of much needed affordable housing in Palm Beach County.

Petitioner Requests a Permanent Waiver

12. Petitioner requests a permanent waiver.

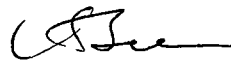
13. Petitioner is available to answer questions and provide additional information.

Action Requested

WHEREFORE, Petitioner respectfully requests that the Corporation:

- A. Grant the Petition and all relief requested herein;
- B. Waive Rule 67-48.004(3)(e), Florida Administrative Code, thereby allowing Petitioner to change the Site of its Development; and
- C. Grant such further relief as may be deemed appropriate.

Respectfully submitted this 10th day of November, 2015.



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*Attorneys for SP BP Apartments, LLP*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of the foregoing Petition for Waiver of Rule 67-48.00(3)(e) to Change the Site of the Lake Worth Commons Development was filed by electronic mail with Kate Fleming, Agency Clerk, e-mail: [kate.flemming@floridahousing.org](mailto:kate.flemming@floridahousing.org); that a true and correct copy was provided by electronic mail to Hugh Brown, General Counsel, e-mail: [hugh.brown@floridahousing.org](mailto:hugh.brown@floridahousing.org) Florida Housing Finance Corporation 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301, and that a true and correct copy was provided to the Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 West Madison Street, Tallahassee, Florida 32399-1400, all on this 10th day of November, 2015.



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Lawrence E. Sellers, Jr.