

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

**FHFC CASE NO.: 2026-046VW
APPLICATION NO.: 2025-273BSA**

ACRUVA COMMUNITY FL10, LLC,

Petitioner,
vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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FLORIDA HOUSING
FINANCE CORPORATION

PETITION FOR WAIVER OF RULE 67-48.0072(10)(b)

ACRUVA Community FL10, 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 strict compliance with Rule 67-48.0072(10)(b), Florida Administrative Code (“F.A.C”) (August 27, 2024) (the “Rule”), in effect at the time Petitioner submitted its Application (as defined below) in response to the Corporation’s RFA (as defined below). Petitioner seeks a waiver of 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 FL10, 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 September 12, 2024, Petitioner submitted an application (the “Application”) in response to RFA 2024-205 SAIL Financing of Affordable Multifamily Housing Developments to be Used in Conjunction with Tax-Exempt Bond Financing and Non-Competitive Housing Credits (the “RFA”) requesting a State Apartment Incentive Loan an amount of \$7,750,000 (the “SAIL Loan”), an Extremely Low-Income Loan in an amount up to \$680,200 (the “ELI Loan”), a HOME-ARP Loan in the amount of \$723,900 (the “HOME Loan”), non-Competitive Housing Credits of \$1,214,988 (the “Credits”), and tax exempt bonds in the amount of \$13,000,000 (the “Bonds”), to finance the development of a 94-unit multifamily residential housing development to be located in Quincy, Florida, to be commonly known as the Residences at Cedar Creek (the “Development”). Petitioner received—and subsequently accepted—correspondence from the Corporation for the funding providing a preliminary commitment for the SAIL Loan, ELI Loan, HOME Loan, (the SAIL Loan, ELI Loan, and HOME Loan collectively referred to herein as the “Loans”) as well as the Housing Credits and Bonds. The preliminary commitment also invited 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 12, 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 18, 2026. Petitioner paid a one (1) percent extension fee in connection with approval of the foregoing extension. On June 3, 2026, Petitioner requested the approval of the Corporation to extend Petitioner's deadline to secure a firm loan commitment by an additional six (6) months due to delays in the finalization of the Development's Credit Underwriting Report because of the need for further analysis of market conditions in the Development's small submarket. On June 26, 2026, the Corporation's Board of Directors approved Petitioner's request and approved the deadline to be extended through November 18, 2026.

B. THE RULE FROM WHICH WAIVER IS SOUGHT

4. Petitioner requests a waiver of Rule 67-48.0072(10)(b), F.A.C (effective August 27, 2024), which provides in part:

67-48.0072 Credit Underwriting and Loan Procedures.

(10) For Competitive HC, SAIL, and HOME Applicants, an appraisal report conforming to the Uniform Standards of Professional Appraisal Practice in effect at the time of the appraisal and reported in a comprehensive format, and a separate market study shall be ordered by the Credit Underwriter, at the Applicant's expense, from an appraiser qualified for the geographic area and development type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the development property's financial feasibility. Appraisals which have been ordered and submitted by third-party credit enhancers, first mortgagors or Housing Credit Syndicators and which meet the above requirements and are acceptable to the Credit Underwriter may be used instead of the appraisal referenced above. The market study must be completed by a disinterested party who is approved by the Credit Underwriter. The Credit Underwriter shall consider the market study, the Development's financial impact on Developments in the area previously funded by the Corporation, and other documentation when making its recommendation of whether to approve or disapprove a SAIL or HOME loan, a Housing Credit Allocation, or a combined SAIL loan and Housing Credit Allocation or Housing Credit Allocation and HOME loan. The Credit Underwriter

shall also review the appraisal and other market documentation to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application. For the Credit Underwriter to make a favorable recommendation, the submarket of the proposed Development must have:

(b) For Developments with new construction units, an average market rental rate, based on unit mix and annualized rent concessions, of **110 percent or greater of a 60 percent of Area Median Income rental rate.**

(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. As noted above, Petitioner was awarded a preliminary commitment by the Corporation for the Development and subsequently entered into credit underwriting, which it has received two extensions for, the most recent until November 18, 2026, due to outstanding questions relating to the market study conclusions delaying the finalization of the Development’s Credit Underwriting Report. Such outstanding questions are due to Petitioner’s current market study using an energy consumption model approved by the Corporation that showed the Development does not satisfy the requirements of the Rule, instead falling short by less than three percent (3%) of the Rule’s requirement. Since issuance of the market study, Petitioner has engaged in further discussions with the Credit Underwriter and the Corporation regarding the use of the allowance schedule published by the Northwest Regional Florida Housing Authority for Gadsden County,

effective March 9, 2026 (the “NRFHA Allowances”), which would enable the Development to satisfy the requirements set forth in the Rule. Accordingly, Petitioner respectfully requests a waiver of the requirement that developments with new construction units demonstrate an average market rental rate, based on unit mix and annualized rent concessions, of at least 110 percent of the 60 percent Area Median Income rental rate as a condition to receiving a favorable recommendation from the Credit Underwriter.

7. As part of the credit underwriting process, Petitioner is coordinating with the Credit Underwriter and Corporation staff regarding its latest market study, specifically the study’s analysis of the extent to which market rent exceeded the estimated average restricted rent at the Development that shows the market rent is currently on average seven and three-tenths percent (7.3%) greater than the estimated average rent, short of the ten percent (10%) figure required by the Rule.

8. In communications with Corporation staff, Corporation staff advised Petitioner that approximately half of the developments awarded under the operative Request for Applications (RFA 2024-205) utilized an energy consumption model in calculating the rent advantage required by the Rule. Corporation staff noted that when such energy consumption model is completed and available at the time the market study is prepared, it is used in calculating rent advantage. Because the gap to market rate from the estimated average rent in Petitioner’s market study did not satisfy the Rule, Petitioner has been delayed in finalizing its Credit Underwriting Report for presentation to the Board for approval. Therefore, Petitioner requests the Rule be waived so that Petitioner may continue bringing the Development to closing as quickly and efficiently as possible.

9. Petitioner further notes that it has performed analysis of the NRFHA Allowances, which were not available during the calculations performed for the market study. Such analysis of

the NRFHA Allowances determined that, when Petitioner uses these allowances to calculate the difference between market rate and the estimated average rent, Petitioner will satisfy the ten percent (10%) threshold set forth by the Rule.

10. The gap between Petitioner's estimated average rent and the market rent as shown in the operative market study does not satisfy the Rule, but as noted above, should FHFC give consideration to the latest NRFHA Allowances, the Rule would be satisfied. Satisfaction of the Rule is the primary step left to finalize the Credit Underwriting Report and is therefore preventing the Development from proceeding to firm loan commitment. Denial of the requested waiver would impose substantial economic hardship on Petitioner, as it would require Petitioner to obtain a new market study using the latest NRFHA Allowances, notwithstanding Petitioner's diligence and progress to date.

11. All other material components of the credit underwriting process have been completed or substantially completed, and resolution of the market rent advantage issue is the primary remaining obstacle to issuance of the final Credit Underwriting Report and firm loan commitment. The requested waiver will allow Petitioner, the Credit Underwriter, and Corporation staff to resolve the issue related to strict compliance with the Rule and therefore complete the underwriting process in a manner consistent with Corporation requirements. As such, Petitioner hereby formally requests a waiver of the Rule to allow Petitioner to finalize its credit underwriting report and receive its firm loan commitment from the Corporation.

12. 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.

13. In this instance, while Petitioner’s original market study with the use of an energy consumption model approved by the Corporation did not satisfy the Rule, Petitioner now has access to an updated model in the NRFHA Allowances that confirms Petitioner’s Development satisfies the Rule. Further, Petitioner is actively and promptly undertaking the remaining steps necessary to finalize its credit underwriting report so that Petitioner can receive its firm loan commitment. Aside from the issue with the Rule, Petitioner has made substantial progress toward finalizing its credit underwriting report, with all non-market components complete. A denial of the request would result in substantial economic hardship to Petitioner as it could cause the deal to fail by allowing the Corporation to withdraw its preliminary commitment. Absent the requested relief, Petitioner risks losing the benefit of its awarded SAIL, ELI, HOME, Bonds, and Housing Credit resources, incurring additional development costs associated with further delay, and jeopardizing the timely development of ninety-four (94) affordable housing units intended to serve low-income households in Gadsden County.

14. Requiring Petitioner to undertake a revised market study at this stage would not further the purpose of the Rule and would impose additional delays and expenses on a Development that has otherwise progressed through credit underwriting. The requested waiver is narrowly tailored to address the unique circumstances presented here, namely the emergence of an updated alternative rent advantage calculation that would show Petitioner’s Development

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.

complying with the Rule, while still preserving the Corporation's ability to evaluate the overall financial feasibility and market viability of the Development.

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

16. 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 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 will not adversely impact the Development or the Corporation or provide Petitioner with an unfair advantage and will ensure that the 94 affordable housing units of the Development will be made available for the target population in Gadsden County to obtain decent, safe, and sanitary housing.

E. TYPE OF WAIVER

15. The waiver being sought is permanent in nature.

F. ACTION REQUESTED

16. For the reasons set forth herein, Petitioner respectfully requests the Corporation (i) grant a waiver of strict compliance with Rule 67-48.0072(10)(b) to permit the Development to proceed notwithstanding a rent advantage calculation below the ten percent (10%) threshold and (ii) grant such further relief as it deems appropriate.

Respectfully submitted the 22 day of July, 2026.

Respectfully submitted,

Hollie A. Croft

Hollie A. Croft, Esq.

Fla. Bar No. 886181

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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
Email: corporationclerk@floridahousing.org

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

This 22 day of July, 2026.

By: *Hollie A. Croft*

Hollie A. Croft, Esq.
Fla. Bar No. 886181