

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

MCCURDY CENTER, LTD.,

Petitioner,

vs.

CASE NO.: 2006-071VV

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

PETITION FOR WAIVER

McCurdy Center, Ltd., (the "Petitioner") hereby petitions the Florida Housing Finance Corporation (the "Corporation") for a waiver of the Corporation's requirement that a bathtub with shower be provided in all units in Petitioner's development known as "McCurdy Center".

In support of its petition, the Petitioner states:

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

McCurdy Center, Ltd.
300 NW 12th Avenue
Miami, Florida 33128
(305) 324-5505 (phone)
(305) 324-5506 (fax)
edominguez@greatermiami.org

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

Ms. Elena Dominguez
Greater Miami Neighborhoods, Inc.
300 NW 12th Avenue
Miami, Florida 33128
(305) 324-5505 (phone)
(305) 324-5506 (fax)
edominguez@greatermiami.org
Vice President – Greater Miami Neighborhoods, Inc. (one of the co-developers and parent of one of Petitioner's co-general partners)

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
1500 Miami Center
201 S. Biscayne Blvd.
Miami, FL 33131
(305) 347-7308
(305) 347-7808

4. The Petitioner timely submitted its Application in the 2005 cycle (Application #2005-106CS) for the development named "McCurdy Center" (the "Development").

5. The Development will be comprised of a total of 93 one-bedroom units. The Development will serve the homeless population, with an emphasis on the elderly homeless. It is intended that the Development will operate as an "assisted living facility".

6. In order to operate more efficiently as an "assisted living facility", Petitioner desires to provide showers (as opposed to bathtubs with showers) in order to create easier access for tenants. In order to assist the tenant, a seating ledge or chair will be provided in order that the tenant is not required to stand when taking a shower. The Universal Application recognizes that provision of bathtubs is inappropriate for developments serving the elderly, and requires developments selecting the elderly demographic to provide "roll-in showers" rather than bathtubs. Petitioner did not select the elderly demographic; however, it anticipates serving the elderly homeless population. Elimination of the "bathtub" requirement is requested in order to decrease the number of potential "slip and fall" incidents involving residents and to decrease workers' compensation claims frequently filed by personal care attendants in "assisted living facility" settings which result from assisting tenants into bathtubs. Finally, tenants with Alzheimer's disease frequently suffer serious depth perception issues which are aggravated by having to step into a bathtub as opposed to walking into a shower.

7. Rule 67-48.004(1)(a) incorporates the Universal Application Package into Rule 67-48, F.A.C. Part III B.1.b. of the Universal Application provides that, with respect to all units in the all developments except SRO, there be provided "... Bathtub with shower in at least one bathroom in at least 90% of the new construction non-Elderly units."

8. Consequently, a waiver of the applicable Rule is necessary in order to permit construction of the Development with showers, rather than bathtubs with showers, in all of the units in the Development.

9. Section 420.501 through 420.516 of the Florida Statutes sets forth the Florida Housing Corporation Act (the "Act"), which designates the Corporation as the State of Florida administrator for the State Housing Tax Credit Program to establish procedures necessary for the proper allocation of tax credits and to ensure the maximum use of available credits in order to encourage development of low-income housing and associated mixed-use projects in urban areas

(the "Procedures"). See §§420,501, 420.5093, Fla. Stat. (2004). These Procedures are established in Rule Chapter 67, Florida Administrative Code. Accordingly, as set forth below, the Rule subject to Petitioner's waiver request is implementing, among other sections of the Act, the statutory authorization for the Corporation's establishment of Procedures for the State Housing Tax Credit Program. *Id.*

(j) Total number of units;..."

10. The facts stated in Paragraphs 5 through 9 above demonstrate the circumstances that justifies the waiver to permit all units in the Development to be constructed with showers, rather than bathtubs with shower. Construction of the Development will bring 93 units of much needed affordable housing for the homeless to Belle Glade, Florida, with an emphasis on the elderly homeless. The Development will offer services and assistance to the tenants such that the Development will be licensed as an "assisted living facility", as was indicated in Exhibit 18 to Petitioner's 2005 Application. Operation of the Development as an "assisted living facility" is crucial in order to allow the Development to serve its targeted population most effectively.

11. The requested waiver will not adversely impact the Development or the Corporation or be prejudicial to the Development or to the market to be served by the Development. In fact, the requested waiver will be beneficial in that the Development will be able to better serve its intended targeted population as a licensed "assisted living facility".


12. The waivers being sought are permanent in nature.

13. Should the Corporation require additional information, the Petitioner is available to answer any questions and to provide any additional information necessary for consideration of this petition.

WHEREFORE, the Petitioner respectfully requests that the Corporation:

- A. Consider this Petition in conjunction with the Petitioner's Application;
- B. Grant this Petition and all the relief requested herein;
- C. Waive the requirement that all units contain "bathtub with shower in at least one bathroom" and permit all units in the Development to contain showers in at least one bathroom; and
- D. Grant such further relief as may be deemed appropriate.

Respectfully submitted,

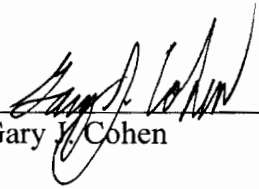


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CERTIFICATE OF SERVICE

The Petition is being served by facsimile and 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, Room 120, 600 Calhoun Street, The Holland Building, Tallahassee, Florida 32399-1300, on October 31, 2006.



Gary J. Cohen