

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

VILLA AURORA, LLLP

Petitioner,

CASE NO. 2010-005VW

v.

Application No.: 2005-020CS/2007-004 CS

FLORIDA HOUSING FINANCE
CORPORATION

Respondent.

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COMMUNITY DEVELOPMENT

**PETITION FOR VARIANCE FROM OR WAIVER FROM UNIVERSAL
APPLICATION INSTRUCTION PART III.F.2. (2005 CYCLE AND 2007 CYCLE)**

Petitioner Villa Aurora, LLLP, a Florida limited liability limited partnership (“Villa Aurora” or “Petitioner”) submits its Petition to Respondent Florida Housing Finance Corporation (the “Corporation”) for a waiver of the requirement that, for applicants selecting and qualifying for the Homeless Demographic, a Case Manager be provided “for every 25 residents”, and instead requests that a Case Manager be required for every 25 Homeless or formerly Homeless resident families. Petitioner also requests a variance or waiver from the provisions of the Land Use Restriction Agreement and the Extended Use Agreement, both of which require that Case Manager be provided for every 25 residents, and request that such requirement be amended in each of the Land Use Restriction Agreement and Extended Use Agreement to provide for a Case Manager for every 25 Homeless or formerly Homeless residents.

1. Pursuant to Section 120.542, Fla. Stat. (2009) and Rules 28-104.001 through 28-104.006, F.A.C., Villa Aurora requests a waiver of Rule 67-48.004(1), Florida Administrative Code to allow the above-referenced relief.

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

Villa Aurora, LLLP
c/o Carrfour Supportive Housing, Inc.
Attention: Stephanie Berman
1398 S.W. 1st Street
12th Floor
Miami, Florida 33145
Telephone 305-371-8300
Telecopier 305-3771-1376
E-Mail: Sberman@carrfour.org

3. The name, address, telephone and facsimile numbers of Villa Aurora's attorneys are:

Gary J. Cohen, Esq.
Shutts & Bowen LLP
201 S. Biscayne Blvd., Ste. 1500
Miami, Florida 33131
305-347-7308 (telephone)
305-347-7808 (telecopier)

4. Pursuant to the 2005 Combined Rental Cycle Program, Villa Aurora timely submitted its Universal Application for competitive Housing Credits under the Low Income Housing Tax Credit program ("LIHTC Program" or "HC Program"). See Application Number 2005-020CS. In 2006, Villa Aurora petitioned to return its 2005 Housing Credit Allocation and to receive an allocation of 2007 Housing Credits. Such a petition was granted by the Corporation on December 15, 2006. As such, Villa Aurora may be governed by the rules and instructions applying both to the 2005 Universal Cycle and the 2007 Universal Cycle; however, the instructions at issue in this case were the same in the 2005 and 2007 Universal Cycles.

5. Construction of a new development of 76 low-income housing tax credit units for the homeless known as Villa Aurora (the "Development") has been completed. The

Development serves homeless and low-income individuals in Miami, Miami-Dade County, Florida, and is located in the “East Little Havana” section of Miami.

6. Petitioner has entered into a Land Use Restriction Agreement (“LURA”) dated as of December 4, 2007, and an Extended Low-Income Housing Agreement (“ELIHA”) dated as of December 28, 2009. Language contained in Exhibit B to each document (attached hereto as Exhibit “A”) is identical. In each instance, the applicable section requires there to be provided “...at no cost to the resident, a Case Manager (at least one for every 25 residents) whose activities are aimed at assessing resident needs...”. This requirement is consistent with Part III.F.2. (“Qualified Resident Programs for Homeless Developments”) of both the 2005 and 2007 Universal Cycle Application Instructions. The Universal Cycle Application Instructions require there to be provided “...at no cost to the resident, a Case Manager (at least one for every 25 residents) whose activities are aimed at assessing resident needs...” (see excerpts from 2005 and 2007 Universal Cycle Application Instructions attached as Exhibit “B”).

7. In Part III.F.2. of the 2009 Universal Cycle Application Instructions, this requirement has been changed; the Application Instructions now require there to be provided “... at no cost to the resident, a Case Manager (at least one for every 25 Homeless or formerly Homeless resident families) whose activities are aimed at assessing resident needs...” (emphasis added) (see excerpt attached as Exhibit “C”). That is, the requirement for provision of a Case Manager has been changed from one for every 25 residents to one for every 25 Homeless residents.

8. Petitioner is requesting that the change in the above requirement made by the 2009 Universal Cycle Application Instructions be applied to its development, and that Exhibit B to the LURA and ELIHA be amended to incorporate this new requirement.

9. This Waiver and/or Variance is sought pursuant to Rule 67-48.004(1) ((2005) and (2007)), Florida Administrative Code, each of which incorporates by reference Universal Cycle Application Instructions Part III.F.2.

10. The applicable statutory provisions pursuant to which this Waiver and/or Variance is sought are Sections 420.5087 and 420.5099, Florida Statutes, which is the statutory authority for Rule 67-48.004(1), Florida Administrative Code.

11. By granting the requested Waiver and/or Variance, the Corporation would recognize principles of fundamental fairness in the development of affordable rental housing for the Homeless. The Corporation has recognized, in changing its 2009 Universal Cycle Application Instructions in the manner described herein, that the requirement of a Case Manager is only applicable to Homeless residents in a development, not to all residents in the development. As such, principles of fairness would be advanced by requiring Petitioner to provide one Case Manager for every 25 Homeless families (as opposed to every 25 families, regardless of whether such families are Homeless or not). Permitting the LURA and ELIHA to be amended in this fashion will place Petitioner's development on the same footing as homeless developments which will be developed under the 2009 Universal Cycle.

12. The requested waivers will not adversely impact the Development or the Corporation.

13. The waivers being sought are permanent in nature.

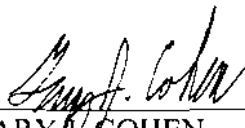
Should the Corporation require additional information, Villa Aurora is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver.

WHEREFORE, Petitioner Villa Aurora, LLLP, respectfully requests that the Corporation:

A. Grant the Petition and all the relief requested therein, and enter an order granting a variance or waiver from the requirements of Rule 67-48.004(1), Florida Administrative Code (2005) and (2007) and Universal Application Instructions Part III.F.2. (2005 Cycle and 2007 Cycle), so as to only require the provision of one Case Manager to every 25 Homeless families;

B. Permit the amendment of Exhibit B to the Land Use Restriction Agreement and Extended Low-Income Housing Agreement to incorporate the foregoing changes; and

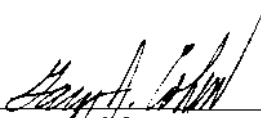
C. Award such further relief as may be deemed appropriate.



GARY J. COHEN
Shutts & Bowen LLP
201 S. Biscayne Blvd., Suite 1500
Miami, Florida 33131
(305) 347-7308
ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

The Original Petition is being served by facsimile and overnight delivery for filing with the Corporation Clerk of the Florida Housing Finance Corporation, 227 North Bronough Street, City Centre Building, Room 5000, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Room 120, Holland Building, Tallahassee, Florida 32399-1300 this 16th day of February, 2010.



GARY J. COHEN

EXHIBIT "B"

Exhibit A

LURA excerpt

Villa Aurora (2005-020CS / 2007-004CS)
Miami-Dade County

Description of Features and Amenities-Homeless

8. Bathtub with shower in at least one bathroom in at least 90% of the new construction non-Elderly units
- C.** The Borrower has committed to provide the following features in each UNIT:
1. At least 1.5 bathrooms (one full bath and one with at least a toilet and sink) in all two bedroom new construction units
 2. Ceramic tile bathroom floors
- D.** The Borrower has committed to the following amenities in the **DEVELOPMENT**:
1. Community center or clubhouse
 2. Steel exterior entry door frames
 3. Double compartment kitchen sink
 4. Exterior lighting in open and common areas
 5. Computer lab on-site with minimum of one computer per 50 units, with basic word processing, spreadsheets and assorted educational and entertainment software programs, and at least one printer
- E.** The Borrower has committed to provide the following energy conservation features for all UNITS in the Development:
1. Heat pump with minimum HSPF of 7.5 instead of electric resistance
 2. Air conditioning with SEER rating of 13 or better
 3. Electric water heater with energy factor of .91 or better
- F.** The Borrower has committed to provide the following Resident Programs:
- *Note: For all Elderly or Homeless developments, the Borrower, Case Manager, Management Agent or its Service Provider must provide, at no cost to the resident, a Case Manager (for every 25 residents) whose activities are aimed at assessing resident needs, planning services, linking the service system to a resident, coordinating the various system components, monitoring service delivery and

EXHIBIT "B"

Villa Aurora (2005-020CS / 2007-004CS)
Miami-Dade County

Description of Features and Amenities-Homeless

evaluating the effect of service delivery. Case Managers must possess at least a bachelor's degree in human services or a related field.

1. Homeownership Opportunity Program – Financial Assistance with Purchase of a Home: Borrower commits to provide a financial incentive which includes the following provisions:
 - a. the incentive must be applicable to the home selected by the resident and may not be restricted to or enhanced by the purchase of homes in which the Borrower, Developer, or other related party has an interest;
 - b. the incentive must be not less than 5% of the rent for the resident's unit during the resident's entire occupancy (Note: Resident will receive the 5% credit for all months for which the resident is in compliance with the terms and conditions of the lease. Damages to the unit in excess of the security deposit will be deducted from the incentive.);
 - c. the benefit must be in the form of a gift or grant and may not be a loan of any nature;
 - d. the benefits of the incentive must accrue from the beginning of occupancy;
 - e. the vesting period can be no longer than 2 years of continuous residency; and
 - f. no fee, deposit or any other such charge can be levied against the resident as a condition of participation in this program
2. After School Program for Children: This program requires the Borrower or its Management Agent to provide supervised, structured, age-appropriate activities for children during the after school hours, Monday through Friday. Activities must be on-site at no charge to the residents.
3. First Time Homebuyer Seminars: Borrower or its Management Agent must arrange for and provide, at no cost to the resident, in conjunction with local realtors or lending institutions, semiannual on-site seminars for residents interested in becoming homeowners.
4. Resident Activities: These specified activities are planned, arranged, provided and paid for by the Borrower or its Management Agent. These activities must be an integral part of the management plan. The Borrower must develop and execute a comprehensive plan of varied activities that brings the residents together and encourages community pride. The goal here is to foster a sense of community by bringing residents together on a regularly scheduled basis by providing activities such as holiday and special occasion parties, community picnics, newsletters, children's special functions, etc.

EXHIBIT "B"
(VILLA AURORA / 2005-020CS/2007-004CS)
DESCRIPTION OF FEATURES AND AMENITIES

Exhibit A
ELIHA excerpt

- G. This Homeless Development will be required to provide a Case Management Program whereby the Applicant or its Management Agent must provide, at no cost to the resident, a Case Manager (at least one for every 25 residents) whose activities are aimed at assessing resident needs, planning services, linking the service system to a resident, coordinating the various system components, monitoring service delivery, and evaluating the effect of service delivery. Case Managers must possess at least a bachelor's degree in human services or a related field.

Exhibit B

2005 Cycle Application Instructions (except)

the lease, the resident must be reinstated into the program for the period of that renewal, with suspension permitted under the same terms as discussed above.

- e. After School Program for Children - This program requires the Applicant or its Management Agent to provide supervised, structured, age-appropriate activities for children during the after school hours, Monday through Friday. Activities must be on-site and at no charge to the residents. (3 points)
 - d. First Time Homebuyer Seminars - Applicant or its Management Agent must arrange for and provide, at no cost to the resident, in conjunction with local realtors or lending institutions, semiannual on-site seminars for residents interested in becoming homeowners. (1 point)
 - e. Literacy Training - Applicant or its Management Agent must make available, at no cost to the resident, literacy tutor(s) who will provide weekly literacy lessons to residents in private space on-site. (2 points)
 - f. Job Training - Applicant or its Management Agent must provide, at no cost to the resident, regularly scheduled classes in keyboarding, computer literacy, secretarial skills or other useful job skills, which will be provided at least once each quarter. If the training is not provided on-site, transportation at no cost to the resident must be provided. (2 points)
2. Qualified Resident Programs for Homeless Developments - SRO and Non-SRO (Maximum 6 Points)

To be eligible to select resident programs from this category, Applicant must have selected and qualified for the Homeless Demographic Commitment at Part III.D.

Note: All Applicants selecting and qualifying for the Homeless Demographic Commitment in this Application will be required to provide a Case Management Program whereby the Applicant or its Management Agent must provide, at no cost to the resident, a Case Manager (at least one for every 25 residents) whose activities are aimed at assessing resident needs, planning services, linking the service system to a resident, coordinating the various system components, monitoring service delivery, and evaluating the effect of service delivery. Case Managers must possess at least a bachelor's degree in human services or a related field.

- a. The following resident programs are available for SRO Developments only (Applicant selected the SRO Development Type at Part III.A.4.):
 - (1) Staffed Kitchen/Cafeteria - Applicant or its Management Agent must provide, at no cost to the resident, an on-site staffed

Exhibit B
2007 Cycle Application Instructions (excerpt)

residents interested in becoming homeowners. Electronic media, if used, must be used in conjunction with live instruction. (1 point)

- e. Literacy Training - Applicant or its Management Agent must make available, at no cost to the resident, literacy tutor(s) who will provide weekly literacy lessons to residents in private space on-site. Electronic media, if used, must be used in conjunction with live instruction. (2 points)
- f. Job Training - Applicant or its Management Agent must provide, at no cost to the resident, regularly scheduled classes in keyboarding, computer literacy, secretarial skills or other useful job skills, which will be provided at least once each quarter. If the training is not provided on-site, transportation at no cost to the resident must be provided. Electronic media, if used, must be used in conjunction with live instruction. (2 points)

2. Qualified Resident Programs for Homeless Developments - SRO and Non-SRO (Maximum 6 Points)

To be eligible to select resident programs from this category, Applicant must have selected and qualified for the Homeless Demographic Commitment at Part III.D.

Note: All Applicants selecting and qualifying for the Homeless Demographic Commitment in this Application will be required to provide a Case Management Program whereby the Applicant or its Management Agent must provide, at no cost to the resident, a Case Manager (at least one for every 25 residents) whose activities are aimed at assessing resident needs, planning services, linking the service system to a resident, coordinating the various system components, monitoring service delivery, and evaluating the effect of service delivery. Case Managers must possess at least a bachelor's degree in human services or a related field.

- a. The following resident programs are available for SRO Developments only (Applicant selected the SRO Development Type at Part III.A.4.):
 - (1) Staffed Kitchen/Cafeteria - Applicant or its Management Agent must provide, at no cost to the resident, an on-site staffed kitchen/cafeteria that provides at least one meal, 7 days per week. (3 points)
 - (2) Daily Activities - Applicant or its Management Agent must provide on-site supervised, structured activities, at no cost to the resident at least 5 days per week. (3 points)

Exhibit C
2009 Cycle Application Instructions (excerpt)

- c. After School Program for Children - This program requires the Applicant or its Management Agent to provide supervised, structured, age-appropriate activities for children during the after school hours, Monday through Friday. Activities must be on-site and at no charge to the residents. (3 points)
 - d. First Time Homebuyer Seminars - Applicant or its Management Agent must arrange for and provide, at no cost to the resident, in conjunction with local realtors or lending institutions, semiannual on-site seminars for residents interested in becoming homeowners. Electronic media, if used, must be used in conjunction with live instruction. (1 point)
 - e. Literacy Training - Applicant or its Management Agent must make available, at no cost to the resident, literacy tutor(s) who will provide weekly literacy lessons to residents in private space on-site. Electronic media, if used, must be used in conjunction with live instruction. (2 points)
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2. Qualified Resident Programs for Homeless Developments - SRO and Non-SRO (Maximum 6 Points)

To be eligible to select resident programs from this category, the Applicant must have selected and qualified for the Homeless Demographic Commitment at Part III.D.

Note: All Applicants selecting and qualifying for the Homeless Demographic Commitment in this Application will be required to provide a Case Management Program whereby the Applicant or its Management Agent must provide, at no cost to the resident, a Case Manager (at least one for every 25 Homeless or formerly Homeless resident families) whose activities are aimed at assessing resident needs, planning services, linking the service system to a resident, coordinating the various system components, monitoring service delivery, and evaluating the effect of service delivery. Case Managers must possess at least a bachelor's degree in human services or a related field.