

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

ST. GILES MANOR, LTD.

Petitioner,

vs.

APPLICATION NO. 2007-112C

FLORIDA HOUSING FINANCE CORP.,

Respondent.

**PETITION FOR WAIVER FROM RULE
67-48.004(1)(a), F.A.C.**

ST. GILES MANOR, LTD. ("Petitioner"), by and through its undersigned counsel, hereby petitions the Florida Housing Finance Corporation (the "Corporation") for waiver from Rule 67-48.004(1)(a), Florida Administrative Code (2007). This Petition is filed pursuant to Section 120.542, Florida Statutes and Chapter 28-104, Florida Administrative Code.

THE PETITIONER

1. The address, telephone and facsimile number of the Petitioner is:

St. Giles Manor, Ltd.
c/o Steven Hydinger
2101 Highland Avenue
Suite 100
Birmingham, AL 35205
(205)332-1057
(205)930-4503

2. The address, telephone and facsimile number of Petitioner's counsel is:

Maureen McCarthy Daughton, Esquire
Broad and Cassel
215 South Monroe Street, Suite 400
Tallahassee, FL 32301
(850)681-6810
(850)521-1478

3. Petitioner successfully applied for financing from the Housing Tax Credit (“HC”) Program in the 2007 Universal Application Cycle; Multi-Family 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 2007-112C (the “Application”). Petitioner applied for housing credits to finance a portion of the costs to develop a multi-family rental apartment complex in Pinellas County, Florida, to be known as St. Giles Manor (the “Development”). The Development is a 106-unit apartment complex.

THE RULE FROM WHICH WAIVER IS SOUGHT

4. Petitioner requests a waiver from various sections of Rule 67-48.004(1)(a), Florida Administrative Code. More specifically, Petitioner is seeking a waiver from what is designated as the Application and Selection Procedures for Development,” sub-section (1)(a) of Rule 67-48.004.

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

(1)

(a) The Universal Application Package or UA1016 (Rev. 3-07) 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, Suite 5000, Tallahassee, FL 32301-1329, or available, without charge on the Corporation’s Website under the 2007 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 Programs(s).

6. The Specific Instructions of the Universal Application Instructions provides under Part II A.2.a:

(1) If applying for HC, the Applicant must be a limited partnership... or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and may not change until after the Carryover Allocation Agreement is in effect. Once the Carryover Allocation has been executed by all parties, replacement of the Applicant or a material change (33.3 percent 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 will require Board approval prior to the change.

STATUTES IMPLEMENTED BY THE RULE

7. The Rule implements, among other sections of the Florida Housing Finance Corporation Act¹, the statute that created the Housing Credit program. Section 420.5093, Florida Statutes. The Act designates the Corporation as the State of Florida's housing credit agency within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code of 1986. As the designated agency, the Corporation is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits (Allocation Procedures). Section 420.5099(1) and (2), Florida Statutes (2005). Accordingly, the Rules subject to this request are implementing, among other sections of the Act, the statutory authorization for the corporations establishment of Allocation procedures for the HC Program.

8. 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. Waivers shall be granted when the person subject to the rule demonstrates that the application of the rule would (1) create a substantial hardship or violate principals of fairness², and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. Section 120.542(2), Florida Statutes.

¹ The Florida Housing Finance Corporation Act is set forth in Section 420.501 through 420.516, Florida Statutes.

² "Substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. "Principles of Fairness" are violated when literal application of a rule affects a

FACTS DEMONSTRATING ENTITLEMENT TO WAIVER

9. Petitioner requests a waiver of the Rule restricting the ability of Petitioner to make a material change in the ownership structure of the Applicant Entity prior to loan closing. The Applicant Entity is St. Giles Manor, Ltd. and its sole General Partner is St. Giles Manor GP, Inc. The Petitioner desires this Waiver to change the General Partner from St. Giles Manor GP, Inc. to St. Giles Manor Partners GP, LLC, a non-profit entity. Both St. Giles Manor GP, Inc. and St. Giles Manor Partners GP, LLC, are ultimately controlled by the same sole shareholder St. Giles Manor, Incorporated, a Florida nonprofit. The change is needed in order to maintain the current tax-exempt status of the property for Florida property tax purposes. The property is currently owned by St. Giles Manor, Inc., which currently operates a senior housing development on the property. If this type of development is owned by a partnership, such as the Petitioner, the property will only remain exempt for Florida property tax purposes so long as the general partner is exempt from federal income tax, which the current GP can not qualify for. Changing the General Partner of the Petitioner to St. Giles Manor Partners GP, LLC, an ignored entity for federal-tax purposes, will insure the property will maintain its tax-exempt status. There is no negative impact to the Development by this change.

10. The Corporation has the authority pursuant to Section 120.542(1), Florida Statutes, to provide relief from its rule if strict application of the rule will lead to unreasonable, unfair and unintended consequences in particular instances. Unless the rule is waived to allow the changes as outlined above, the Petitioner will face the loss of the tax-exempt status of the property which will result in a substantial financial burden to the Petitioner.

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(2), Florida Statutes.

WAIVER WILL SERVE THE UNDERLYING PURPOSE OF THE STATUTE

11. Petitioner believes that a waiver of this rule will serve the purposes of Section 420.5099 and the Act which is implemented by the rule, because one of their 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 credit is sought. Section 420.5099(2), Fla. Stat.

The Florida Housing Finance Corporation Act (Section 420.501, et seq.) was passed in order to encourage private and public investment in persons of low income. The creation of the Housing Credit program was to stimulate private sector initiatives to increase the supply of affordable housing by granting this request, the Corporation would recognize the goal of increasing the supply of affordable housing through private investment in persons of low-income.

TYPE OF WAIVER

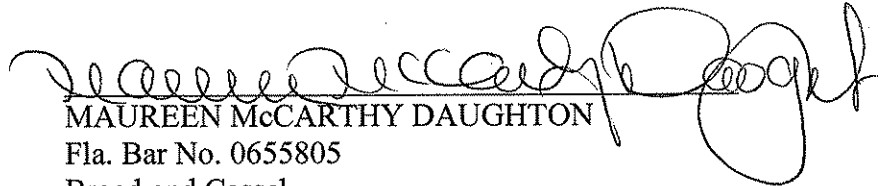
12. The waiver being sought is permanent in nature.
13. Should the Corporation have questions or require any additional information necessary for consideration of the Petition, please contact the undersigned.

ACTION REQUESTED

14. Petitioner requests the following:
- (a) Grant the Petition and all relief requested herein;
 - (b) That the Corporation grant this waiver allowing Petitioner to change the General Partner from St. Giles Manor GP, Inc. to St. Giles Manor Partners GP, LLC.

15. 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 21 day of December, 2007.



MAUREEN McCARTHY DAUGHTON

Fla. Bar No. 0655805

Broad and Cassel

215 S. Monroe Street, Suite 400

Tallahassee, FL 32301

Telephone: (850)681-6810; (850)521-1478 Facsimile

Counsel for Petitioner