

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. _____
Application No. 2006-043C

GOLDEN ACRES REDEVELOPMENT, LTD.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

**PETITION FOR A WAIVER OF PART II.A.2.a.(1) OF THE
UNIVERSAL APPLICATION INSTRUCTIONS TO CHANGE
PETITIONER'S OWNERSHIP STRUCTURE**

Petitioner Golden Acres Redevelopment, Ltd., a Florida limited partnership ("Golden Acres") petitions Respondent Florida Housing Finance Corporation ("Florida Housing") for a waiver of the restriction on changing an Applicant's ownership structure after submission of its 2006 Universal Application. *See* Part II.A.2.a.(1), Universal Application Instructions (the "Rule").

1. Pursuant to Section 120.542, Fla. Stat. (2006), and Rules 28-104.001 through 28-104.006, F.A.C. (2006), Golden Acres requests a waiver of the Rule to replace co-general partner Housing Authority of Pompano Beach Affordable Housing Corporation (the "Authority") with its wholly-owned subsidiary HAPB-Golden Square Corp. ("HAPB-Golden Square"), a Florida for-profit corporation.

A. THE PETITIONER

2. The name, address, and telephone and facsimile numbers for Golden Acres and its qualified representative are:

Golden Acres Redevelopment, Ltd.
c/o PHG-Golden Acres, LLC
Attention: David O. Deutch
9400 South Dadeland Boulevard, Suite 100
Miami, Florida 33156
Telephone: 305-854-7100
Facsimile: 305-859-9858

3. The name, address, telephone and facsimile numbers, and e-mail addresses of Golden Acres' 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, Golden Acres submitted its 2006 Universal Application for Housing Credits under the Low Income Housing Tax Credit program.¹ See Application No. 2006-043C.

5. Florida Housing has issued its Preliminary Allocation of Housing Credits reserved in the amount of \$2,435,000, and it is anticipated that there will be a Final Housing Credit Allocation granted to Golden Acres in accordance with Florida Housing's final allocation procedures.

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

6. Equity raised from Housing Credits will be used for the development of Golden Square, a new 182-unit apartment development (the “Development”) intended to serve very-low and low-income families in Pompano Beach, Broward County, Florida.

7. If the requested Rule waiver is granted, the beneficial ownership of Golden Acres’ general partners would not change.

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

9. The waiver being sought is permanent in nature.

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

10. Golden Acres requests a waiver of Part II. A.2.a.(1) of the Universal Application Instructions that provides as follows:

If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. 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.

11. 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).³ The Act designates Florida Housing as the State of Florida’s

³The 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).

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 SGA'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).

C. Justification for Golden Acres' Requested Change of Co-General Partner.

12. In Golden Acres' Universal Application, its co-general partners are identified as (a) the Authority, a non-profit corporation, and (b) PHG-Golden Acres, LLC.² See Universal Application, at Exhibit 9, a copy of which is attached as Exhibit A.

13. Subsequent to the filing of the Universal Application, the limited partner investor in Golden Acres, MMA Financial, Inc. (the "Investor"), requested that the Authority's ownership interest in Golden Acres be transferred to a wholly-owned, for-profit subsidiary of the Authority. The reason for the request was that the Authority's general partnership interest in Golden Acres would cause negative tax consequences to the Investor and adversely affect the Development because the Investor would reduce the equity contribution contemplated to be made to Golden Acres. To avoid this adverse consequence, a Rule waiver is necessary to change the co-general partner of Golden Acres from the Authority to its wholly-owned, for-profit subsidiary HAPB-Golden Square.

²No change is requested in the structure of co-general partner PHG-Golden Acres, LLC.

14. The requested waiver would not have provided Golden Acres with an unfair advantage in the scoring of its Universal Application, and will not prejudice the Development or the affordable housing market to be served by the Development.

D. Conclusion

15. The requested waiver will not adversely impact the Development or Florida Housing, and will ensure that 182 affordable housing units will be available in Broward County, Florida.

16. 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.

17. 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).

18. 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.

19. Should Florida Housing require additional information, Golden Acres is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Part II.A.2.a.(1) of the Universal Application Instructions to Change Petitioner's Ownership Structure.

WHEREFORE, Petitioner Golden Acres Redevelopment, Ltd., respectfully requests that the Florida Housing Finance Corporation grant the Petition and provide the following relief:

A. Waive Part II.A.2.a.(1) of the 2006 Universal Application Instructions that restricts changes to an Applicant's ownership structure before issuance of a Final Housing Credit Allocation, and allow the change of Golden Acres's ownership structure by permitting the Housing Authority of Pompano Beach Affordable Housing Corporation to be replaced as co-general partner of Golden Acres by its wholly-owned, for-profit subsidiary HAPB-Golden Square Corp.; and

B. Grant such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.

Counsel for Golden Acres Redevelopment, Ltd.

200 East Las Olas Boulevard, Suite 2100

Fort Lauderdale, Florida 33301

Tel: (954) 462-9575

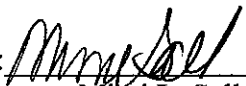
Fax: (954) 462-9567

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 17th day of August, 2007.

By: 
Mimi L. Sall

**OFFICERS, MANAGERS, MEMBERS AND GENERAL & LIMITED PARTNERS FOR
THE APPLICANT AND DEVELOPER ENTITIES**

	<u>Ownership %</u>
Applicant: Golden Acres Redevelopment, Ltd.	
Co-General Partners: PHG-Golden Acres, LLC	.0033%
<u>Officers/Managers/Members:</u>	
Louis Wolfson III	Chairman
Michael D. Wohl	President
David O. Deutch	Vice President/Secretary/Treasurer
Mitchell M. Friedman	Vice President
PHG GP Holdings, LLC	Sole Manager/Sole Member
Housing Authority of Pompano Beach Affordable Housing Corporation*	.0067%
<u>Officers/Directors:</u>	
Woodrow Portier, Chairman/Director	
Jimmie Glenn, Vice Chairman/Director	
A.L. Stein, Director	
Adriaan Holt, Director	
Willie R. Heath, Director	
*there are no shareholders, this is a Florida non-profit corporation	
Initial Retiring Limited Partner: Michael D. Wohl	99.99%
	Total: 100.00%

**Co-Developers:
Pinnacle Housing Group, LLC (PHG)**

<u>Officers/Managers/Members:</u>	
Louis Wolfson III	Chairman/Manager/Member
Michael D. Wohl	President/Manager/Member
David O. Deutch	Vice President/Secretary/Treasurer/Manager/Member
Mitchell M. Friedman	Vice President/Manager/Member

Housing Authority of Pompano Beach*

Officers/Directors:
 Woodrow Portier, Chairman/Director
 Jimmie Glenn, Vice Chairman/Director
 A.L. Stein, Director
 Adriaan Holt, Director
 Willie R. Heath, Director

* there are no shareholders

