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STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FINANCE CORPORATION

ROSEMARY VILLAGE APARTMENTS, LLLP,

Petitioner,

vs.

CASE NO.: 2019-074VW

FLORIDA HOUSING FINANCE
CORPORATION

APPLICATION NO. 2018-344CS

Respondent.

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

Rosemary Village Apartments, LLLP (the "Petitioner") hereby petitions 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).

In support of its petition, the Petitioner states:

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

Rosemary Village Apartments, LLLP
c/o Carrfour Supportive Housing, Inc.
1398 SW 1st Street, 12th Floor
Miami, FL 33135
(305) 371-8300
sberman@carrfour.org

2. The contact person, along with contact information and relationship, for the Petitioner's Application – Housing Credit (HC) Program (the "Application") is:

Stephanie Berman
Carrfour Supportive Housing, Inc.
1398 SW 1st Street, 12th Floor
Miami, FL 33135
(305) 371-8300
sberman@carrfour.org

Executive Director-Carrfour Supportive Housing, Inc.
(Sole Member of Petitioner's General Partner)

3. For purposes of this Petition, the address, telephone number and facsimile number of the Petitioner's attorney are:

Gary J. Cohen, Esq.
Shutts & Bowen LLP
200 S. Biscayne Blvd.
Suite 4100
Miami, FL 33131
(305) 347-7308
(305) 347-7808 (Fax)
gcohen@shutts.com

4. Petitioner timely submitted its Application in RFA 2018-103 (Application 2018-344CS) for the development named Heritage Park at Crane Creek (the "Development"). Florida Housing has preliminarily awarded an allocation of federal low-income housing credits ("Credits") and SAIL funds to Petitioner and invited Petitioner into credit underwriting.

5. The SAIL funds and equity raised from the Credits will be used for the construction of the Development, a new 108-unit apartment development intended to serve homeless households and persons with special needs in Melbourne, Brevard 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 the City of Melbourne and Brevard County of essential, affordable housing units for elderly persons, and (c) would violate principles of fairness. Section 120.542(2), Fla. Stat. (2018).

7. The waivers being sought are permanent in nature.

THE RULES FROM WHICH WAIVER IS SOUGHT

8. Petitioner requests a waiver from Rule 67-48.004(3)(g), Florida Administrative Code (2017). Specifically, Petitioner is seeking a waiver from the "Development Type" designation identified by Petitioner in its original housing credit application.

Rule 67-48.004(3) provides, in relevant part, as follows:

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

(g) Development Type

STATUTES IMPLEMENTED BY THE RULES

9. The Rules are implementing, among other sections of the Florida Housing Finance Corporation Act, the statute that created the HC Program. See Section 420.5099, Florida Statutes.

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

10. Petitioner requests a waiver from Rule 67-48.004(3)(g), Florida Administrative Code (2017). Petitioner is seeking a waiver from the Rules allowing it to change the Development Type listed in the Application from “Garden Apartments” to “Mid-Rise, 4 Stories”.

11. Petitioner is requesting a change in Development Type in order to construct a 4 story building rather than a garden apartment development. Petitioner previously requested an increase in the Development’s number of units from 80 to 108 (see Case No. 2019-023VW); as a result of the previously approved increase in the number of units, it was found that a change in development type to Mid-Rise, 4 Story would decrease the construction cost per square foot and construction cost per unit, as compared to a garden apartment development type.

12. The Application’s scoring and funding would not have been affected had the Applicant selected the “Mid-Rise, 4 Stories” Development Type when it submitted its original Application.

13. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes to provide relief from its rules if strict application of the rules will lead to unreasonable, unfair and unintended results in particular instances. Petitioner has begun preparing plans and specifications for the Development, and has entered into credit underwriting. In order to avoid substantial delay which would result from a later determination to change the Development Type, approving such change in Development Type at this point will facilitate a more orderly credit underwriting process, and provide a quicker route to closing of debt and equity financing and commencement of construction of the Development. This Development will provide much needed homeless housing to Melbourne and Brevard County. Time is of the essence for the successful completion of this Development. Unless the Petitioner’s request is granted, strict application of the Rules 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 Credits, thereby resulting in substantial hardship to Petitioner.

WAIVER WILL SERVE UNDERLYING PURPOSE OF THE STATUTE

14. Petitioner believes that a waiver of these Rules will serve the purposes 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 persons of low income. The purpose of the creation of the SAIL Program and the Housing Tax Credit Program was 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. In addition, the Corporation's goal of providing homeless housing will be fostered by granting the requested waiver.

TYPE OF WAIVER

15. The waiver being sought as permitted in nature.

ACTION REQUESTED

16. Petitioner requests that the Corporation grant Petitioner a waiver from Rule 67-48.004(3)(g), Florida Administrative Code (2017), allowing it to change the Development Type listed in the application from "Garden Apartment" to "Mid-Rise 4 Stories".

Respectfully submitted,

SHUTTS & BOWEN LLP
Counsel for Rosemary Village Apartments, LLLP
200 S. Biscayne Blvd.
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Miami, Florida 33131
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By: 
Gary J. Cohen

CERTIFICATE OF SERVICE

The Petition is being served by overnight delivery for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 West Madison Street, Tallahassee, Florida 32399-1400, this 30th day of August, 2019.



Gary J. Cohen