

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

BLUE BROADWAY, LLC,

Petitioner,

v.

FLORIDA HOUSING
FINANCE CORPORATION,

Respondent.

FHFC CASE NO. 2017-071VW
APPLICATION NO. 2017-212C

**PETITION FOR WAIVER OF RULE 67-48.004(3)(g)
FOR A CHANGE IN DEVELOPMENT TYPE**

Petitioner, BLUE BROADWAY, LLC, a Florida limited liability corporation (“Blue Broadway”) hereby petitions Respondent, FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”) and requests a waiver of Florida Housing’s Rule 67-48.004(3)(g), F.A.C. which prohibits changes to the “Development Type” for a proposed Development.

In support of this Petition, Blue Broadway provides:

1. The address, telephone number, facsimile numbers, and e-mail address of the Blue Broadway is:

Blue Broadway, LLC
5300 W. Cypress Street, Suite 200
Tampa, FL 33607
Telephone: (813) 384-4825
Email: swilson@blueskycommunities.com

2. For purposes of this Petition, the address, telephone number, facsimile number and e-mail address of Blue Broadway’s counsel is:

Michael P. Donaldson, Esq.
Carlton Fields, P.A.
Post Office Drawer 190
Tallahassee, FL 32302-0190
Telephone: 850-224-1585
Facsimile: 850-222-0398
Email: mdonaldson@carltonfields.com

THE DEVELOPMENT

3. Blue Broadway timely submitted its Application in response to RFA 2016-113 requesting \$2,110,000 in Tax Credits to supplement the construction of an affordable housing complex in Hillsborough County, Florida. Blue Broadway was awarded its requested Tax Credits on September 22, 2017. The funds generated from the Tax Credits will be used to supplement the development of 144 affordable apartment units in a complex named the Preserve at Sabal Park ("Development").

4. This requested rule waiver will not adversely affect the Development. However, a denial of this Petition (a) will result in substantial economic hardship to Blue Broadway, (b) could deprive Hillsborough County, Florida of essential affordable low-income housing units in a timely manner, and (c) would violate the principals of fairness. See Section 120.542.(2), F.S.

THE RULE FROM WHICH WAIVER IS SOUGHT

5. Blue Broadway requests a waiver from Rule 67-48.004(3)(g), F.A.C. Specifically, Blue Broadway is seeking a waiver from the "Development Type" designation identified by Blue Broadway in its Application.

Specifically Rule 67-48.004(3)(g), F.A.C., provides, in relevant part, as follows:

(3) Notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below: ...

(g) Development Type; ...

STATUTES IMPLEMENTED BY THE RULES

6. The Rule is implementing sections of the Florida Housing Finance Corporation Act and specifically, the Tax Credit Allocation process.

PETITIONER REQUESTS A WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

7. Blue Broadway seeks a waiver from this Rule to allow it to change the Development Type listed in its Application from "Townhouses" to "Garden Apartments."

8. Blue Broadway is requesting this change in Development Type in order to construct Garden Apartments, rather than Townhouses for several reasons. First, by constructing Garden Apartments, Blue Broadway will be able to provide the most suitable and desirable accommodations to the residents and the community. Next, constructing Garden Apartments rather than Townhouses permits Blue Broadway to construct the Development in a manner which is most appropriate given the limitations of the Development site. The Development site includes a series of wetlands that makes construction of the Townhouses more difficult, if not impractical. In general the construction costs associated with Townhouses is more than Garden Apartments. Additionally, because of the limitations of the Development site the total cost of constructing Townhouses has increased dramatically.

9. The Application's scoring, ranking, and funding would not have been affected had Blue Broadway selected "Garden Apartments" in the initial Application. The actual affordable

unit count will remain unchanged by this Petition.

10. Florida Housing has the authority pursuant to Section 120.542(1), F.S., to provide relief from its rules if strict application of those rules will lead to unreasonable, unfair or unintended results in particular instances. Florida Housing has previously granted similar waiver requests.

11. Blue Broadway needs to change the Development Type to allow for the construction of the Development as outlined above to provide the most suitable and desirable accommodations and units to the residents and the community. Furthermore, Blue Broadway needs to change the Development Type to allow for the construction of the Development to reflect the most prudent and cost effective structures for the site given existence of wetlands.

12. This Development will provide much needed multi-family low-income housing for those persons residing in Hillsborough County. Time is of the essence for the successful completion of this Development.

13. Unless the Blue Broadway's request is granted, strict application of the Rule would violate principles of fairness. Moreover, unless the Rule is waived to allow the requested change, Blue Broadway may not be able to ultimately construct the Development.

WAIVER WILL SERVE UNDERLYING PURPOSE OF THE STATUTE

14. Blue Broadway believes that a waiver of the Rule will serve the purpose of the Statute which is implemented by the Rule. The Florida Housing Finance Corporation Act (Section 420.501, F.S. *et seq.*) was passed in order to encourage private and public investment in facilities for persons of low-income. The purpose of the creation of the Tax Credit Program is to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this waiver and permitting Blue Broadway to change its Development Type, as

requested in this Petition, Florida Housing would recognize the goal of increasing the supply of affordable housing through private investment in persons of low-income.

TYPE OF WAIVER

15. The waiver being sought is permanent in nature.

ACTION REQUESTED

16. Should Florida Housing require additional information, Blue Broadway is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Rule 67-48.004(3)(g), F.A.C.

WHEREFORE, Blue Broadway respectfully requests the following:

- A. Grant the Petition and all relief requested herein;
- B. Waive Rule 67-48.004(3)(g), F.A.C., allowing Blue Broadway to change the Development Type listed in the Application from "Townhouses" to "Garden Apartments;" and
- C. Grant such further relief as may be deemed appropriate.

Respectfully submitted this 9th day of October 2017.

/s/ Michael P. Donaldson

MICHAEL P. DONALDSON

Carlton Fields Jordan Burt

Florida Bar No. 802761

215 S. Monroe Street, Suite 500

Tallahassee, FL 32301

Telephone: 850-513-3613

Facsimile: 850-222-0398

Email: mdonaldson@carltonfields.com

Attorney for Blue Broadway