

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

CASA SAN JUAN BOSCO, INC.

Petitioner,

v.

FLORIDA HOUSING FINANCE CORPORATION

Respondent.

FHFC Case No. 2006-029UW

RFP Number 2004-11

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FLORIDA HOUSING
FINANCE CORPORATION

PETITION FOR WAIVER FROM RULE 67-48.004(14)(m)

Petitioner, Casa San Juan Bosco, Inc. ("Petitioner"), by and through its undersigned counsel hereby petitions the Florida Housing Finance Corporation (the "Corporation") for a waiver from Rule 67-48.004(14)(m), Florida Administrative Code (2005). This petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code.

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

Casa San Juan Bosco, Inc.
c/o Catholic Charities Housing
Diocese of Venice, Inc.
420 Beach Road No. 401,
Sarasota, Florida 34242-1963
Telephone number 941/928-2386
Facsimile number is 941/349-8185.

2. For purposes of this proceeding, notices and pleadings directed to Petitioner should be sent to undersigned counsel for Petitioner as follows:

Michael G. Maida, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
215 S. Monroe Street, Ste. 420
Tallahassee, Florida 32301
(850) 681-6788 (telephone)
(850) 681-6515 (telecopier)

3. The name and address of the agency from whom a waiver is sought:

Florida Housing Finance Corporation (“FHFC” or the “Corporation”)
227 N. Bronough Street
City Centre Building, Room 5000
Tallahassee, Florida 32399
4. On or about October 22, 2004 the Corporation published Request for Proposal #2004-11 (“RFP”), which, as reflected in the title, was designed to assist in “The Development and Rehabilitation of Farmworker Housing.” As noted in the RFP’s introductory paragraph, the Corporation “has determined that there is a need in Florida for farmworker housing and is seeking to most effectively utilize the SAIL program funds that are set-aside for this purpose.” Accordingly, RFP loans were being funded through the State Apartment Incentive Loan (SAIL) Program. The SAIL program is administered by the Corporation pursuant to Sections 420.507 and 420.5087, Florida Statutes. In addition, any proposal submitted in response to RFP #200-11, was further subject to some of the provisions contained in Rule 67-48, Florida Administrative Code which involves the allocation of SAIL funds.
5. On or about January 5, 2005 Petitioner submitted its proposal seeking an allocation of funding pursuant to the RFP. Petitioner applied for funds to assist in financing the development of a 44-unit farmworker housing project in DeSoto County, Florida. Pursuant to the RFP, the maximum request amount could not exceed two million dollars. At its March 4, 2005 meeting, the Corporation’s Board approved Petitioner’s proposal. To this end, Petitioner obtained an allocation of funding from 2005 SAIL funds in the amount of four million dollars.

RULE FROM WHICH WAIVER IS SOUGHT

6. Petitioner requests a waiver from Rule 67-48.004(14)(m), Florida Administrative Code. More specifically, Petitioner is seeking a waiver which prohibits an applicant from changing its funding request.
7. Rule 67-48.004(14)(m) provides as follows: Notwithstanding any other provision of these rules, there are certain items that must be included in the [Proposal] and cannot be revised, corrected or supplemented after the [Proposal] Deadline . . . Any attempted changes to these items will not be accepted. Those items are as follows: . . . (m) Funding Request . . . (the "Rule").

STATUTES IMPLEMENTED BY THE RULES

8. The above cited Rule is implementing, among other sections of the Florida Housing Finance Corporation Act¹, the statute that created the SAIL program. (See Sections 420.507 and 420.5087, Florida Statutes).

PETITIONER REQUESTS A WAIVER FROM THE RULE FOR THE FOLLOWING REASONS

9. Petitioner requests a waiver of Rule 67-48.004(14)(m) which restricts its ability to request additional funding.
10. As previously noted, the RFP limited applicants to an allocation of SAIL funds in an amount not to exceed two million dollars. During the 2006 Universal Application Cycle, the Corporation permitted developers to increase their request for SAIL funds through a program known as "End-of-the-Line-SAIL," which provided as follows:

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

A proposed Development that was successful in receiving SAIL funding for the first time in the 2005 Universal Application cycle may receive additional SAIL funding for the same Development. The combined total of the 2005 request amount and the 2006 End-of-the-Line SAIL request amount cannot exceed the maximum request amount for the county group/designation stated on the SAIL request amount chart at Part V.A.2. of the 2006 Universal Application Instructions.

(See page 93 of the 2006 Universal Application Instruction). As previously noted, Petitioner's development is located in DeSoto County, Florida. The 2006 Universal Application Instructions allows developments located in DeSoto County, Florida to obtain SAIL funding in an amount not to exceed four million dollars. (See SAIL request amount chart located at Part V.A.2 of the Universal Application Instructions). The End-of-the-Line-SAIL funding program permits developers to obtain additional SAIL funds, provided that the initial allocation of SAIL funds occurred through the 2005 Universal Application Cycle. No provision was made for those developments whose initial allocation of SAIL funds was obtained through an RFP.

11. The funds are needed to assist in paying for impact fees that DeSoto, County began assessing effective May 1, 2006. The funds will also be used to assist in paying for unanticipated costs associated with supplying water and waste water to the development. These costs and fees total more than two million dollars. As a result, the development will suffer a substantial hardship if it cannot obtain funding to help defray these costs.
12. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes, to provide relief from its rules, if strict application of its rules will lead to unreasonable, unfair and unintended consequences in particular instances. Unless the Rule is waived to allow an increase in funding, certain unreasonable, and unfair and

unintended consequences will result. Specifically, Petitioner will be precluded from obtaining additional SAIL funding for its development when other developers who obtained an allocation of SAIL funds in 2005 were afforded the opportunity to obtain additional funding from the 2006 Universal Application Cycle.

**WAVIER WILL SERVE THE UNDERLYING
PURPOSE OF THE STATUTE**

13. Petitioner believes that waiver of the above cited Rule will serve the purpose 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 SAIL program was to stimulate private sector initiatives to increase the supply of affordable housing. By granting this waiver for additional funding through the SAIL program, the Corporation would recognize the goal of increasing the supply of affordable housing through private investment and providing housing for persons of low income.

TYPE OF WAIVER

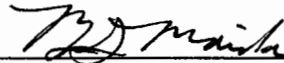
14. The waiver being sought is permanent in nature.
15. Should the Corporation have questions or require any additional information, Petitioner is available to provide any additional information necessary for consideration of the petition.

ACTION REQUESTED

16. Petitioner is requesting that the Corporation grant Petitioner a waiver from Rule 67-48.004(14)(m) and allow Petitioner to increase its funding request from two million dollars to four million dollars.

17. This waiver would be permanent as to Petitioner.

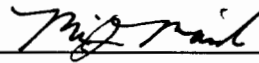
Respectfully submitted this 20th day of June 2006.



MICHAEL G. MAIDA
Rutledge, Ecenia, Purnell & Hoffman, P.A.
215 South Monroe St., Suite 420
Post Office Box 551
Tallahassee, FL 32302-0551
(850) 681-6788
ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original of the foregoing has been filed with the Corporation Clerk of the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, and a copy provided by hand delivery to the Joint Administrative Procedures Committee, Room 120, Holland Building, Tallahassee, Florida 32399-1300 this 20th day of June, 2006.



MICHAEL G. MAIDA