

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING
FINANCE CORPORATION

MAPLE CREST LIMITED PARTNERSHIP,
a Florida limited partnership

Petitioner,

vs.

APPLICATION NO. 2006-103C
CASE NO. 2007-018VW

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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

MAPLE CREST 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)(b) and (15), Florida Administrative Code (2006). 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:

Maple Crest Limited Partnership
c/o Beneficial Maple Crest LLC
Donald W. Paxton
6455 Gateway Avenue, Suite A
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
Tallahassee, FL 32301
(850)681-6810
(850)521-1478 Facsimile

3. Petitioner successfully applied for financing from the Housing Tax Credit ("HC") program in the 2006 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 2006-103C (the "Application"). Petitioner applied for HC Funds to finance a portion of the costs to develop multi-family garden apartments in Lee County, Florida, to be known as Maple Crest Apartments (the "Development").

THE RULES FROM WHICH WAIVER IS SOUGHT

4. Petitioner requests a waiver from Rule 67-48.004(1)(a), 67-48.004(14) and (15), Florida Administrative Code. More specifically, Petitioner is seeking a waiver from various provisions of the Universal Application Instructions and provisions of the "Application and Selection Procedures for Development," subsection of Rule 67-48.004.

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

- (a) The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, STE 5000, Tallahassee, Fl 32301-1329, or available, without charge, on the Corporation's website under the 2006 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC, or SAIL and HC program(s).

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

Petition:

Part II. Applicant and Development Team.

A. Applicant.

2.

a.

(1) If applying for HC, the Applicant must be a limited partnership 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.

* * *

B. Development Team

1. Developer or principal of Developer (Threshold).

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, unless approved by the Board.

6. Rule 67-48.004(14)(b) 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 all 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 implements, among other sections of the Florida Housing Finance Corporation Act,¹ the statute that created the HC Program. See §420.5093, Florida Statutes.

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

9. The current ownership structure of RLI Beneficial Holdings 6 LLC, sole member of the General Partner, Beneficial Maple Crest LLC, is:

Lomas Holdings Corp.	1%
AHG-RLI, LLC	46.5%
Beneficial Holdings II LLC	52.5%

AHG-RLI, LLC. is owned 100% by Robert K. Lomas. Lomas Holdings Corp. is also owned 100% by Robert K. Lomas. The Petitioner seeks to change the sole member of the General Partner entity to RLI Beneficial Holdings H LLC. The ownership structure of RLI Beneficial Holdings H, LLC, is:

Beneficial Holdings II LLC	52.5%
Hope Shiverick Lomas LLC	47.5%

10. The current structure of the Developer, RLI Beneficial Development 6 LLC is:

Beneficial Development II LLC	52.5%
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¹ The Florida Housing Finance Corporation Act is set forth in Sections 420.501 through 420.516 of the Florida Statutes.

Lomas Holdings Corp.	1%
AHG-RLI, LLC	46.5%

11. Petitioner wishes to change the underlying structure of the Developer entity as follows:

Beneficial Development II LLC	52.5%
Hope Shiverick Lomas, LLC	47.5%

12. The Syndicator, Column Financial/Credit Suisse (the “Syndicator”), has a long standing internal policy which has necessitated the change to the underlying ownership structure in both the Developer and the Sole Member of the General Partner, that the Petitioner is seeking in this petition. With the current ownership and developer structure as outlined in paragraphs 9, 10 and 11 above, the Syndicator cannot and will not close on the equity loan². Second, the change to the Sole Member of the General Partner is necessary because the current sole member entity, RLI Beneficial Holdings 6 LLC, is a component of the ownership of Cotton Wood Senior LLC, the general partner of Cottonwood Senior Limited Partnership, an applicant for Housing Credit allocation from the Alabama Housing Finance Authority (AHFA). The 2006 AHFA Housing Credit QAP prohibits consideration of an application if there is a change in the parties involved in the ownership entity. The proposed change herein to the underlying structure, would violate the 2006 AHFA Housing Credit QAP and jeopardize the pending request for allocation.

13. In July of this year the Board approved similar waivers for five 2005 developments with similar changes in terms of the underlying ownership and the developer structure. The reason for those requests was, the same to this petition, that the syndicator on three of those deals, Column Financial/Credit Suisse, could not close without changes to the structure

² The Syndicator has presented Petitioner with its Equity Letter of Intent with the understanding that Petitioner would request this Waiver from the Corporation.

of both the owner and developer entities.³ At the time the undersigned filed those petitions this Application had not received an allocation of tax credits in the 2006 Universal Application Cycle and therefore it was not necessary to seek the requested relief herein. Petitioner, now being informed of its allocation of 2006 tax credits by the Corporation, seeks the same relief as was granted by this Board in July. If the proposed change is not approved, Petitioner will be substantially harmed in that it will lose the equity financing offered by the Syndicator. Additionally because RLI Beneficial Holdings 6 LLC is also part of the ownership structure in Cottonwood Senior LLC any change to the underlying structure without allowing the change to the Sole Member of the General Partner, will result in Cottonwood Senior Limited Partnership being in violation of the rules of the AHFA and being adversely impacted financially.

14. The proposed changes will not adversely impact the Development because both the Ownership entity and Developer entity continue to have the requisite expertise and experience to successfully develop and complete the Development. Accordingly, the continuity, progress and quality of the Development will not be disrupted.

15. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes and 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. The pertinent statute regarding granting of waivers provides: "Waivers shall be granted when the applicant demonstrates that application of the rule would create a substantial hardship or would violate principles of fairness."⁴ Section 120.542 (2), Florida Statutes. "Substantial Hardship" is defined as a "demonstrated economic, technological, legal or other

³ The Developer, to avoid this issue in the future, will no longer use the former ownership or developer structure.

⁴ "Principles of Fairness" are violated when literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. Section 120.542, Florida Statutes.

type of hardship” to the applicant. The hardship in this case is that Petitioner will lose the benefit of its current equity which may result in an increased financial risk to the development.⁵

WAIVER WILL SERVE THE UNDERLYING PURPOSE OF THE STATUTE

16. Granting the requested waiver will serve the purposes of the statute which is implemented by the rules for which the Waiver is sought. The Florida Housing Finance Corporation Act (Section 420.501, *et seq.*) was enacted to encourage private and public investment in housing for persons of low income. The Housing Tax Credit Program was created to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this waiver requesting and permitting Petitioner to make the aforementioned changes, the Corporation will continue to recognize the goal of increasing the supply of affordable housing through private investment in persons of low income.

TYPE OF WAIVER

17. The waiver being sought is permanent in nature.

18. 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

19. Petitioner requests the following:

a. That the Corporation grant the Petition for Waiver and grant waiver from Rule 67-48.004(1)(a), 67-48.004(14)(b) and (15) such that the Corporation permits the change to the sole member of the General Partner from RLI Beneficial Holdings 6 LLC to RLI Beneficial

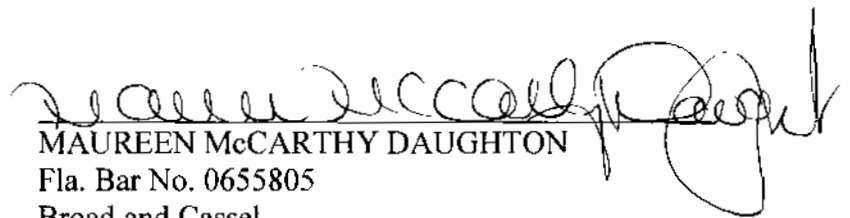
⁵ On July 28, 2006, the Corporation Board approved similar requests for Application Nos. 2005-125C, 2005-127C; 2005-124-C; and 2005-126C.

Holdings H LLC and that the Corporation grant the changes to the underlying structures as set forth in paragraphs 9,10 and 11 herein.

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

21. 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 4th day of May, 2007.



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