STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2021-055VW
Application No.: 2016-042C

REDDING DEVELOPMENT PARTNERS, LLC,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

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FLORIDA HOUSING FINANCE CORPORATION

PETITION FOR WAIVER OF RULES 67-48.004(3)(g)

Petitioner, Redding Development Partners, LLC ("Petitioner"), pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code, through its undersigned counsel, hereby petitions Florida Housing Finance Corporation ("Florida Housing") for a waiver of Florida Housing's prohibition on changes in the "Development Type" pursuant to Rule 67-48.004(3)(g), Florida Administrative Code ("F.A.C") effective October 8, 2014 (the "Rule"). In support of this Petition, Petitioner states as follows:

A. PETITIONER AND THE DEVELOPMENT

1. The name, address, telephone, and facsimile numbers for Petitioner and its qualified representative are:

Redding Development Partners, LLC
Attn: Michael Gardner
400 Locust Avenue
Sandford, Florida 32771
E-mail: michael@gardnercapital.com
Telephone: (314) 561-5901
Facsimile: N/A

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

Yisell Rodriguez, Esq.
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Avenue, Suite1400
Orlando, Florida 32801-4961
Email: yisell.rodriguez@nelsonmullins.com
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3. On October 13, 2015, Petitioner submitted an application in response to RFA 2015-106 for Housing Credit Financing for Affordable Housing Developments Located in Medium and Small Counties and was assigned Application No. 2016-042C (the "Application") requesting $1,510,000 (annually) in low-income housing tax credits (the "Housing Credits") to assist in the construction of a 90-unit development located in Seminole County, Florida, to be known as Georgetown Square (previously known as Redding Redevelopment) (the "Development").

B. TYPE OF WAIVER

4. The waiver being sought is permanent in nature.

C. RULE FOR WHICH A WAIVER IS REQUESTED

5. Petitioner requests a waiver from the Rule. Specifically, Petitioner is seeking a waiver to permit it to change the "Development Type" designation identified by Petitioner in its Application. Rule 67-48.004(3)(g) provides, in relevant part, as follows:

> (3) For the SAIL, HOME and Housing Credit Programs, 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**;

D. STATUTES IMPLEMENTED BY THE RULE

6. The Rule implements, among other sections of the Florida Housing Finance Corporation Act (the "Act"), the statutes relating to the allocation of Low-Income Housing Tax Credits contained in Section 420.5099 of the Florida Statutes (2019).

E. JUSTIFICATION FOR GRANTING WAIVER OF THE RULE

7. In section 5(d) of the Application, Petitioner listed the Development Type as "Garden Apartments". However, for the reasons set forth below, Petitioner would like to change the Development Type to: "Mid-Rise, 4-stories". Petitioner is therefore in need of a Rule waiver to make the change.

8. Petitioner is requesting a change in Development Type from "Garden Apartments" to "Mid-Rise, 4 stories", for the following reasons:

a. Parking Requirements - The zoning requirements for the Development during site plan approval process required 180 parking spaces. However, with the three-story garden style apartments, only approximately 100 spaces would have been feasible. The change to Mid-Rise, 4-stories, allowed the number of parking spaces to increase to 157, which the zoning department approved. As such, the change was necessary to accommodate the parking spaces required by the zoning department.

b. Larger Community Space – The change to a Mid-rise, 4-stories also allowed a much larger community space to be built for the benefits of the residents. The community space includes: a kitchen, fitness center, computer room, library, activity room, great room, game room, and a large outdoor patio.

c. Quality – The Change to a Mid-Rise, 4-stories allowed the Applicant to construct a quality development, with more parking, more amenities, without exceeding the anticipated development costs per unit.

9. The Application's funding would not have been affected had the Applicant selected the "Mid-Rise, 4-stories" Development Type when it submitted its Application. However, the Applicant and the residents of the Development would be severely adversely affected if the change in Development Type is not approved. The Development has been fully constructed and if the change is not approved, it could lose the Housing Credits and equity financing. Unfortunately, at the time the decision to change Development Type was made, the developer was undergoing internal personnel changes and the developer was unaware that the formal request to Florida Housing for the change in Development Type was not made.

10. Under Section 120.542(1), Florida Statutes, Florida Housing has the authority to grant waivers to or variances from its requirements when strict application of the requirements would lead to unreasonable, unfair, and unintended consequences in particular instances. Specifically, Section 120.542(2) states:

> Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

11. Petitioner believes that a waiver of the Rule will serve the purposes of the Statute, which is implemented by the Rule. The Florida Housing Finance Corporation Act

(Section 420.501, et. seq.) was passed to increase the supply of affordable rental housing. Furthermore, the purpose of the Housing Tax Credit Program is to encourage the development of low-income housing in the State. By granting this waiver and permitting Petitioner to change its Development Type, as requested in this Petition, Florida Housing would recognize the Applicant's furthering of this goal of increasing the supply of affordable housing for persons of low-income by permitting the Development to continue to operate as affordable without risk of losing its Housing Credits and equity financing.

12. Moreover, unless the Petitioner's request is granted, strict application of the Rule would result in substantial hardship to the Petitioner and the Development. If the Rule is not waived to allow the requested change in Development Type, it would result in economic hardship to the Petitioner as the Development has been built and could lose its Housing Credits and equity financing, thereby making the continued use of the project as affordable unfeasible.

13. In this instance, Florida Housing has jurisdiction to grant a waiver of the Rule and Petitioner meets the standards for a waiver of the Rule.

F. ACTION REQUESTED

WHEREFORE, Petitioner respectfully requests that Florida Housing:

(i) Grant Petitioner a waiver from the Rule, allowing it to change the Development Type listed in its Application from "Garden Apartments" to "Mid-rise: 4 stories";

(ii) Grant this petition and all relief request therein; and

(iii) Grant such further relief as may be deemed appropriate

Respectfully submitted this 20th day of August, 2021.

Yisell Rodriguez, Esq.
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Orlando, Florida 32801
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COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition was filed by electronic delivery to:

Florida Housing Finance Corporation,
Attn: Corporation Clerk
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301
CorporationClerk@floridahousing.org,

Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399
Joint.admin.procedures@leg.state.fl.us

This 20th day of August, 2021.

Yisell Rodriguez, Esq.
Fla. Bar No. 117915