

RECEIVED

FEB 25, 2026 11:24am

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FLORIDA HOUSING
FINANCE CORPORATION

In re: Atlantic Pacific Communities III, Ltd.

FHFC CASE NO. 2026-016VW
Application No. 2025-156BS / 2023-562C
RFA No. 2024-216

**PETITION FOR WAIVER OF FLORIDA
ADMINISTRATIVE CODE RULE 67-48.0072(21)(b)**

Petitioner, Atlantic Pacific Communities III, Ltd. (“Atlantic Pacific” or “Petitioner”), pursuant to section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code, petitions Florida Housing Finance Corporation (“Florida Housing”) for a waiver of the requirement to have a firm loan commitment issued by the Board of Directors immediately following twelve (12) months after Petitioner was invited to enter credit underwriting as provided by Florida Administrative Code Rule 67-48.0072(21)(b). In support of this Petition, Petitioner states:

A. Petitioner and the Development

1. The name, address, telephone, and email address for Petitioner is:

Kenneth Naylor
Atlantic Pacific Communities III, Ltd.
3 Miami Central, 161 NW 6th Street, Suite 1020
Miami, Florida 33136
Telephone: 305-357-4725
Email: knaylor@apcompanies.com

The name, address, telephone and email address of Petitioner’s counsel is:

Jordann Wilhelm
Email: jwilhelm@radeylaw.com
Christopher B. Lunny
Email: clunny@radeylaw.com

Radey Law Firm
301 South Bronough Street, Suite 200
Tallahassee, Florida 32301
Telephone: 850-425-6654

2. Atlantic Pacific submitted Application No. 2025-156BS in response to Request for Applications No. 2024-216, Live Local SAIL Financing for the Construction of Large-Scale Developments of Significant Regional Impact (the “RFA”), for SAIL funding and non-competitive housing credits to assist in the construction of a 375-unit development located in Miami-Dade County, Florida (City of Miami) known as Culmer Place V (the “Development”) to serve the low-income Family demographic.¹

3. On August 23, 2024, Florida Housing’s Board of Directors preliminarily selected Atlantic Pacific for funding. Atlantic Pacific was subsequently invited to enter credit underwriting and submitted a signed acknowledgement accepting the invitation on September 4, 2024. On September 19, 2025, Florida Housing’s Board of Directors approved a firm loan commitment issuance deadline extension from September 4, 2025 to March 4, 2026. Applicants may request

¹ The following information regarding the Development is provided to facilitate staff’s preparation of background material for the Florida Housing Board of Directors:

- Development Name: Culmer Place V
- Developer: APC Development III, LLC
- County of Development: Miami-Dade, City of Miami, Florida
- Number of Units: 375
- Type: New Construction
- Buildings: 1
- Set-Asides: Ninety-four (94) at 30%, nine (9) at 40%, one (1) at 50%, forty-six (46) at 60%, one (1) at 70%, one hundred forty-nine (149) at 80%, and seventy-five (75) unrestricted, MMRB: One-hundred fifty (150) at 60%
- Demographics: Family
- Funding Amounts: 4% Housing Credits at an annual amount of \$6,518,571, SAIL funding of \$25,000,000 and MMRB funding of \$91,000,000

one (1) extension of up to six (6) months to secure a firm loan commitment. Therefore, a Petition for Rule Waiver is needed at this time.

4. At this time, Atlantic Pacific is engaged in credit underwriting with Florida Housing.

B. Type of Waiver

5. The waiver being sought is permanent.

C. Rule For Which a Variance Is Requested

6. Atlantic Pacific requests a waiver of Florida Administrative Code Rule 67-48.0072(21)(b), which requires:

[f]or SAIL and HOME, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued by the date of the Board of Directors meeting immediately following twelve (12) months after the Applicant is invited to enter credit underwriting. Unless an extension is approved by the Board, failure to achieve issuance of a firm loan commitment by the specified deadline shall result in withdrawal of the preliminary commitment. Applicants may request one (1) extension of up to six (6) months to secure a firm loan commitment. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting the extension and shall detail the time frame to achieve a firm loan commitment. In determining whether to grant an extension, the Board shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. The Corporation shall charge a non-refundable extension fee of one (1) percent of each loan amount if the request to extend the credit underwriting and firm loan commitment process beyond the initial deadline is approved. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the Board approves the extension of the original deadline. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

Fla. Admin. Code R. 67-48.0072(21)(b).

D. Statutes Implemented by the Rule

7. Rule 67-48.0072(21)(b) implements Florida Statute sections 420.507(22), (24), (48), 420.5087, 420.5089, and 420.5099 relating to the allocation of SAIL and HOME funding and the allocation of low-income housing tax credits.

E. Justification for Granting Waiver From the Rule

8. 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.

§ 120.542(2), Fla. Stat. (2025).

9. Petitioner requests a waiver of the requirements found in Florida Administrative Code Rule 67-48.0072(21)(b).

10. Through no fault of its own, Atlantic Pacific has encountered a series of delays regarding its awarded HUD Choice Neighborhoods Implementation (“CNI”) grant that have subsequently delayed its ability to comply with Rule 67-48.0072(21)(b).

11. On July 16, 2024, Atlantic Pacific was awarded a HUD CNI grant, which represents a significant part of the capital stack for this development. However, the signed agreement for the

HUD CNI grant award was not received until April 11, 2025. This delay prevented Atlantic Pacific from starting predevelopment activities.

12. Thereafter, Atlantic Pacific submitted a housing plan revision to HUD that accounted for updates to the original housing plan based on the Florida Housing award project details, such as unit mix, set-asides, etc. The housing plan was approved August 5, 2025, which allowed Atlantic Pacific to proceed with initial design scope, including site plan approval and construction drawings.

13. At this time, Atlantic Pacific still does not have approval for its budget from HUD. Notwithstanding, it has expeditiously proceeded with design, entitlements, and permitting.

14. Furthermore, it must be noted that from October 1, 2025, to November 12, 2025, Atlantic Pacific was impacted by the federal government shutdown, during which the HUD CNI grant team was not working. As a result, Atlantic Pacific was unable to receive any HUD architect design-related approvals or budget/predevelopment request approvals during that time.

15. Atlantic Pacific requests a waiver of Rule 67-48.0072(21)(b) and seeks an additional 6-month firm loan commitment deadline extension. Atlantic Pacific has begun the credit underwriting process, for which third party reports (Plan Cost Review) are the critical path. To that end, Atlantic Pacific anticipates it will have a first draft in the second quarter of 2026 and will then be in a position to meet the closing deadline.

16. Under section 120.542(1), Florida Statutes, and Chapter 28-104, Florida Administrative Code, Florida Housing has the authority to grant waivers to its rule requirements when strict application of the rules would lead to unreasonable, unfair, and unintended consequences, in particular instances. Waivers shall be granted when the person who is subject to the rule demonstrates that the application of the rule would: (1) create a substantial hardship or

violate principles of fairness, and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. § 120.542(2), Fla. Stat. (2025).

17. In this instance, Petitioner meets the standards for a waiver of the Rule. The requested waiver will not adversely impact the Development or Florida Housing and will ensure that 375 much-needed affordable housing units will be made available for a vulnerable segment of the population in Miami-Dade County, Florida.

18. This Development will assist Florida Housing with fulfilling its statutory mandate to provide safe, sanitary, and affordable housing to the citizens of Florida. *See* § 420.502(4)-(6), Fla. Stat. (2025). Florida Housing is required by section 420.507(48), Florida Statutes, to reserve up to 5% of its annual allocation of low-income housing tax credits, nontaxable revenue bonds, and State Apartment Incentive Loan Program funds to allocate by competitive solicitation for high-priority affordable housing developments in communities throughout the state. § 420.507(48), Fla. Stat. (2025).

19. The strict application of the Rule will create substantial hardship for Petitioner because it likely will not be able to meet the requirement through no fault of its own.

20. The requested waiver further serves the purpose of the statute because one of the primary goals of the statute is to facilitate the availability of decent, safe, and sanitary housing in the State of Florida for low-income households. § 420.502(4)-(6), Fla. Stat. By granting this waiver, Florida Housing would recognize the goal of increasing the supply of affordable housing for persons of low income and recognize the economic realities and principles of fundamental fairness in developing affordable rental housing. *See* § 420.5099(2), Fla. Stat.

F. Action Requested

WHEREFORE, Petitioner respectfully requests that Florida Housing:

- i. Grant the requested waiver of the requirements found in Rule 67-48.0072(21)(b) for an additional 6-month firm loan commitment deadline extension to September 4, 2026;
- ii. Grant this Petition and all of the relief requested herein; and
- iii. Grant such further relief as may be deemed appropriate.

Respectfully submitted this 25th day of February, 2026.

/s/ Jordann Wilhelm

JORDANN WILHELM (FBN: 1003182)

E-mail: jwilhelm@radeylaw.com

Secondary E-mail: pwhite@radeylaw.com

CHRISTOPHER B. LUNNY (FBN: 0008982)

E-mail: clunny@radeylaw.com

Secondary E-mail: kellis@radeylaw.com

Radey Law Firm

301 South Bronough Street, Suite 200

Tallahassee, Florida 32301

Telephone: (850) 425-6654

**COUNSEL FOR ATLANTIC PACIFIC
COMMUNITIES III, LTD.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition was filed by e-mail this 25th day of February, 2026:

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

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

/s/ Jordann Wilhelm
JORDANN WILHELM