

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

**FHFC CASE NO.: 2026-025VW
APPLICATION NO.: 2025-159BS**

ACRUVA COMMUNITY FL12, LLC,

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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FLORIDA HOUSING
FINANCE CORPORATION

PETITION FOR WAIVER OF RULE 67-48.0072(21)(b)

ACRUVA COMMUNITY FL12, LLC, a Florida limited liability company (“Petitioner”), by and through its undersigned counsel, hereby petitions the Florida Housing Finance Corporation (the “Corporation”) for a waiver of Rule 67-48.0072(21)(b), Florida Administrative Code (“F.A.C”) (June 28, 2023) (the “Rule”), in effect at the time Petitioner submitted its Application (as defined below) in response to the Corporation’s RFA (as defined below), to allow Petitioner to extend its deadline to secure a firm loan commitment for an additional six (6) months. Petitioner seeks a waiver of, or variance from, the Rule for reasons set forth below. This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code. In support, Petitioner states as follows:

A. PETITIONER

1. The mailing address, telephone number and email of Petitioner is as follows:

ACRUVA COMMUNITY FL12, LLC
800 Fairway Drive, Suite 250
Deerfield Beach, Florida 33441

Telephone: (305) 901-5377
Attention: Daniel F. Acosta
Email: dacosta@acruvacp.com

2. The mailing address, telephone number and email of Petitioner's legal counsel is as follows:

Hollie A. Croft, Esq.
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Ave., Suite 1400
Orlando, Florida 32801
Telephone: (407) 669-4239
Facsimile: (407) 425-8377
Email: hollie.croft@nelsonmullins.com

3. On August 30, 2024, Petitioner submitted an application (the "Application") in response to RFA 2024-215 for Live Local SAIL Financing for Developments Near Military Installations (the "RFA") requesting a State Apartment Incentive Loan an amount of 11,000,000 (the "SAIL Loan"), a loan financed by Corporation-issued Multifamily Mortgage Revenue Bonds in an amount up to \$20,000,000 (the "MMRB Loan"), and Non-Competitive Housing Credits of \$1,459,222 to finance the development of a 100-unit multifamily residential housing development to be located in Miami-Dade County, Florida, to be commonly known as Osprey Landing (the "Development"). Petitioner received—and subsequently accepted—correspondence from the Corporation providing a preliminary commitment for the SAIL Loan and the MMRB Loan (the SAIL Loan and MMRB Loan, collectively referred to herein as the "Loans") and inviting the Petitioner to enter credit underwriting. Pursuant to the Rule, Petitioner must receive a firm loan commitment within twelve (12) months of Petitioner accepting its invitation to enter into credit underwriting. On November 13, 2025, Petitioner requested the approval of the Corporation to extend Petitioner's deadline to secure a firm loan commitment by six (6) months due to delays from the permitting process. On December 12, 2025, the Corporation's Board of Directors

approved Petitioner's request and approved the deadline to be extended through May 8, 2026. Petitioner paid a one (1) percent extension fee in connection with approval of the foregoing extension.

B. THE RULE FROM WHICH WAIVER IS SOUGHT

4. Petitioner requests a waiver of or variance from Rule 67-48.0072(21)(b), F.A.C (effective June 28, 2023), which provides in part:

67-48.0072 Credit Underwriting and Loan Procedures.

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

(b) For 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.

(Emphasis added.)

C. STATUTES IMPLEMENTED BY THE RULES

5. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act (the “Act”), the statute that designated the Corporation to administer the State Apartment Incentive Loan program. *See* Fla. Stat. § 420.5087.

D. JUSTIFICATION FOR PETITIONER’S REQUESTED WAIVER

6. Petitioner was previously granted an extension to secure a firm loan commitment for the Loans to May 8, 2026, after the Development experienced delays due to permitting review and processing. Petitioner respectfully requests an extension of the deadline to secure a firm loan commitment for the Loans for an additional six months in order for Petitioner to finalize the Development’s credit underwriting report.

7. In July 2025, Petitioner submitted an application to Miami-Dade County (the “County”) requesting Surtax funding in an amount up to \$5,000,000.00 (the “Surtax Funding”). The Surtax Funding has become a critical funding source for the Development due to increases in both hard and soft development costs between the date of the Application and this Petition. The increase in hard development costs is primarily due to the overall rise in construction costs being seen throughout the industry, while the increase in soft development costs is largely due to increased third-party consulting costs. Given these increased costs, the Development will not be able to close without the Surtax Funding. However, Petitioner has not yet received a commitment from the County regarding the Surtax Funding. Currently, Petitioner is working diligently to include this Surtax Funding item on the May meeting agenda of the County’s Board of County Commissioners.

8. Notwithstanding the above, Petitioner is still working tirelessly to finalize the Development's credit underwriting report. As of March 19, 2026, Petitioner has acquired the land for the Development but is still experiencing significant delays during the local permitting process.

9. Petitioner anticipates finalizing its credit underwriting report no earlier than mid-June 2026, which could allow for the report to be on the Board's August 14, 2026 Board meeting for approval, at the earliest. As such, Petitioner hereby formally requests a waiver of the Rule or variance from the Rule, in order to extend Petitioner's firm loan commitment deadline for an additional six months to allow Petitioner additional time to finalize its credit underwriting report and receive its firm loan commitment from the Corporation.

10. Under Section 120.542(1), Fla. Stat., and Chapter 28-104, F.A.C., the Corporation has the power and 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. A waiver shall be granted when the person who is subject to the rule demonstrates that the application of the rule would: (1) create a substantial hardship¹ *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. *See* § 120.542(2), Fla. Stat.

11. Petitioner is actively and promptly undertaking the steps necessary to finalize its credit underwriting report so that Petitioner can receive its firm loan commitment. Despite setbacks with the Surtax Funding, Petitioner has made substantial progress towards finalizing its credit underwriting report. Petitioner is proceeding expeditiously toward completing its credit underwriting report and anticipates having it finalized for Board approval no earlier than mid-June

¹ "Substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. Further, "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. *See* Fla. Stat. § 120.542.

2026 (i.e., to be on the August 14, 2026 Board Meeting). A denial of the request would result in substantial economic hardship to Petitioner as Petitioner has incurred substantial pre-development costs, including the acquisition of the land for the Development, and not granting the extension could cause the deal to fail by allowing the Corporation to withdraw its preliminary commitment.

12. The Corporation would benefit by granting the requested waiver of, or variance of the Rule. If granted, it will allow Petitioner the additional time it needs to finalize its credit underwriting report and receive the Development's firm loan commitment.

13. The Florida Housing Finance Corporation Act (Section 420.501, *et seq.*) was passed to encourage private and public investment in facilities for persons of low-income. The purposes of Section 420.5089, Fla. Stat. and the Act that are implemented by Chapter 67-48, as one of the goals is for Corporation financing to be used to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households. Further, the Act was passed in order to stimulate and prioritize initiatives to increase the supply of affordable housing. By granting the requested waiver, the Corporation would promote the goal of providing persons of low-income with affordable housing through private investment. The requested waiver or variance will not adversely impact the Development or the Corporation or provide Petitioner with an unfair advantage, and will ensure that the 100 affordable housing units of the Development will be made available for the target population in Miami-Dade County – US Southern Command to obtain decent, safe, and sanitary housing.

E. TYPE OF WAIVER

14. The waiver being sought is permanent in nature.

F. ACTION REQUESTED

15. For the reasons set forth herein, Petitioner respectfully requests the Corporation (i) grant a waiver of the Rule to extend the May 8, 2026 deadline to secure a firm loan commitment for an additional six months to November 8, 2026; (ii) grant this Petition and all the relief requested herein; and (iii) grant such further relief as it may deem appropriate.

Respectfully submitted the 8th day of April, 2026.

Respectfully submitted,



Hollie A. Croft, Esq.
Fla. Bar No. 886181
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Ave., Suite 1400
Orlando, FL 32801
Telephone: (407) 669-4239
Facsimile: (407) 425-8377
Email: hollie.croft@nelsonmullins.com
COUNSEL FOR PETITIONER