

RECEIVED  
15 APR 23 PM 2:50  
FLORIDA HOUSING  
FINANCE CORPORATION

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

**IN RE: SP CROSSINGS LLC**

**PETITION FOR WAIVER OF OR VARIANCE FROM  
RULE 67-21.003(8)  
TO DECREASE THE TOTAL SET-ASIDE PERCENTAGE**

Petitioner, SP Crossings LLC., a Florida limited liability company ("Petitioner"), pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code, hereby petitions Respondent, FLORIDA HOUSING FINANCE CORPORATION (the "Corporation") for a waiver of (or variance from) Rule 67-21.003(8)(j), Florida Administrative Code, to decrease the total set-aside percentage from 100 percent to 84 percent (290 out of 344 units).

In support of this petition, the Petitioner states:

1. The address, telephone number, facsimile number and e-mail address of the Petitioner are:

SP Crossings LLC  
c/o Southport Development, Inc.  
5403 West Gray Street  
Tampa, FL 33609  
Attn: Scott Seckinger  
Telephone: (813) 288 6988  
Facsimile: (813) 288 1511  
Email: sseckinger@sphome.com

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

Lawrence E. Sellers, Jr.  
Holland & Knight LLP  
315 S. Calhoun Street, Suite 600  
Tallahassee, FL 32301  
Phone: 850-224-7000  
Facsimile: 850-224-8832

### Background

3. The Crossings of Indian Run development in Martin County consists of 344 total units and was initially placed in service in 1998. The development serves low income individuals and families.

4. Petitioner submitted an application in 2014 pursuant to Rule 67-21, Florida Administrative Code, for non-competitive Housing Tax Credits to finance the acquisition and rehabilitation of the development. In its application, Petitioner committed to set aside 100 percent of the 344 units at 60 percent of AMI or less. However, some 54 families presently reside in the development (in 54 units) with incomes greater than 60 percent of AMI. These families initially qualified to reside in the development and are allowed to continue to reside in the development pursuant to a "safe harbor" provision.<sup>1</sup>

### The Rule For Which the Waiver/Variance Is Sought

5. Petitioner requests a waiver of (or variance from) Rule 67-21.003(8)(j), Florida Administrative Code (the "Rule").

6. Rule 67-21.003(8)(j), Florida Administrative Code, provides, in relevant part, as follows:

(8) 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 is deemed complete. Those items are as follows: ...

---

<sup>1</sup> A significant number of these families' income exceed 60% AMI in part because the AMI has been reduced since the development was placed in service.

(j) The Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment Section of the Application; ... .

Statutes Implemented By The Rule

7. The Rule implements, among other sections of the Florida Housing Finance Corporation Act, the statutes that created the Housing Tax Credit Program and the Multifamily Mortgage Revenue Bonds Program. *See* Sections 420.509, 420.5099, F.S. (the "Statutes").

Petitioner Requests A Waiver of (or Variance from) The Rule For The Following Reasons

8. Petitioner requests a waiver of (or variance from) Rule 67-21.003(8)(j), Florida Administrative Code, to decrease the total set-aside percentage from 100 percent to 84 percent (290 out of 344 units), to allow the 54 families to continue to reside in the development. As noted, these 54 families initially qualified to reside in the development and would be allowed to continue to reside in the development pursuant to a "safe harbor" provision.

9. Because the application is non-competitive, allowing this change does not allow the Petitioner to gain any possible advantage over competitors. In addition, Petitioner could have submitted its application with the requested Total Set-Aside Percentage of 84 percent (or an even lower number) without consequences as to the evaluation of the application.

10. The requested rule waiver will not adversely affect the development. However, a denial of this Petition (a) will result in substantial economic hardship to the 54 families that would be affected and to Petitioner, and (b) would violate the principles of fairness. *See* Section 120.542(2), F.S.

The Requested Waiver Will Serve The Underlying Purpose of The Statutes

11. A waiver of the Rule will serve the purpose of the Statutes which are implemented by the Rule. The Florida Housing Finance Corporation Act (Section 420.501, et seq.) was enacted in order to encourage private and public investment in facilities for persons of low-income. The purpose of

the creation of the Housing Tax Credit Program and Multifamily Mortgage Revenue Bonds Program is to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this waiver/variance as requested in this Petition, the Corporation would recognize the goal of increasing the supply of affordable housing through private investment in facilities for persons of low-income, while allowing the development to adapt to market conditions.<sup>2</sup>

Type of Waiver/Variance

12. The waiver/variance being sought is permanent in nature.

Action Requested

WHEREFORE, Petitioner respectfully requests that the Corporation:

- A. Grant the Petition and all relief requested herein;
- B. Grant a waiver of (or variance from) Rule 67-21.003(8)(j), Florida Administrative Code, to decrease the total set-aside percentage from 100 percent to 84 percent (290 out of 344 units).
- C. Grant such further relief as may be deemed appropriate.

Respectfully submitted,



Lawrence E. Sellers, Jr.,  
Florida Bar No. 300241  
HOLLAND & KNIGHT LLP  
315 S. Calhoun Street, Suite 600  
Tallahassee, FL 32301  
Telephone 850-224-7000  
Facsimile: 850-224-8832  
E-mail: [larry.sellers@hkllaw.com](mailto:larry.sellers@hkllaw.com)

*Attorneys for SP Crossings LLC*

---

<sup>2</sup> Petitioner is available to answer questions and provide any requested additional information.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of the foregoing "Petition for Waiver of Rule 67-21.003(8)(f) to Decrease the Total Set-Aside Percentage" was filed by electronic mail with Kate Flemming, Agency Clerk, that a true and correct copy was provided by electronic mail to Wellington Meffert, General Counsel, Florida Housing Finance Corporation 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301, and that a true and correct copy was provided to the Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 West Madison Street, Tallahassee, Florida 3299-1400, all on this 23rd day of April, 2015.



\_\_\_\_\_  
Lawrence E. Sellers, Jr.