STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. Application Nos. 2006-358HR 2006A-226B

SILURIAN POND, LTD.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

PETITION FOR WAIVERS OF RULES 67ER06-27(14)(e) AND 67-21.003(14)(e) TO CHANGE THE SITE OF THE SILURIAN POND DEVELOPMENT


A. THE PETITIONER

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

Silurian Pond, Ltd.
Attention: Liz Wong
2937 S.W. 27th Avenue, Suite 200
Miami, Florida 33133
Telephone: 305-476-8118
Facsimile: 305-476-1557
3. The name, address, telephone and facsimile numbers, and e-mail addresses of Silurian’s attorneys, for purposes of this Petition, are:

Brian J. McDonough, Esquire  Mimi L. Sall, Esquire
STEARNS WEAVER MILLER  STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.  WEISSLER ALHADEFF &
150 West Flagler Street, Suite 2200  SITTERSON, P.A.
Miami, Florida 33130  200 East Las Olas Blvd., Suite 2100
Telephone: 305-789-3200  Telephone: 954-462-9575
Facsimile: 305-789-3395  Facsimile: 954-462-9524
E-mail: bmcdonough@swmwas.com  E-mail: msall@swmwas.com

4. During the 2006 Rental Recovery Loan Program ("RRLP Program") cycle, Silurian was awarded a total commitment of up to $9.240 million in RRLP and Supplemental Loan financing, subject to final approval by the credit underwriter.¹

5. Funding received through the RRLP Program will be used for the construction of Silurian Pond, a new 72-unit apartment development (the "Development") intended to serve very-low and low-income families in Pensacola, Escambia County, Florida.

6. Silurian received the 2006 RRLP financing because Escambia County was designated as one of the Florida counties impacted by the 2004 and 2005 hurricane seasons, and 2006 RRLP financing was made available to assist affordable housing developments in their hurricane recovery efforts.

7. During the 2006 Supplemental MMRB Application Cycle, Silurian applied for tax-exempt MMRBs and Housing Credits ("HC") (non-competitive 4% with Tax-Exempt Bonds), and received a preliminary reservation of a State Bond Allocation in the amount of up to

¹Rule 67ER06-27(1)(a) adopts and incorporates the RRLP Application Instructions as rules.
$9 million, subject to final approval by the credit underwriter.² This financing also will be used for the Development's construction costs.

8. The requested RRLP Rule and MMRB Rule waivers will not adversely affect the Development. However, a denial of this Petition (a) would result in substantial economic hardship to Silurian; (b) could deprive Escambia 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 requested waivers are permanent in nature.

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

10. Silurian requests a waiver of the RRLP Rule that identifies non-curable matters and includes the following:

   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 ... Those items are as follows:

   (e) Site for the Development;

   Rule 67ER06-27(14)(e).

11. The RRLP Rule is implementing, among other things, Section 31, Chapter 2006-69, L.O.F., by establishing procedures under which Florida Housing shall:

   Administer the Application process, determine loan amounts, make and service mortgage loans for the construction or Rehabilitation/Substantial Rehabilitation of affordable rental units utilizing [RRLP] funds.


13. Specifically, “[t]he Florida Housing Finance Corporation is authorized to provide funds to eligible entities for affordable housing recovery in those areas of the state which sustained housing damage due to hurricanes during 2004 and 2005.” Florida Housing adopted emergency rules pursuant to § 120.54, Fla. Stat. (2006), and the Legislature found “that emergency rules adopted pursuant to this section meet the health, safety, and welfare requirement of s. 120.54(4).” In addition, the Legislature determined that:

such emergency rulemaking power is necessary for the preservation of the rights and welfare of the people in order to provide additional funds to assist those areas of the state that sustained housing damage due to hurricanes during 2004 and 2005.


14. Silurian also requests a waiver of Rule 67-21.003(14)(e). This MMRB Rule also identifies certain non-curable matters and includes the following:

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:

(e) Site for the Development;

15. The MMRB Rule implements sections 420.502, 420.507, 420.508, and 420.509, Florida Statutes, which empower Florida Housing to issue revenue bonds for the purpose of funding the development of affordable housing for low-income individuals and families.
C. **Justification for Silurian’s Request to Change Its Development’s Site**

16. When Silurian applied to the Corporation for financing, the Development was intended to be developed within a 19.41-acre parcel located in Pensacola, Escambia County, Florida. See RRLP Application at Part III.A.2., and the legal description appended to the RRLP Application as Exhibit 23A.

17. Based on subsequent circumstances, Silurian has determined that the Development can be constructed on approximately 14.91 acres within the original 19.41-acre parcel, and thereby save construction costs and expense, including those associated with additional site and infrastructure preparation, as well has operating expenses, including property taxes and insurance.

18. The location of the Development will not be changed, and its Tie-Breaker Measurement Point (“TBMP”), identified in Exhibit 21 to Silurian’s RRLP Application and in Exhibit 25 to its MMRB Application, remains within the Development’s modified legal description. See Amended Surveyor Certification and revised legal description attached hereto as Exhibits A and B, respectively.

19. Additionally, because the Development’s TBMP remains the same, the 7.5 Proximity Tie-Breaker Points awarded to Silurian would not have changed.

20. The requested change to the Development’s legal description would not have impacted the scoring of Silurian’s RRLP and MMRB Applications, and would not have provided Silurian with an unfair advantage over other applicants.

21. The requested waiver will not prejudice the Development or the affordable housing market to be served by the Development, and may result in a savings of construction, development, and operating costs.
D. **Conclusion**

21. The requested waiver will not adversely impact the Development or Florida Housing, and will ensure that 72 affordable housing units will be available in Escambia County, Florida.

22. 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. § 420.5099(2), Fla. Stat. (2006).

23. 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.

24. Should Florida Housing require additional information, Silurian is available to answer questions and to provide all information necessary for consideration of its Petition for Waivers of Rules 67ER06-27(14)(e) and 67-21.003(14)(e) to Change the Site of the Silurian Development.

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

A. Waive the prohibitions on changing a development’s site location after submission of the RRLP and Supplemental MMRB Applications;

B. Allow the Development to be developed on the site identified in Exhibit B to this Petition; and
C. Award such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON, P.A.
Counsel for Silurian Pond, Ltd.
200 East Las Olas Boulevard, Suite 2100
Fort Lauderdale, Florida 33301
Tel:  (954) 462-9575
Fax:  (954) 462-9567
E-mail: mshall@stvmwas.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 7th day of November, 2007.

By: ____________________________
Mimi L. Sall
2006 RRLP - SURVEYOR CERTIFICATION

Name of Development: Situatuin Pond

Development Location: 2800 Hollywood Avenue, Pensacola, FL 32505

(AAt a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city)

* If the Development consists of Scattered Sites, the Development Location stated above must reflect the site where the Tie-Breaker Measurement Point is located.

The undersigned Florida Licensed surveyor confirms that the method used to determine the following latitude and longitude coordinates conforms to Rule 61GI 7-4, F.A.C.:

<table>
<thead>
<tr>
<th>Latitude</th>
<th>Longitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>30 Degrees</td>
<td>26 Degrees</td>
</tr>
<tr>
<td>45.5 Seconds (rounded after 1 decimal place)</td>
<td>87 Degrees</td>
</tr>
<tr>
<td>15 Minutes</td>
<td>33.7 Seconds (rounded after 1 decimal place)</td>
</tr>
</tbody>
</table>

If the Development consists of Scattered Sites, is a part of the boundary of each parcel located within 1/2 mile of the Tie-Breaker Measurement Point:

□ Yes  □ No (check one)

Scattered Sites for a single Development means a Development consisting of more than one parcel in the same county where two or more of the parcels (b) are not contiguous to one another or are divided by a street or easement and (c) it is readily apparent from the proximity of the sites, chain of title, or other information available to the Corporation that the properties are part of a common or related scheme of development.

Location of closest Public Bus Stop or Metro-Rail Stop:

<table>
<thead>
<tr>
<th>Location</th>
<th>Degrees</th>
<th>Minutes</th>
<th>Seconds (rounded after 1 decimal place)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grocery Store: Name - Tin Cup Foods  Address - 1580 Hollywood Avenue  Pensacola, FL 32503</td>
<td>30 Degrees</td>
<td>26 Minutes</td>
<td>57.1 Seconds (rounded after 1 decimal place)</td>
</tr>
<tr>
<td>Public School: Name - Montgomery Elementary  Address - 620 Massachusetts Ave.  Pensacola, FL 32505</td>
<td>30 Degrees</td>
<td>27 Minutes</td>
<td>14.4 Seconds (rounded after 1 decimal place)</td>
</tr>
<tr>
<td>Medical Facility: Name - Circle Community Clinic  Address - 704 Massachusetts Ave.  Pensacola, FL 32503</td>
<td>30 Degrees</td>
<td>27 Minutes</td>
<td>15.9 Seconds (rounded after 1 decimal place)</td>
</tr>
<tr>
<td>Pharmacy: Name -  Address -</td>
<td>Degrees</td>
<td>Minutes</td>
<td>Seconds (rounded after 1 decimal place)</td>
</tr>
</tbody>
</table>

If the Corporation discovers that there are any false statements made in this certification, the Corporation will forward a copy to the State of Florida Department of Business and Professional Regulation for investigation.

CERTIFICATION

Under penalty of perjury, I declare that the foregoing statement is true and correct.

11/06/2007

KENNETH C. JACKSON

561-243-4920

5203 S. 17th Ave., Suite 3

FL 32503

SEA DIVERSIFIED INC.

Address: DELRAY BEACH, FL 33445

Telephone Number (including area code)
LEGAL DESCRIPTION PARCEL 2
A PARCEL OF LAND BEING ENTIRELY IN SECTION 6, TOWNSHIP 2 SOUTH, RANGE 30 WEST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
CONCERNING AT THE NORTHWEST CORNER OF LOT 3, SECTION 6, TOWNSHIP 2 SOUTH, RANGE 30 WEST; THENCE NORTH 72°26'10" EAST ALONG THE NORTH LINE OF THE 2ND LOT 3 FOR A DISTANCE OF 33.00 FEET TO THE EASTERN RIGHT-OF-WAY LINE OF HOLLWOOD AVENUE (R/W); THENCE SOUTHWEST RECKONING TO THE RIGHT AT AN ANGLE OF 90°05'42" (SOUTH 17°20'22" EAST) ALONG THE SAID EASTERN RIGHT-OF-WAY LINE FOR A DISTANCE OF 187.32 FEET FOR THE POINT OF BEGINNING. THENCE DEPARTING SAID EAST RIGHT-OF-WAY LINE NORTH 72°26'10" EAST FOR 200.00 FEET; THENCE NORTH 17°20'22" WEST FOR 127.00 FEET; THENCE NORTH 72°26'10" EAST FOR 200.00 FEET; THENCE NORTH 17°20'22" WEST FOR 127.00 FEET; THENCE SOUTH 72°26'10" WEST FOR 200.00 FEET; THENCE SOUTH 17°20'22" WEST FOR 314.85 FEET; THENCE SOUTH 72°26'10" WEST FOR 200.00 FEET; THENCE SOUTH 17°20'22" WEST FOR 314.85 FEET; THENCE SOUTH 72°26'10" WEST FOR 200.00 FEET TO THE AFOREMENTIONED EASTERN RIGHT-OF-WAY LINE OF HOLLWOOD AVENUE (R/W); THENCE NORTH 17°20'22" WEST ALONG SAID RIGHT-OF-WAY LINE FOR 82.00 FEET TO THE POINT OF BEGINNING. CONTAINS 14.41 ACRES MORE OR LESS