

STATE OF FLORIDA
HOUSING FINANCE CORPORATION

SOCIETY OF ST. VINCENT DE PAUL SOUTH PINELLAS, INC.,
Petitioner,

vs.

FHFC Case No.: 2019-035VW

FLORIDA HOUSING FINANCE CORPORATION,
Respondent.

SOCIETY OF ST. VINCENT DE PAUL SOUTH PINELLAS, INC.
AMENDED PETITION FOR WAIVER
FOR RULES 67-48.0072(21)(b) (2016)

Petitioner, SOCIETY OF ST. VINCENT DE PAUL SOUTH PINELLAS, INC., ("Petitioner") petitions Respondent, Florida Housing Finance Corporation ("Corporation") for a waiver to extend the firm loan commitment deadline due to extraordinary circumstances and states:

PETITIONER

1. The address, telephone number, facsimile number of the Petitioner is:
SOCIETY OF ST. VINCENT DE PAUL SOUTH PINELLAS, INC.
Attention: Michael J. Raposa, Executive Director
384 15th St., St. Petersburg, FL 33705
T: (727) 954-7990 F: (727) 821-6244
2. The address, telephone number, facsimile number of the Petitioner's Counsel is:
DiVito, Higham & Vasti, P.A.
Attention: Joseph A. DiVito, Esq.
4514 Central Ave., St. Petersburg, FL 33711
T: (727) 321-1201 F: (727) 321-5181
3. Petitioner successfully applied for FIVE MILLION AND 00/100 DOLLARS (\$5,000,000.00) from the Corporation's State Apartment Incentive Loan Program (SAIL) that the Corporation administers pursuant to Chapter 67-48 Florida Administrative Code. The Petitioner's Application No. is 2017-169S. Petitioner applied for SAIL funds to finance a portion of the costs to develop a Smaller Permanent Supportive Housing for Persons with Special Needs known as "Ozanam Village III", located in the Pasco County, Florida area (the "Development").
4. On January 26, 2018, the Board of the Corporation approved a one-year extension of the firm loan commitment deadline until August 12, 2018.
5. On July 27, 2018, the Board of the Corporation approved an extension of the firm loan commitment until June 12, 2019.

6. Petitioner will not be able to meet the deadlines due to extraordinary circumstances set forth herein and requests an extension.

7. Should the Corporation have questions or require additional information, Petitioner is available to provide any additional information necessary for consideration of this Petition.

RULES FROM WHICH WAIVER IS SOUGHT

8. Petitioner requests a Waiver from Rule 67-48.0072(21)(b), F.A.C. (2016), more specifically, Petitioner is seeking a Waiver from the provisions of the deadline for issuance of a firm loan commitment to the Development.

9. The Rules applicable: Rule 67-48.0072(21)(b) F.A.C. (2016)

"(21) Information required by the Credit Underwriter shall be provided as follows:

(b) For SAIL, EHCL, and HOME that is not used in conjunction with Competitive HC, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within nine (9) months of the Applicant's acceptance to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to achieve credit underwriting report approval and 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 nine (9) month deadline is approved. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

STATUTES IMPLEMENTED BY THE RULES

10. The Rule implements, among other sections of the Florida Housing Finance Corporation Act, the Florida Statute that created the SAIL Program. See Florida Statute 420.5087.

PETITIONER REQUESTS WAIVER FROM THE RULES FOR THE FOLLOWING REASONS

11. From Rule 67-48.0072(21)(b) F.A.C. (2016): The Corporation may recall the difficulty of Petitioner relating to the services of the prior developer GHD Construction Services, Inc., (GHD). After terminating such services and engaging Ability Housing, Inc., Petitioner is proceeding with the Closing for the project known as Ozanam Village II (Application No. is 2016-274S).

12. Despite the Petitioner and Ability Housing's best efforts, the design by GHD for Ozanam Village III could not be used and a major redesign was necessary. The design team encountered delays in so that the development did not encroach on the wetlands. These delays, combined with negotiations regarding the cost of construction, prevent Petitioner from being able to make the current June 12th firm loan commitment deadline. The redesign is complete, and permits are expected, but the negotiations with the contractor are still in process.

13. Petitioner has remained steadfast in making the Development a reality and has committed resources and reserve funds to pursue an aggressive timeline. Petitioner continues to stand ready and continues to commit its full attention to fulfilling the obligations of the Commitment and proceed with the Development if permitted to do so, and construct this much needed affordable housing in Pasco County, Florida

14. The waiver will not adversely impact the Development for the following reasons:

a. The new development team has demonstrated the expertise and experience to bring the Development to completion, as evidenced by Ozanam Village II being ready to close and as further demonstrated by significant progress in completing the redesign so quickly given the circumstances;

b. The Development is adjacent to Ozanam Village II, development of the subject site compliments Ozanam Village II and allows economies of scale for management and delivery of services.

15. The waiver will actually benefit the Development, as it will serve to meet the high demand for affordable housing in Pasco County, Florida, and compliments Ozanam Village II and will compliment and achieve further economies of scale for Ozanam Village II.

16. A pertinent statute relating to the granting of waivers provides:

"Waivers shall be granted when the Applicant demonstrates that the application of the rule would create a substantial hardship or would violate principles of fairness". (See Section 120.542(2) Florida Statute). The term "substantial hardship" is defined as a demonstrated economic, technological, legal and other type of hardship to the Applicant. The hardship in this case is related to "other type of hardship" in that the redesign of the Development was necessitated. Further, the failure to construct the Development will have an adverse impact to Ozanam Village II, in that the economies of scale for management and delivery of services will be lost.

**WAIVERS WILL SERVE THE UNDERLYING
PURPOSE OF THE STATUTE**

17. Granting the requested Waivers will serve the purposes of the Statute which is

implemented by the rules for which the Waiver is sought. The Florida Housing Finance Corporation Act (beginning at Section 420.501) was enacted to encourage sponsors, including nonprofit sponsors such as Petitioner, to participate in public investment in the State Apartment Incentive Loan Program for persons of very low income. The SAIL Program was created to assist eligible housing providers by providing quality housing to persons of very low income which the Development will meet.

TYPE OF WAIVERS

18. The Waiver being sought is to allow the firm loan commitment deadline to be extended sixty (60) days to August 11, 2019 so that the Development can obtain credit underwriting report approval at the Corporation's board meeting to be held on June 21, 2019 or August 2, 2019, whichever is more feasible.

ACTION REQUESTED

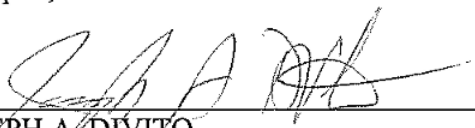
19. Petitioner requests the following: That the Corporation grant the Petition for Waiver and grant Petitioner a waiver from Rule 67-48.0072(21)(b) F.A.C. (2016), such that the Corporation permits a waiver for the time line for meeting the firm loan commitment deadline and extend the deadline for the firm loan commitment by sixty (60) days.

20. The waivers would be permanent as to the Petitioner.

21. Grant such further relief as may be deemed appropriate

22. 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 th 10 day of April, 2019.



JOSEPH A. DIVITO
Fla. Bar No. 0228915
DiVito, Higham & Vasti, P.A.
4514 Central Ave., St. Petersburg, FL 33711
JAD@DivitoHigham.com
T: (727) 321-1201 F: (727) 321-5181
Counsel for Petitioner