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FINANCE CORPORATION

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

GALLERY AT SOMI PARC PHASE TWO, LLC,
a Florida Limited Liability Company,

Petitioner,

CASE NO. 2026-066VW

vs.

Application No. 2026-004S
RFA No. 2025-213

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

PETITION FOR WAIVER OF RULE 67-21.003(8)(i), F.A.C. (7-10-25)

Gallery at SoMi Parc Phase Two, LLC, a Florida limited liability company (the "Petitioner") hereby petitions Florida Housing Finance Corporation (the "Corporation") for a waiver of the Corporation's prohibition on decreasing the "Total Set-Aside Percentage" as set forth in Rule 67-21.003(8)(i), Florida Administrative Code ("F.A.C.") (July 10, 2025) ("Rule"). At the time Petitioner submitted its application, it intended to participate in the U.S. Department of Housing and Urban Development ("HUD") Restore-Rebuild initiative (formerly known as "Faircloth-to-RAD") and included Section 8 housing choice vouchers using the average income test in its feasibility analysis. Unfortunately, the Restore-Rebuild program terminated as of May 15, 2026. Petitioner must therefore modify some of the unit set-asides.[1] While the set-aside percentage for the overall Live Local SAIL will remain the same, the housing credit set-aside will decrease, thereby necessitating a waiver of the Rule. The Development will continue to meet the Live Local intent and RFA requirements if the requested waiver is granted because the overall Live Local SAIL set-aside percentage will remain the same. Indeed, under the set-aside

[1] Petitioner separately formally requested Corporation approval to increase the total unit count from 323 to 343 pursuant to Rule 67-21.003(8)(h), F.A.C. (7/10/25).

commitments proposed by this Petition, the Development meets all RFA requirements and would have otherwise been qualified and would have been selected for funding. In further support of this request, Petitioner states as follows:

A. THE PETITIONER

1. The name, address, telephone and facsimile numbers, and email address for the Petitioner and its qualified representative:

Alberto Milo, Jr.
2850 Tigertail Avenue, Suite 800
Miami, FL 33133
Telephone: (305) 460-9900
E-Mail: amilo@relatedgroup.com
Facsimile: N/A

2. For purposes of this Petition, the address, telephone number and facsimile number of the Petitioner's attorney are:

Brian J. McDonough, Esquire
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street
Miami, Florida 33130
Telephone: 305-789-3350
Facsimile: 305-789-3395
E-mail: bmcdonough@stearnsweaver.com

Bridget Smitha, Esquire
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
106 E College Ave Suite 700
Tallahassee, Florida 32301
Telephone: 850-329-4852
Facsimile: 850-329-4864
E-mail: bsmitha@stearnsweaver.com

B. THE DEVELOPMENT

3. Petitioner submitted Application No. 2026-004S ("Application") in response to RFA 2025-213 (Live Local SAIL Financing for Mixed Income, Mixed-Use, and Urban Infill Developments) on September 16, 2025.

4. The following information pertains to the Development underlying the application:

- Development Name: Gallery at SoMi Parc Phase Two
- Developer: Gallery at SoMi Parc Phase Two Developer, LLC

- County of Development: Miami-Dade
- Number of Units: 323 New Construction units were identified in the Application; Petitioner subsequently requested Corporation approval to increase the total number of units to 343
- Type: High Rise
- Demographics: Family
- Set-Asides:

The following reflects the information contained within the Application:

AMI	Type	# of Units	% of Units
20%	Joint HC/LL	46	14.24%
30%	Joint HC/LL	0	0.00%
40%	Joint HC/LL	0	0.00%
50%	Joint HC/LL	19	5.88%
60%	Joint HC/LL	16	4.95%
70%	Joint HC/LL	0	0.00%
80%	Joint HC/LL	101	31.27%
80%	Non-HC/LL	0	0.00%
90%	Non-HC/LL	0	0.00%
100%	Non-HC/LL	14	4.33%
110%	Non-HC/LL	63	19.50%
120%	Non-HC/LL	0	0.00%
Unrestricted	Market Rate	64	19.81%
Total Units		323	100.00%

Through this Petition, Petitioner seeks a waiver to instead reflect the following:

AMI	Type	# of Units	% of Units
20%	Joint HC/LL	0	0.00%
30%	Joint HC/LL	15	4.37%
40%	Joint HC/LL	0	0.00%
50%	Joint HC/LL	54	15.74%
60%	Joint HC/LL	0	0.00%
70%	Joint HC/LL	0	0.00%
80%	Joint HC/LL	0	0.00%
80%	Non-HC/LL	32	9.33%
90%	Non-HC/LL	0	0.00%
100%	Non-HC/LL	88	25.66%
110%	Non-HC/LL	86	25.07%
120%	Non-HC/LL	0	0.00%
Unrestricted	Market Rate	68	19.83%
Total Units		343	100.00%

AMI	Type	Tier 1	Funding
20%	Joint HC/LL	$62,000	$0
30%	Joint HC/LL	62,000	930,000
40%	Joint HC/LL	62,000	-
50%	Joint HC/LL	62,000	3,348,000
60%	Joint HC/LL	62,000	-
70%	Joint HC/LL	62,000	-
80%	Joint HC/LL	62,000	-
80%	Non-HC/LL	143,000	4,576,000
90%	Non-HC/LL	130,000	-
100%	Non-HC/LL	117,000	10,296,000
110%	Non-HC/LL	104,000	8,944,000
120%	Non-HC/LL	91,000	-
	TOTAL		**$28,094,000**

- Funding Amounts: $12,750,000 SAIL Base Loan Request Amount; $1,281,641 Non-Competitive Housing Credit Request Amount (annual amount)

C. RULE FROM WHICH WAIVER IS SOUGHT

5. Petitioner requests a waiver from Rule 67-21.003(8)(i), F.A.C. (7-10-25), which provides:

> (8) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application is deemed complete. Those items are as follows:
>
> ***
>
> (i) The Total Set-Aside Percentage as stated in the total set-aside breakdown chart for the program(s) applied for in the Set Aside Commitment section of the Application; notwithstanding the foregoing, the Total Set-Aside Percentage may be increased after the Applicant has been invited to enter Credit Underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development;

D. STATUTES IMPLEMENTED BY THE RULE

6. The Rule implements Section 420.5099 of the Florida Housing Finance Corporation Act, Section 420.5099 (Allocation of the low-income housing tax credit) as well as:

- Section 420.502 (Legislative findings)
- Section 420.507 (Powers of the corporation)

- Section 420.508 (Special powers; multifamily and single-family projects)
- Section 420.509 (Revenue bonds)
- Section 420.5099 (Allocation of the low-income housing tax credit)

E. JUSTIFICATION FOR THE WAIVER

7. At the time Petitioner submitted its Application, it intended to participate in the HUD's Restore-Rebuild initiative. Accordingly, Petitioner included Section 8 housing choice vouchers in its feasibility analysis and chose the average income test for its minimum set-aside commitments.

8. The Restore-Rebuild program subsequently terminated, making the Development no longer financially feasible because it can no longer access Section 8. Petitioner needed this rental assistance resource to effectuate the original set-aside commitment, which included 46 units at 20% AMI. With the lack of rental assistance resource, the Development can no longer support this number of units at 20% AMI, but will maintain the minimum number of ELI units under the RFA requirements (i.e., 15 units) - and will now instead change strategies to serve a larger percentage of missing middle/Live Local units as allowed under the RFA while still maintaining a mixed income development with 20% of the units at 50% AMI and below (as required by the RFA and Housing Credit program).

9. All other requirements of the RFA are being met and the Application would have otherwise been funded with the set-asides proposed in this Petition. Put simply, the proposed set-aside commitments are permitted under both the RFA and the Rule, and the waiver is necessary due only to the timing of the request (*i.e.*, the waiver is necessary to make the change after submission of the Application).

10. Petitioner must therefore modify some of the unit set-asides to reflect the charts set forth in paragraph 4, *supra*.

11. While the overall Live Local SAIL set-aside percentage will remain the same, the housing credit set-aside will decrease, thereby necessitating a waiver of the Rule.

12. Because the overall Live Local SAIL set-aside percentage will remain the same, the Development will continue to meet the Live Local intent and RFA requirements if the requested waiver is granted.

13. Under Section 120.542(1), Fla. Stat., and Chapter 28-104, F.A.C., the Corporation has the authority to grant waivers to its rule requirements when strict application of these rules would lead to unreasonable, unfair and unintended results in particular instances. Waivers must be granted when: (1) the person who is subject to the rule demonstrates that the application of the rule would create a substantial hardship 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. "Substantial hardship" means a "demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver." *Id*.

14. The purpose of the underlying statute (*i.e.*, increasing the supply of affordable housing through private investment) will still be achieved, even if the housing credit set-aside will decrease. Petitioner will still provide 275 more affordable housing units to the market than would be available if the Petition is denied. Accordingly, a waiver of the Rule would serve the purposes of Section 420.5099, F.S., and the Act as a whole, because one of the Act's primary purposes is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to households of limited means.

15. The requested waiver will not prejudice the Development, the Corporation, nor any other applicant.

16. Should the Corporation require additional information, a representative of Petitioner is available to answer questions and to provide all information necessary for consideration of this Petition.

F. PERMANENCY

17. The waiver being sought is permanent in nature.

G. ACTION REQUESTED

18. Petitioner requests the following: (a) grant Petitioner a waiver from Rule 67-21.003(8)(i), F.A.C. (July 10, 2025); (b) grant the Petition and all the relief requested therein; and (c) grant such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.
Brian J. McDonough, Esq.
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Miami, Florida 33131
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Counsel for Petitioner

By: *s/Brian J. McDonough*

CERTIFICATE OF SERVICE

The Petition is being served via e-mail for filing with the Corporation Clerk for the Florida Housing Finance Corporation, CorporationClerk@FloridaHousing.org, with copies served via e-mail on the Joint Administrative Procedures Committee, JAPC@leg.state.fl.us, this 14th day of October, 2026.

s/Brian J. McDonough