

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

OAKS AT SHANNON'S CROSSING
LIMITED PARTNERSHIP, a Florida
limited partnership

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

APPLICATION NO. 2005-124C
CASE NO. 2005-0504W

**PETITION FOR WAIVER FROM RULES
67-48.004(1)(a), 67-48.004(14) AND 67-48.004(15)**

OAKS AT SHANNON'S CROSSING LIMITED PARTNERSHIP, a Florida limited partnership ("Petitioner"), by and through its undersigned counsel, hereby petitions the Florida Housing Finance Corporation (the "Corporation") for a waiver from Rules 67-48.004(1)(a), 67-48.004(14) and (15), Florida Administrative Code (2005). This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code.

THE PETITIONER

1. The address, telephone number and facsimile number of the Petitioner is:

Oaks at Shannon's Crossing Limited Partnership
c/o RLI Beneficial Holdings 2005, LLC
Donald W. Paxton
3131 Clark Road, Suite 203
Sarasota, Florida 34231
(941)-929-1270
(941)-929-1271 Facsimile

2. The address, telephone number and facsimile number of Petitioner's counsel is:

Maureen McCarthy Daughton
Broad and Cassel
215 S. Monroe Street, Suite 400
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(850)681-6810
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3. Petitioner successfully applied for Housing Credits in the 2005 Universal Application Cycle – Multifamily Mortgage Revenue Bonds (MMRB) Program; State Apartment Incentive Loan (SAIL) Program; Home Investment Partnership (HOME) Rental Program and Housing Credit (HC) Program (the “Universal Cycle”) that the Corporation administers pursuant to Chapter 67-48, Florida Administrative Code. The Petitioner's application number is 2005-124C (the “Application”). Petitioner applied for Housing Credits in connection with a multifamily housing project to be located in Okeechobee County, Florida (the “Development”), to be known as Oaks at Shannon's Crossing Townhomes (the “Development”). The Development will have 100 units. The Application for Housing Credits was approved for funding at the August 25, 2005 Board meeting.

THE RULES FROM WHICH WAIVER IS SOUGHT

4. Petitioner requests a waiver from a provision of the Universal Application Instructions which are incorporated into Chapter 67-48, Florida Administrative Code by Rule 67-48.004(1)(a), 67-48.004(14) and 67-48.004(15), Florida Administrative Code. More specifically, Petitioner is seeking a waiver from sections of what is designated as the “Application and Selection Procedures for Development”, of Rule 67-48.004.

5. Rule 67-48.004(1)(a) provides:

(a) The Universal Application Package or UA1016 (Rev. 2-05) consists of the forms and instructions, obtained from the Corporation at 227 North Bronough Street, STE 5000, Tallahassee,

FI 32301-1329, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HC, or SAIL and HC program(s). The Universal Application Package is adopted and incorporated herein by reference, effective February 7, 2005.

The following provisions of the Universal Application Instruction are applicable to this

Petition:

Part II. Applicant and Development Team

A.2a(1) If applying for the HC, the Applicant must be a limited partnership...The Applicant Entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.

* * *

B. Development Team

1. The identity of the Developer(s) listed in this Application may not change until the construction or Rehabilitation/Substantial Rehabilitation of the Development is complete.

6. Rule 67-48.004(14) provides:

(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:

(b) Identity of each Developer, including each co-Developers;

* * *

7. Rule 67-48.004(15) provides:

(15) A Development will be withdrawn from funding and any outstanding commitments for funds or HC will be rescinded if at any time the Board determines that the Applicant's Development or Development Team is no longer the Development or Development Team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

STATUTES IMPLEMENTED BY THE RULES

8. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act,¹ the statute that created the State Housing Tax Credit Program. See §§420.5099 and 420.5093, Florida Statutes.

**PETITIONER REQUESTS A WAIVER FROM
THE RULES FOR THE FOLLOWING REASONS**

9. Petitioner requests a waiver of Rules 67-48.004(1)(a), 67-48.004(14) and 67-48.004(15), restricting the ability to change the Developer prior to the completion of construction of the Development and restricting the ability to make a material change to the General Partner of the Applicant prior to the issuance of the Final Housing Credit Allocation. Petitioner is seeking the waiver so that it may change the sole member of the General Partner, RLI Beneficial Holdings 2005, LLC (the "For-Profit LLC") to a non-profit entity and correspondingly add that non-profit entity as a Co-Developer.

10. The General Partner of the Petitioner is Beneficial Oaks at Shannon's Crossing, LLC, a Florida limited liability company. The sole member of the General Partner is RLI Beneficial Holdings 2005, LLC, a Florida limited liability company (the "For-Profit LLC").

¹ The Florida Housing Finance Corporation Act is set forth in Sections 420.501 through 420.516 of the Florida Statutes.

11. Since the approval of the application for tax credits, Petitioner has been approved for a conditional allocation of funds under the Housing Act of 1949, Section 514 Rules (“RD 514”) and the Federal Home Loan Bank in exchange for committing to rural development. However, a project funded with RD 514 and Low Income Housing Tax Credits must be controlled solely by a non-profit corporation. As such, in order to meet the RD 514 rural development funding requirements, we need to replace the For-Profit LLC with Shannon Crossings, LLC, a Florida limited liability company, which is wholly owned by Everglades Community Association, Incorporated, a Florida non-profit corporation (the “Non-Profit LLC”). This entity is a 501(c)(3) which operates under the direction of Steve Kirk.

12. The substitution of the Non-Profit LLC in the place of the For-Profit General Partner will allow the Petitioner to target farm worker/rural housing by the leveraging of approximately \$3,000,000 in Federal funds, approximately \$500,000 in Federal Home Loan Bank Funds, as well as obtaining a project-based rental assistance agreement for 90% of the projected units. This project-based rental assistance will ensure the rents and utilities of prospective tenants do not exceed 30% of their adjusted median income and would enable Oaks at Shannon’s Crossing to be more affordable to tenants at all income levels than typical LIHTC-financed projects. In exchange for this assistance, a minimum of 40 units will be set aside for farm worker housing.

13. This change will not adversely impact the Development because the Developer, RLI Beneficial Development 5 LLC continues to have the requisite expertise and experience to successfully develop and complete the Development. Moreover the addition of the Non-Profit LLC as a Co-Developer only adds to the total development experience of the Development

Team. Additionally, it allows for the Petitioner to provide farm worker housing units, which are greatly needed.

14. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes and Rule Chapter 28-104, F.A.C. to grant waivers to its rule requirements when strict application of such rules would lead to unreasonable, unfair and unintended consequences in particular instances. Waivers shall be granted when the person subject to the rule demonstrates that the application of the rule would (1) create a substantial hardship or violate principals of fairness, and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. Section 120.542 (2), Florida statutes. Unless the rule is waived to allow the proposed change, Petitioner will not be eligible to receive the allocation of funds under the Housing Act of 1949, section 514 Rules, to provide for farmworker/rural housing.

WAIVER WILL SERVE THE UNDERLYING PURPOSE OF THE STATUTE

15. 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 creation of the Housing Tax Credit Program was to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this Waiver, the Corporation would recognize this goal.

TYPE OF WAIVER

16. The waiver being sought is permanent in nature.

17. Should the Corporation have questions or require any additional information, Petitioner is available to provide any additional information necessary for consideration of the Petition.

ACTION REQUESTED

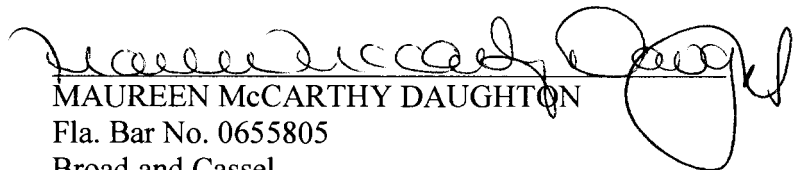
18. Petitioner requests the following:

That the Corporation grant the Petitioner a waiver from the cited provision of the Universal Application Instructions which is incorporated into Chapter 67-48 F.A.C., by Rule 67-48.004(1)(a) and Rules 67-48.004(14) and 67-48.004(15) such that the Corporation allows the requested change to the General Partner and the corresponding addition of the Non-Profit LLC as a Co-Developer.

19. This waiver would be permanent as to the Petitioner.

20. A copy of the Petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, FL 32399-1300.

Respectfully submitted this 4 day of November, 2005.



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