

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

IN THE PINES, INC.
a Florida not for profit corp.

Petitioner

vs.

FHFC CASE NO. 2018-079VW

FLORIDA HOUSING FINANCE CORPORATION

Respondent.

**AMENDED PETITION FOR WAIVER/VARIANCE OF
RULE 67-48.010, FLORIDA ADMINISTRATIVE CODE**

Petitioner hereby submits this Petition by and through its undersigned officer and pursuant to Section 120.542, Florida Statutes and Chapter 28-104, Florida Administrative Code ("F.A.C."), hereby petitions the Florida Housing Finance Corporation ("Florida Housing") for a waiver and/or variance of Rule 67-48.010, Florida Administrative Code.

PETITIONER

1. The name, address, telephone and facsimile number of the Petitioner are:
In The Pines, Inc.,
a Florida not for profit corp.
16101 Half Mile Road
Delray Beach, FL 33446
Tel: 561-495-0089
E-mail: inthepines@bellsouth.net

THE RULE FROM WHICH WAIVER OR VARIANCE IS SOUGHT

2. The Petitioner seeks a waiver and/or variance from Rule 67-48.010, Florida Administrative Code, which provides:

"(7) If, in its application, the Applicant agrees to a Very Low-Income set-aside for a term longer than that required by law, the deferred SAIL interest due pursuant to this Rule Chapter shall be forgiven in an amount equal to the amount of interest due pursuant to Fla Admin Code.r.67-48.010, multiplied by .05 multiplied by the number of years, not to exceed 15, that such set-aside for Very Low-Income persons or households was extended beyond that required by law."

- (a) The amount of interest to be forgiven shall be determined upon maturity of the Note.
- (b) Only interest which is in excess of the base interest rates specified in Fla. Admin. Code Ann. R. 97-48.010 shall be eligible for forgiveness.

**THE PETITIONER REQUESTS A VARIANCE AND/OR WAIVER OF THE RULE
SET FORTH ABOVE FOR THE FOLLOWING REASONS**

3. Petitioner was awarded a \$1,346,710.00 SAIL loan in connection with the financing of the "In The Pines Apartments" (the "Project"), a residential rental housing project affordable for individuals or families of very low, low, moderate or middle income located in the State of Florida. The Applicant has designated 80% of the 40 units for Farm Workers. The term of the loan commenced on approximately September 1, 2003 and matures on August 31, 2018.

4. While the Petitioner has successfully operated the Project since its inception, the Project does not generate sufficient cash flow to pay the deferred interest under the SAIL loan.

5. The Petitioner desires to continue operating the Project and has been negotiating with the Respondent to forgive all deferred interest regarding the SAIL loan and to extend payment of the outstanding principal balance of the SAIL loan over a term of an additional 15 years, at an interest rate of 0%, with principal payments beginning the earlier of available "Cash Flow" or in 5 years on 9/1/2023. Thereafter, during the remainder of the term of said loan (which is 10 years), a minimum principal payment of \$3,000 per month shall be made.

6. The repayment of the unforgiven deferred interest would create a substantial hardship in that this development provides affordable housing to individuals or families of very low, low, moderate or middle income, Farm workers and cannot generate sufficient income to pay the interest due.

7. The Florida Legislature has recognized the hardship caused by requiring low income development to pay this amount of interest and revised the SAIL statute to reduce the interest rate on affordable housing for low income developments.

8. A Waiver and/or variance of the rule will allow the Petitioner to continue to operate the affordable housing Project and will facilitate a loan structure wherein the principal balance of the loan will amortize.

**A WAIVER AND/OR VARIANCE WILL SERVE THE UNDERLYING
PURPOSE OF THE STATUTE**

9. A waiver and/or variance of the Rule will serve the purposes of the underlying Statute which is implemented by the Rule. The Florida Legislature created a goal for Florida Housing to develop affordable housing for individuals or families with no less than 10% of the SAIL funds each year, and by authorizing lower interest payments for these loans. The statute also authorizes Florida Housing to renegotiate any mortgage loan with a borrower in default, to waive any default or consent to the modification of the terms of any mortgage loan. Section 420.507(17), Florida Statutes. For the reasons set forth herein, Petitioner respectfully request Florida Housing to grant the requested variance of Rule 97-48.010, to provide forgiveness of all outstanding SAIL interest.

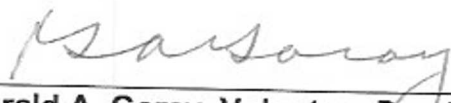
10. The variance would be permanent as to the Petitioner.

TYPE OF WAIVER/VARIANCE

A copy of the Amended Petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, FL 32399-1300, as required by Section 120.542(5), Florida Statutes.

This Amended Petition is dated November 4, 2018.

In The Pines, Inc.



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Delray Beach, FL 33446
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