

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

BLUE PINELLAS, LLC

Petitioner,

v.

FLORIDA HOUSING
FINANCE CORPORATION,

Respondent.

FHFC CASE NO. 2019-081VW
APPLICATION NO. 2019-114C

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

Petitioner, BLUE PINELLAS, LLC, a Florida limited liability corporation (“Blue Pinellas”) hereby petitions, FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”) and requests a waiver of Florida Housing’s Rule 67-48.004(3)(g), Florida Administrative Code (F.A.C.) which prohibits changes to the “Development Type” for a proposed Development.

In support of this Petition, Blue Pinellas provides:

1. The address, telephone number, facsimile numbers, and e-mail address of Blue Pinellas is:

Shawn Wilson
5300 W. Cypress Street, Suite 200
Tampa, FL 33607
Telephone: (813) 384-4825
Email: swilson@blueskycommunities.com

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

Michael P. Donaldson, Esq.
Carlton Fields
Post Office Drawer 190
Tallahassee, FL 32302-0190
Telephone: 850-224-1585
Facsimile: 850-222-0398
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THE DEVELOPMENT

3. Blue Pinellas timely submitted its Application in response to RFA 2018-112 requesting \$1,375,000 in Tax Credits, to supplement the construction of an affordable housing complex in Pinellas County, Florida. Blue Pinellas was awarded its requested Funding on February 1, 2019. The funds generated from the Tax Credits will be used to supplement the development of 65 affordable apartment units in a complex named Avery Commons in Pinellas County Florida (“Development”).

4. This requested rule waiver will not adversely affect the Development. However, a denial of this Petition (a) will result in substantial economic hardship to Blue Pinellas, (b) could deprive Pinellas County, Florida of essential affordable low-income housing units in a timely manner, and (c) would violate the principals of fairness. See Section 120.542.(2), Florida Statutes (F.S.)

THE RULE FROM WHICH WAIVER IS SOUGHT

5. Blue Pinellas, requests a waiver from Rule 67-48.004(3)(g), F.A.C. Specifically, Blue Pinellas, is seeking a waiver from the "Development Type" designation identified by Blue Pinellas, in its Application.

Specifically 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

6. The Rule is implementing sections of the Florida Housing Finance Corporation Act and specifically, the Tax Credit Allocation process.

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

7. Blue Pinellas seeks a waiver from this Rule to allow it to change the Development Type listed in its Application from "Mid-rise 5 to 6 Stories" to "Mid-rise 4 Stories."

8. Blue Pinellas is requesting this change in Development Type in order to construct a Mid-rise 4 story Development, rather than Mid-rise 5 to 6 story Development in order to comply more fully with City of St. Petersburg land development regulations including parking requirements.

9. As it relates to parking Blue Pinellas' original intent was to construct one, 5-story building on one scattered site, and detached structured above ground parking on the other scattered site (directly across a small street). City staff subsequently informed Blue Pinellas that parking and dwelling units must be on a contiguous site. Upon laying out the two scattered sites with parking for each it became apparent that a 5-story building with associated parking was not a viable option because there was not sufficient space to accommodate the required parking. However, it was determined that two 4-story buildings could accommodate the required parking. This allows for the units and parking to be evenly dispersed across the scattered sites while also

satisfying City requirements.

10. The change in Development Type will not affect the timing of final site plan approval. Further the change in Development Type will not result in any Total Development Cost (“TDC”) implications given that the RFA TDC limitation for Mid-Rise 4 story Development is the same as that for Mid-Rise 5 or 6 story Development. Likewise the unit mix will not change and the affordable unit count will remain unchanged.

11. The Application's scoring, ranking, and funding would not have been affected had Blue Pinellas selected Mid-rise 4 story in its initial Application. While the Leveraging factor will effectively increase, this Development will still remain in Leveraging Group A. The current leveraging factor is \$146,154. If this Rule Waiver is granted, the Leveraging factor will be \$155,288. The A/B Cutoff line in this RFA is \$198,689. Thus, Avery Commons will remain in Group A.

12. Florida Housing has the authority, pursuant to Section 120.542(1), F.S., to provide relief from its rules if strict application of those rules will lead to unreasonable, unfair or unintended results in particular instances. Florida Housing has previously granted similar waiver requests.

13. This Development will provide much needed multi-family low-income housing for those persons residing in Hillsborough County. Time is of the essence for the successful completion of this Development.

14. Unless the Blue Pinellas request is granted, strict application of the Rule would result in a substantial hardship to Blue Pinellas. Moreover, unless the Rule is waived to allow the requested change, Blue Pinellas may not be able to ultimately construct the Development.

WAIVER WILL SERVE UNDERLYING PURPOSE OF THE STATUTE

15. Blue Pinellas 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, F.S. *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 Tax Credit, SAIL and ELI Programs was to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this waiver and permitting Blue Pinellas to change its Development Type, as requested in this Petition, Florida Housing would recognize the goal of increasing the supply of affordable housing through private investment in persons of low-income.

TYPE OF WAIVER

16. The waiver being sought is permanent in nature.

ACTION REQUESTED

17. Should Florida Housing require additional information, Blue Pinellas 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.

WHEREFORE, Blue Pinellas respectfully requests the following:

- A. Grant the Petition and all relief requested herein;
- B. Waive Rule 67-48.004(3)(g), F.A.C., allowing Blue Pinellas, to change the Development Type listed in the Application from "Mid-rise 5 or 6 Stories" to "Mid-rise 4 Stories;" and
- C. Grant such further relief as may be deemed appropriate.

Respectfully submitted this 4th day of October 2019.

/s/ Michael P. Donaldson

MICHAEL P. DONALDSON

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Attorney for Blue Pinellas, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the Petition for Waiver is being served by Hand-Delivery for filing with Corporation Agency Clerk and Hugh Brown, General Counsel for the Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, with copies served via Hand-Delivery on the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, FL 32399 this 4th day of October 2019.

/s/ Michael P. Donaldson _____

Michael P. Donaldson