

STATE OF FLORIDA
HOUSING FINANCE CORPORATION

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FLORIDA HOUSING
FINANCE CORPORATION

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

vs.

FHFC Case # 2019-064VW

FLORIDA HOUSING FINANCE CORPORATION,
Respondent.

SOCIETY OF ST. VINCENT DE PAUL SOUTH PINELLAS, INC.
PETITION FOR WAIVER
FOR RULES 67-48.0072(4)(c) (2014)

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, CEO
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 FOUR MILLION NINE HUNDRED THOUSAND AND 00/100 DOLLARS (\$4,900,000.00) from the Corporation's State Apartment Incentive Loan Program ("SAIL") and ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00) from the Extremely Low-Income Program ("ELI") that the Corporation administers pursuant to Chapter 67-48 Florida Administrative Code. The Petitioner's Application No. is 2016-274S. Petitioner applied for SAIL and ELI funds to finance the costs to develop a Smaller Permanent Supportive Housing for Persons with Special Needs known as "Ozanam Village II", located in Pasco County, Florida ("Development").
4. On February 8, 2016, staff of the Corporation issued a preliminary commitment letter and an invitation to enter credit underwriting to Developer with a closing deadline of February 8, 2017.

5. On December 9, 2016, the Board of the Corporation approved a one-year extension of the loan closing deadline until February 8, 2018.

6. On February 24, 2017, staff of the Corporation approved a six-month extension of the credit underwriting deadline to August 28, 2017.

7. On August 22, 2017, staff of the Corporation approved a four-month extension of the credit underwriting deadline to December 8, 2017 to coincide with the date of the December Board meeting.

8. On December 8, 2017, the Board of the Corporation approved a 30-day deferment of the deobligation of Corporation funds, in order for Petitioner to find a new co-developer and new general contractor.

9. On December 13, 2017, Board of the Corporation approved a six-month extension of the credit underwriting deadline to June 8, 2018.

10. On January 26, 2018, the Board of the Corporation approved an extension of the loan closing deadline to August 8, 2018, as well as a change in co-developer to Ability Housing, Inc. (“Developer”).

11. On July 27, 2018, the Board of the Corporation approved an extension of the loan closing deadline to August 8, 2019, as well as a change to the Demographic Commitment.

12. On March 27, 2019, the staff of the Corporation issued a firm loan commitment to Petitioner.

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

RULE FROM WHICH WAIVER IS SOUGHT

14. Petitioner requests a Waiver from Rule 67-48.0072(4)(c), F.A.C. (2014), more specifically, Petitioner is seeking a Waiver from the date the Development must close on the SAIL and ELI loans.

15. The Rules applicable: Rule 67-48.0072(4)(c) F.A.C. (2014)

“(4) If the invitation to enter credit underwriting is accepted:

(c) For SAIL, EHCL, and HOME Applicants, the loan must close within 12 months of the date of the invitation to enter credit underwriting. Applicants may request one (1) extension of up to 12 months. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The written request will then be submitted to the Corporation’s Board for consideration. The Board shall consider the facts and circumstances of each Applicant’s request and any credit underwriting report, if available, prior to determining whether to grant the requested extension. The Corporation shall charge a non-refundable extension fee of 1 percent of each loan amount if the

Board approves the request to extend the commitment beyond the initial 12 month closing deadline. In the event the loan does not close by the end of the 12 month extension period, the preliminary commitment or firm commitment, as applicable, will be deemed void and the funds will be de-obligated.

STATUTES IMPLEMENTED BY THE RULE

16. 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 RULE FOR THE FOLLOWING REASONS

17. From Rule 67-48.0072(4)(c) F.A.C. (2014): The Corporation may recall the difficulty of Petitioner relating to the services of the prior developer, GHD Construction Services, Inc. After terminating such services and engaging Developer, Petitioner's credit underwriting report was finalized on March 6, 2019.

18. On March 22, 2019, Corporation staff sent the final credit underwriting report to Junious Brown of Nabors, Giblin & Nickerson, P.A. ("NGN") and asked if they would act as the Corporation's Special Counsel for the transaction. On behalf of NGN, Mr. Brown accepted on March 29, 2019.

19. On March 29, 2019, Jenna Emmons, representing the Developer and on behalf of Petitioner, advised NGN that Petitioner wanted to simultaneously close the Development as well as Ozanam Village III. At that time, Petitioner expected Ozanam Village III to receive approval of its credit underwriting report at the June 21, 2019 Corporation Board meeting. Petitioner also planned to request that Ozanam Village III be allowed to close at-risk, once its credit underwriting report was final. Since both developments are located on the same parcel, Petitioner is owner/borrower for both, and Petitioner will need to pay-off the same interim acquisition loan and predevelopment funding loan, it seemed more cost effective and time efficient to close simultaneously.

20. On May 22, 2019, when it became apparent that Ozanam Village III would not receive credit underwriting approval at the June Corporation Board meeting, Ms. Emmons contacted Corporation staff, NGN and Seltzer Management Group, Inc. ("Servicer") to schedule a conference call to discuss items on the closing checklist provided by NGN and the timeline for closing the Development. Due to scheduling issues with Corporation staff and NGN. The call was held on June 7, 2019. Parties representing Corporation, NGN, Servicer, Petitioner and Developer discussed the issues noted above.

21. On June 24, 2019, NGN provided Petitioner with draft documents for the SAIL loan, which have been reviewed by Petitioner's counsel and were found generally acceptable.

22. On July 9, 2019, NGN provided Petitioner with draft documents for the ELI loan, which have been reviewed by Petitioner's counsel and were found generally acceptable.

23. As of the date of this Petition, nearly all the items on the closing checklist have been approved to NGN and Servicer. Except for the following, Petitioner and Developer expect to

provide the remaining checklist items for review by Corporation staff, NGN and Servicer the week of July 8, 2019. The Developer expects to provide the following once Pasco County issues its site plan and building permit approval.

- a. Development Orders, Vested Rights Application and Evidence of Developability of the Property (concurrency, capacity and consistency)
- b. Building Permits (or unconditional letter acceptable to Corporation dated within 30 days of closing)
- c. Receipt and satisfactory review of final site plan approval including parking variance from the appropriate permitting authority

24. 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 commit its full attention to fulfilling the obligations of the commitment and, if permitted to do so, proceed with the Development and construct this much needed affordable housing in Pasco County, Florida.

25. 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 their ability to overcome the many obstacles that have delayed the Development;
- b. The Development is adjacent to Ozanam Village III, development of the subject site complements Ozanam Village III and allows economies of scale for management and delivery of services.

26. The waiver will benefit the Development, as it will serve to meet the high demand for affordable housing in Pasco County, Florida, and complements Ozanam Village III and will complement and achieve further economies of scale for Ozanam Village III.

27. 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 III, in that the economies of scale for management and delivery of services will be lost.

WAIVERS WILL SERVE THE UNDERLYING PURPOSE OF THE STATUTE

28. 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

29. The Waiver being sought is to allow the loan closing deadline to be extended ninety (90) days to November 6, 2019.

ACTION REQUESTED

20. Petitioner requests the following: That the Corporation grant the Petition for Waiver and grant Petitioner a waiver from Rule 67-48.0072(4)(c) F.A.C. (2014), such that the Corporation permits an extension of the time frame to close the loans and extends the deadline by ninety (90) days.

- 21. The waivers would be permanent as to the Petitioner.
- 22. Grant such further relief as may be deemed appropriate
- 23. 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 16th day of July, 2019.



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