

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO.: 2026-053VW
APPLICATION NO.: 2024-200C

MARLIN HOUSING PARTNERS, LP

Petitioner

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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FLORIDA HOUSING
FINANCE CORPORATION

PETITION FOR WAIVER OF FLORIDA ADMINISTRATIVE CODE RULE 67-
48.002(96), F.A.C. (06/28/2023) AND THE 2023 QAP

Marlin Housing Partners, LP, a Florida limited partner (the “Petitioner”) by and through its undersigned counsel, hereby petitions Respondent, Florida Housing Finance Corporation (“Florida Housing”), for a waiver of the provisions of the 2023 Qualified Allocation Plan (“2023 QAP”) as incorporated and adopted by Rule 67-48.002(96), Florida Administrative Code (“F.A.C.”) (06/28/2023) (the “Rule”), such that Petitioner may return its 2024 Housing Credit Allocation now as opposed to waiting until after the end of the second calendar quarter of 2027. Due to forces outside of Petitioner’s control, Petitioner will be unable to meet the Placed-in-Service deadline on December 31, 2027 (“PIS Deadline”). Thus, in an abundance of caution, and in an effort to remain at all times in compliance with Florida Housing’s requirements, Petitioner respectfully requests a rule waiver. In support, Petitioner states as follows:

A. THE PETITIONER

1. The address, telephone number, and e-mail address for Petitioner and its qualified representative are:

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Marlin Housing Partners, LP
800 N. Point parkway, Suite 125
Alpharetta, GA 30005
Telephone: 770-552-8070
Email: rhoskins@nurock.com

2. The address, telephone and facsimile numbers, and e-mail address of Petitioner's counsel is:

Hollie A. Croft, Esq.
Nelson Mullins Riley & Scarborough, LLP
390 N. Orange Ave., Suite 1400
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Telephone: (407) 669-4239
Facsimile: (407) 425-8377
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B. DEVELOPMENT BACKGROUND

3. The following information pertains to the development underlying Petitioner's application:

- Development Name: Residences at Westview Landing (the "Development")
- Development Address: NW 27th Avenue and NW 123rd Street
- County: Miami-Dade
- Developers: NuRock Development Partners Inc.; R Howell Development, LLC; and R Block Development, LLC
- Number of Units: 130 units

- Type: High Rise
- Set-Asides: 21 units at or below 30% AMI; 84 units at or below 60% AMI; and 25 units at or below 80% AMI
- Demographics: Family
- Funding: \$3,458,400 Competitive Housing Credit allocation (annual amount).

C. WAIVER IS PERMANENT

4. The waiver being sought is permanent in nature.

D. THE RULE FROM WHICH WAIVER IS REQUESTED

5. Petitioner requests a waiver of Rule 67-48.002(96), F.A.C. effective June 28, 2023, which provides in pertinent part:

““QAP” or “Qualified Allocation Plan” means, means, with respect to the HC Program, the 2023 Qualified Allocation Plan which is adopted and incorporated herein by reference, effective upon approval by the Governor of the State of Florida, pursuant to Section 42(m)(1)(B) of the IRC and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits. The QAP is available on the Corporation’s website under the Multifamily Programs link or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-15419>.”

6. Subsection II.J. of the 2023 QAP provides, in pertinent part, as follows:

“Notwithstanding any other provision of this QAP, where a Development has not been placed in service by the date required pursuant to Section 42 of the IRC, or it is apparent that a Development will not be placed in service by the date required pursuant to Section 42 of the IRC, and the Applicant has returned its Housing Credit Allocation after the end of the second calendar quarter of the year in which it was otherwise required to be placed in service pursuant to Section 42 of the IRC, the Corporation will reserve allocation in an amount not to exceed the amount of Housing Credits returned, and will issue a Carryover Allocation Agreement allocating such Housing Credits to the Applicant for either the current year or the year after the year in which the Development was otherwise required to be placed

in service pursuant to Section 42 of the IRC, provided the following conditions have been met:

- (i) The sponsor must have provided written notice to the Corporation, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any other pertinent information, prior to returning the allocation; and
- (ii) A site inspection reflecting the percentage of Development completion must be completed. If the Development is at least fifty (50) percent completed, as reflected in the site inspection, the approval may be made by Corporation staff. If the Development is less than fifty (50) percent completed, as reflected in the site inspection, the approval must be made by the Board. In making such determination, the Board must find and determine that the delay was caused by circumstances beyond the Applicant's control, and that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay; and
- (iii) The Corporation or Board, as applicable, must find that the Development in all respects, except time placed in service, still meets the conditions upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs.

A Development located in a HUD-designated DDA or QCT at the time of original allocation may retain its designation as such.”

E. STATUTES IMPLEMENTED BY THE RULE AND THE 2023 QAP

7. The Rule implements the Florida Housing Finance Corporation Act (the “Act”), which designates Florida Housing as the State of Florida’s housing credit agency within the meaning of Section 42(h)(8)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits (“Allocation Procedures”). See § 420.5099(1) and (2), Fla. Stat. Accordingly, the Rule implements, among other sections of the Act, the statutory authorization for Florida Housing’s establishment of Allocation Procedures for the HC Program.

Id.

F. JUSTIFICATION FOR GRANTING WAIVER OF THE RULE

8. Petitioner timely submitted Application No. 2024-200C (the “Application”) on September 14, 2023 in response to Request for Applications 2023-203 Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County (the “RFA”). The Development was invited to credit underwriting on February 12, 2024, which invitation was accepted. The Development received an allocation of 2024 Housing Credits (“Tax Credits”) in the annual amount meeting the requirements of Section 42(h)(1)(E) and (F) of the Internal Revenue Code of 1986, as amended (the “Code”).

9. Florida Housing staff and Petitioner executed a 2024 Carryover Allocation Agreement (“CAA”) on or about July 10, 2024, for the allocation of its Tax Credits. Pursuant to the CAA and 26 U.S.C. § 42(h)(1)(E)(i), the Development must be placed in service no later than the close of the second calendar year following the calendar year in which the allocation is made, which is December 31, 2026.

10. After execution of the CAA, the Development encountered significant and unforeseen challenges that materially disrupted its progress as a result of Hurricane Milton and the related impacts on the site and surrounding area. Due to these circumstances, Petitioner submitted a request to Florida Housing seeking an extension of the placed-in-service deadline through December 31, 2027.

11. Following the award of funding, Petitioner experienced considerable difficulty securing an equity partner due to depressed tax credit equity pricing in the Miami-Dade County (the “County”) market, with pricing below \$0.80 per credit. Additionally, the Project was adversely impacted by escalating construction costs and increased interest rates, all of which materially affected the financial feasibility and timing of affordable housing developments.

12. Notwithstanding these challenges, Petitioner continued to diligently advance the Development and successfully satisfied critical program requirements, including the 10% Test and site control requirements. Petitioner also pursued local government funding necessary to complete the Development’s capital stack and secured the support of the County Commissioner, who intended to allocate five million (\$5,000,000) in County funding to the Development (the “Surtax Funding”). However, during this process, the Director of Housing and Community Development

resigned, resulting in a significant and unforeseen change in administration. Following that transition, the interim director declined to support the direct allocation of funds despite the Development's satisfaction of all applicable requirements.

13. As a result, Petitioner was required to seek funding through County's surtax application process, a lengthy process outside of Petitioner's control. From submission through final approval, the Surtax Funding process required more than one year to complete, creating substantial delays notwithstanding Petitioner's continued efforts to move the Development forward. On May 15, 2026, Petitioner successfully secured Surtax Funding, thereby eliminating a significant financing hurdle and substantially strengthening the Development's readiness to proceed.

14. The Development has also achieved substantial milestones with respect to design, permitting, and underwriting. Documents regarding construction are finalized and are being submitted to the County for issuance of a permit-ready letter. In addition, the Applicant is actively completing the Credit Underwriting Report and does not anticipate approval issues. The timeline associated with the underwriting process was principally driven by the completion of the construction documents necessary for plan and cost review, which has now been accomplished.

15. Accordingly, granting the requested extension would be consistent with the objectives of the Program and would enable the successful development of a Project that is demonstrably viable, substantially progressed, and positioned to proceed toward closing, construction, and eventual delivery of much-needed affordable housing units.

16. Petitioner seeks this waiver because PNC Bank ("Lender") has agreed to serve as both the construction lender and the permanent lender through an agency debt structure. However, the PIS Deadline is not compatible with Lender's underwriting requirements, including its customary completion buffer designed to mitigate construction and tax credit delivery risk.

17. Petitioner therefore respectfully requests a waiver of the 2023 QAP to permit Florida Housing to approve the tax credit exchange now, as opposed to waiting until after the end of the second calendar quarter of 2027.

18. As set forth above, this request was not necessitated through any fault of Petitioner. The delays affecting the Development arose from extraordinary market conditions and governmental funding approval processes that were outside of Petitioner’s control. However, Petitioner has remained committed to advancing the Project, has satisfied key programmatic requirements, has secured critical local funding commitments, and has brought the Development to an advanced stage of readiness.

19. If the Petition is denied and Petitioner loses its allocated Housing Credits, Petitioner will be forced to abandon the Development. Stated differently, losing this funding source will cause Miami-Dade County to lose 130 affordable housing units in a community with well-documented need.

20. Under Section 120.542(1), *Fla. Stat.*, and Chapter 28-104, F.A.C., 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 fairness¹, 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.*

21. Strict adherence to Subsection II.J. of the 2023 QAP would violate principles of fairness, as Florida Housing has granted waivers to other developments similarly facing unforeseen delays beyond their control (*e.g.*, Cardinal Oaks — granted credit swap in October 2025; Legacy Village – granted credit swap in December 2025; Lofts at Southbank – granted credit swap in January 2026).

22. In this instance, Petitioner meets the standards for a waiver of the Rule and the 2023 QAP. The requested waiver will not adversely impact the Development or Florida Housing and will ensure that 130 affordable units are made available for the target population in Miami-Dade County, Florida. The strict application of the 2023 QAP would prevent Petitioner from completing

¹ “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. See § 120.542(2), *Fla. Stat.*

the swap now and will create a substantial hardship for Petitioner because it cannot meet the PIS Deadline. Further, the waiver will serve the purposes of the Statute and the Act, because one of the Act's primary purposes is to facilitate the availability of decent, safe and sanitary housing in Florida. Moreover, the Statute was enacted, in part, to encourage private and public investment in facilities for persons of low-income. By granting this waiver, and further ensuring the development of 130 affordable units in Miami-Dade County, Florida Housing would recognize the goal of increasing the supply of affordable housing through private investment in persons of low-income, and recognizing the economic realities and principles of fundamental fairness in developing affordable housing. See § 420.5099(2), Fla. Stat.

23. The requested waiver should be granted because, as demonstrated above, the delay was caused by circumstances beyond Petitioner's control, due diligence was employed in an attempt to resolve those circumstances, the Development in all respects, except timing, still meets the conditions upon which the Housing Credits were originally allocated, and the Development is still desirable in terms of meeting affordable housing needs.

24. Should Florida Housing require additional information, Petitioner is available to answer questions and to provide all information necessary for consideration of this Petition.

G. ACTION REQUESTED

24. For the reasons set forth herein, Petitioner respectfully requests Florida Housing: (i) grant the requested waiver to permit the requested credit exchange, immediate return of Petitioner's 2024 Housing Credit Allocation, and an immediate allocation of new Housing Credits; (ii) grant a corresponding extension of deadlines relative to those credits, including the Placed-in-Service deadline; (iii) grant this Petition and all of the relief requested herein; and (iv) grant such further relief as it may deem appropriate.

Respectfully submitted on the 9th day of September, 2026.

Respectfully submitted,

Hollie A. Croft

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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
CorporationClerk@floridahousing.org,

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

The 9th day of September, 2026.

By: *Hollie A. Croft*

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