

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. _____
Application No. 2006-060C

VILLA PATRICIA PHASE II, LLC,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

**PETITION FOR WAIVER OF RULE 67-48.004(14)(e) TO CHANGE
THE SITE OF THE VILLA PATRICIA II DEVELOPMENT**

Petitioner Villa Patricia Phase II, LLC, a Florida limited liability company ("Villa Patricia II"), petitions Respondent Florida Housing Finance Corporation ("Florida Housing") for a waiver of restrictions on changing a development's site. *See* Rule 67-48.004(14)(e), F.A.C. (2006) (the "Rule").

1. Pursuant to Section 120.542, Fla. Stat. (2006), and Rules 28-104.001 through 28-104.006, F.A.C. (2006), Villa Patricia II requests a waiver of the Rule to allow for a change of its development site.

A. THE PETITIONER

2. The name, address, and telephone and facsimile numbers for Villa Patricia II and its qualified representative are:

Villa Patricia Phase II, LLC
c/o MM Villa Patricia Phase II, LLC
Attention: Liz Wong
2937 S.W. 27th Avenue, Suite 200
Miami, Florida 33133
Telephone: 305-476-8118
Facsimile: 305-476-1557

3. The name, address, telephone and facsimile numbers, and e-mail addresses of Villa Patricia II's attorneys, for purposes of this Petition, are:

Brian J. McDonough, Esquire
STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
Telephone: 305-789-3200
Facsimile: 305-789-3395
E-mail: bmcdonough@swmwas.com

Mimi L. Sall, Esquire
STEARNS WEAVER MILLER
WEISSLER ALHADEFF &
SITTERSON, P.A.
200 East Las Olas Blvd., Suite 2100
Fort Lauderdale, Florida 33301
Telephone: 954-462-9575
Facsimile: 954-462-9524
E-mail: msall@swmwas.com

4. Pursuant to the 2006 Combined Universal Cycle, Villa Patricia II submitted its 2006 Universal Application for housing tax credits ("Housing Credits") under the Low Income Housing Tax Credit program.¹ See Application No. 2006-060C.

5. Florida Housing has issued its Preliminary Allocation of Housing Credits reserved in the amount of \$2.435 million, and it is anticipated that there will be a Final Housing Credit Allocation granted to Villa Patricia II in accordance with Florida Housing's final allocation procedures.

6. Equity raised from Housing Credits will be used for the development of Villa Patricia II, a new 125-unit apartment development (the "Development") intended to serve very-low and low-income elderly individuals in Miami, Miami-Dade County, Florida.

7. The requested Rule waiver will not adversely affect the Development. However, a denial of this Petition (a) would result in substantial economic hardship to Villa Patricia II; (b) could deprive Miami-Dade County of essential, affordable housing units in a timely manner; and (c) would violate principles of fairness. § 120.542(2), Fla. Stat. (2006).

¹The Universal Application Package has been adopted and incorporated into Chapter 67-48 by Rule 67-48.004(1)(a), F.A.C. (2006).

8. The waiver being sought is permanent in nature.

B. Rule from Which Relief is Requested and Statute Implemented by the Rule

9. Villa Patricia II requests a waiver of Rule 67-48.004(14)(e). As applied to applications for Housing Credits, the Rule identifies certain non-curable matters and includes the following:

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 ... Those items are as follows:

(e) Site for the Development;

10. The applicable Rule for which the waiver is requested is implementing Florida Housing Finance Corporation Act's statute that created the Housing Credits Program. § 420.5099, Fla. Stat. (2006).¹ The Act designates Florida Housing as the State of Florida's housing credit agency within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits. §§ 420.5099(1) and (2), Fla. Stat. (2006). Accordingly, the Rule that is the subject of Villa Patricia II's waiver request is implementing, among other sections of the Act, the statutory authorization for Florida Housing's establishment of Allocation Procedures for the HC Program. §§ 420.5099(1) and (2), Fla. Stat. (2006).

¹The Florida Housing Finance Corporation Act (the "Act") is set forth in Sections 420.501 through 420.516 of the Florida Statutes. *See also* Rule 67-40.020(1), F.A.C. (2006).

C. Justification for Villa Patricia II's Request to Change Its Development's Site

11. Villa Patricia II's Development is the second phase of a three-phase project of affordable housing units in Miami-Dade County, Florida.²

12. When Villa Patricia II submitted its Universal Application, it intended that the entire project would consist on two phases. However, it has been determined that a three-phase project could be developed on the property.

13. The purpose of this Petition is to change only the Development's legal description by, in essence, separating and carving out its legal description from the entire three-phase project's description, and to meet City of Miami site plan requirements. The location of the Development will not be changed, and its Tie-Breaker Measurement Point ("TBMP"), identified in Exhibit 25 to Villa Patricia II's Universal Application, remains within the Development's modified legal description. *See* Amended Surveyor Certification and revised legal description attached hereto as Exhibits A and B, respectively.

14. Additionally, because the Development's TBMP remains the same, the 7.5 Proximity Tie-Breaker Points awarded to Villa Patricia II would not have changed.

² Simultaneously with the filing of this Petition, BHG-79th St., LLC, and Villa Patricia Phase III, LLC, the applicants for the first and third phases of the project, are filing their Petitions for Rule Waivers to change the sites of the Villa Patricia I and Villa Patricia III Developments. *See* Application Nos. 2005-053C and 2006-348CHR.

15. The requested change to the Development's legal description would not have impacted the scoring of Villa Patricia II's Universal Application, and would not have provided Villa Patricia II with an unfair advantage over other applicants.

16. The requested waiver will not prejudice the Development or the affordable housing market to be served by the Development, and may result in a savings of construction and development costs.

D. Conclusion

17. The requested waiver will not adversely impact the Development or Florida Housing, and will ensure that 125 affordable housing units will be available in Miami-Dade County, Florida.

18. Controlling statutes and Florida Housing's Rules are designed to allow the flexibility necessary to provide relief for changed circumstances that arise through no fault of an applicant. Florida Housing generally approves such waivers when it would not affect the scoring of an application or otherwise allow an applicant to obtain a possible unfair competitive advantage. § 420.5099(2), Fla. Stat. (2006).

19. The requested waiver serves the purposes of Section 420.5099, Florida Statutes (2006), and the Act, as a whole, because one of their primary goals is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households by ensuring:

the maximum use of available tax credits in order to encourage development of low-income housing in the state, taking into consideration the timeliness of the application, the location of the proposed housing project, the relative need in the area for low-income housing and the availability of such housing, the economic feasibility of the project, and the ability of the applicant to proceed to completion of the project in the calendar year for which the credit is sought.

§ 420.5099(2), Fla. Stat. (2006).

20. Finally, by granting the requested waiver, Florida Housing would recognize the economic realities and principles of fundamental fairness in the development of affordable rental housing. This recognition would promote participation by experienced developer entities in meeting the purpose of the Act through new construction in an economical and efficient manner.

21. Should Florida Housing require additional information, Villa Patricia II is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Rule 67-48.004(14)(e) to Change the Site of the Villa Patricia II Development.

WHEREFORE, Petitioner Villa Patricia Phase II, LLC, respectfully requests that the Florida Housing Finance Corporation grant the Petition and provide the following relief:

- A. Waive the prohibition on changing a development's site location after submission of the Universal Application;
- B. Allow the Villa Patricia II Development to be developed on the site identified in Exhibit B to this Petition; and
- C. Award such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.
Counsel for Villa Patricia Phase II, LLC
200 East Las Olas Boulevard, Suite 2100
Fort Lauderdale, Florida 33301
Tel: (954) 462-9575
Fax: (954) 462-9567
E-mail: msall@swmwas.com

By 
MIMI L. SALL

CERTIFICATE OF SERVICE

The original Petition is being served by overnight delivery, with a copy served by electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300, this 25th day of September, 2007.

By:  _____
Mimi L. Sall

2007 UNIVERSAL CYCLE - SERVEROR CERTIFICATION

Name of Development: Villa Patricia II

Development Location: 7831 NE 2nd Ave, Miami, FL 33138

(See instructions, provide the address assigned by the United States Postal Service, including the address number, street name and city, or 25th address has not yet been assigned, provide the street name, street assigned intersection address)

* If the Development consists of Special Use Development Location and a Development site where the Site-Builder Measurement Plot is located.

The undersigned Florida Licensed Surveyor certifies that the method used to determine the following latitude and longitude coordinates conforms to Rule 61B17-6, F.A.C.:

Location of element Public, Bus Stop or Marker	Latitude		Longitude	
	North	West	North	West
Public Stop	N 25 Degrees	W 80 Degrees	80.1111	80.1111
Corner of Street Public, Bus Stop or Marker	N 25 Degrees	W 80 Degrees	80.1111	80.1111

State the Site-Builder Measurement Point. The Site-Builder Measurement Point is a single point selected by the Applicant on the proposed Development site in their local north. 100 feet of a rectangular building existing or to be constructed is part of the proposed Development. For all Development with corner of Section Street, determine single point on one of the Section Street which comprise the Development. For all Development with 100 feet of a rectangular building existing or to be constructed as part of the proposed Development, the Site-Builder Measurement Point is the corner of the building with the same north-south orientation as the Section Street. The Site-Builder Measurement Point is the corner of the building with the same north-south orientation as the Section Street.

If the Development consists of Special Use, it is part of the boundary of each site located within 1/2 mile of the Site-Builder Measurement Point. Yes or No (Does element exist? If Development consists of Section Street.)

Section 1718.01(1)(a) Florida Statutes requires a Developer to provide a map of the Development site showing the location of the Development site and the location of the Section Street. The map must show the location of the Development site and the location of the Section Street. The map must also show the location of the Development site and the location of the Section Street.

Section 1718.01(1)(b) Florida Statutes requires a Developer to provide a map of the Development site showing the location of the Development site and the location of the Section Street. The map must show the location of the Development site and the location of the Section Street. The map must also show the location of the Development site and the location of the Section Street.

Name	Address	City	State	Latitude		Longitude	
				North	West	North	West
Gregory Street	Price Supermarket	Miami	FL	N 25	W 80	80.1111	80.1111
Address	8360 Riverside Blvd	Miami	FL	N 25	W 80	80.1111	80.1111
Public Stop				N 25	W 80	80.1111	80.1111
Name				N 25	W 80	80.1111	80.1111
Address				N 25	W 80	80.1111	80.1111
City				N 25	W 80	80.1111	80.1111
State				N 25	W 80	80.1111	80.1111
Name				N 25	W 80	80.1111	80.1111
Address				N 25	W 80	80.1111	80.1111
City				N 25	W 80	80.1111	80.1111
State				N 25	W 80	80.1111	80.1111

If the Corporation does not wish to file any false statements under this certification, the Corporation will forward a copy to the State of Florida Department of Business and Professional Regulation for investigation.

CERTIFICATION - I, the undersigned, certify that the foregoing statements are true and correct.

Signature: [Signature] Date: 09/24/2007
(Print Name)

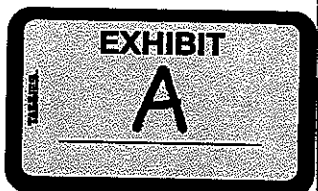
Name of Signer: Kenneth C. Jackson
 Title or Type Name or Signature: Vice President

Print or Type Title of Signatory: _____

Sea Diversified, Inc.
 12900 NW 17th Ave, Suite 3
 Address: _____
 4549
 Florida License Number: Dolby Beach, FL 334452
 561-243-4920

Telephone Number (including area code): _____

This certification may not be signed by the Applicant, or by any related parties of the Applicant, or by any third party or third parties of the Applicant. If the certification is being prepared by a third party, the Applicant will not receive a permit. The Applicant will not receive a permit until the certification is signed by the Applicant, or by any related parties of the Applicant, or by any third party or third parties of the Applicant. The Applicant will not receive a permit until the certification is signed by the Applicant, or by any related parties of the Applicant, or by any third party or third parties of the Applicant.



DESCRIPTION

Villa Patricia Phase 2

A parcel of land, being a portion of Tract "A", **VILLA PATRICIA**, according to the Plat thereof, as recorded in Plat Book 166, page 61 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the southeast corner of said Tract "A" as shown on said Plat; thence along the southerly and westerly lines of said Tract "A", the following four (4) courses: thence South 89°53'38" West, 16.35 feet to the **POINT OF BEGINNING**; thence continue South 89°53'38" West, 289.40 feet to a point on the arc of a tangent curve; thence northwesterly along the arc of said curve being concave to the northeast, having a radius of 25.00 feet, a central angle of 90°07'30", an arc distance of 39.32 feet; thence tangent to said curve, North 00°01'08" East, 104.92 feet; thence North 89°53'38" East, 116.00 feet; thence South 00°01'08" West, 96.47 feet; thence North 89°53'38" East, 198.38 feet; thence South 00°06'22" East, 33.50 feet to the Point of Beginning.

Said lands lying and situate in Miami-Dade County, Florida, and containing 0.4956 acres (21,588 square feet) more or less, and subject to all easements and Rights-of-Way of record.

