STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO.: 2026-064VW
APPLICATION NO.: 2025-370SH

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FLORIDA HOUSING FINANCE CORPORATION

ACRUVA COMMUNITY FL15, LLC

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

PETITION FOR WAIVER OF RULES 67-48.004(3)(d), 67-48.020(2)(b) FLORIDA ADMINISTRATIVE CODE (August 27, 2024)

ACRUVA COMMUNITY FL 15, LLC, a Florida limited liability company (the "**Petitioner**"), by and through its undersigned counsel, hereby petitions the Florida Housing Finance Corporation (the "**Corporation**") for a waiver of Rule 67-48.004(3)(d), F.A.C. (Effective August 27, 2024) and Rule 67-48.020(2)(b), F.A.C. (Effective August 27, 2024) (collectively, the "**Rules**") so that Petitioner may admit OPSC Arbors Pointe, LLC, a Florida limited liability company ("**OPSC Manager**") that is wholly owned by Opportunity South Carolina, a South Carolina nonprofit corporation ("**Nonprofit**"), as a member and sole manager of Petitioner before loan closing. Petitioner seeks a waiver of, or variance from, the Rules in order to admit OPSC Manager as a member and the sole manager entity of Petitioner prior to loan closing to allow Petitioner to receive a 0% interest rate for its HOME loan, as defined below, after the admittance of OPSC Manager for reasons set forth below.

This petition for waiver (the "**Petition**") is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code. In connection with this request for the rule waiver or variance, Petitioner also requested in a separate RFA Waiver (as discussed below) that the Corporation's Board of Directors (the "**Board**") approve changes in Petitioner's ownership pursuant to Rule 67-48.004(3)(a) and (b), F.A.C. and Section Four, A.3.c.(3) of the RFA (as defined below). In support, the Petitioner states as follows:

A. THE PETITIONER

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

ACRUVA Community FL15, 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 the Petitioner's legal counsel is as follows:

Nicholas W. Heckman, Esq.
Nelson Mullins Riley and Scarborough, LLP
390 N. Orange Ave., Suite 1400
Orlando, Florida 32801
Telephone: (407) 669-4241
Email: nick.heckman@nelsonmullins.com

3. On February 18, 2025, the Petitioner timely submitted an application (the "**Application**") in response to RFA 2025-206 HOME and Live Local SAIL Financing to be used for Rental Developments in Certain Hurricane Impacted Rural Areas of Opportunity (the "**RFA**") and requested the following financing from the Corporation: (1) $1,750,000 in State Apartment Incentive Loan Program ("**SAIL**") funds ("**SAIL Loan**"); and (2) $7,000,000 in HOME Investment Partnerships Program ("**HOME**") funds in to finance the construction, development

and operation of a 24-unit multifamily apartment complex to be known as Arbors Pointe located in Columbia County, Florida (the "**Development**").

4. On March 28, 2025, the Board selected Petitioner for funding, and Petitioner was subsequently invited to enter credit underwriting on April 9, 2025. Petitioner accepted that invitation and has subsequently been working with one of the Corporation's designated credit underwriters.

5. Petitioner's sources of funding include SAIL Loan proceeds and HOME loan proceeds, and deferred developer fees. During the course of the credit underwriting process, it became apparent that the proposed Development would struggle to meet the first mortgage debt sizing requirements for HOME Developments in Rule 67-48.0072(11), F.A.C. ("**HOME Debt Sizing**"). That rule requires that the minimum debt service coverage be 1.10x on HOME interest plus all superior debt service (1.0x if deferring 35% or more developer fee). Petitioner is considered a for-profit applicant and is thus subject to a 1.5% per annum interest rate on the HOME loan principal under Section 67-48.020(2)(a), F.A.C. (Effective August 27, 2024). During credit underwriting, Petitioner became aware it would struggle to be able to achieve the required HOME Debt Sizing, with a 1.5% per annum HOME interest rate, even after deferring 100% of developer fees, and could potentially render the Development financially infeasible.

6. To ensure that the Development is financially feasible, Petitioner worked with credit underwriter and with the Corporation's staff to restructure the applicant entity in a way that would allow the proposed Development to move forward with a 0% interest rate for the HOME loan. This proposed restructuring is based on the admittance of OPSC Manager, its sole member a nonprofit corporation, as a member and sole manager of Petitioner. Nonprofit is a Section 501(c)(3) entity under the Internal Revenue Code and was organized as a South Carolina nonprofit

corporation, which provides and promotes decent, safe, and sanitary affordable housing for very-low income, low income, and moderate income families and individuals. Not only will the addition of OPSC Manager allow for the Petitioner to receive a reduced interest rate, but it will also add tremendous value to the Development by adding a member to the Petitioner that is heavily involved in providing affordable housing options.

7. Under the proposed restructuring, OPSC Manager will own a 0.01% equity interest in Petitioner and serve as Petitioner's sole manager. ACRUVA FL09 Member, LLC, the Petitioner's current manager and member, will no longer serve as a manager of Petitioner and will continue to serve as a member but now own a 99.99% equity interest in Petitioner. Attached as Exhibit A is Petitioner's original structure of the applicant (i.e., the Petitioner) entity as stated in Petitioner's original application. Attached as Exhibit B is Petitioner's proposed applicant (i.e., the Petitioner) entity structure.

8. Approval of Petitioner's proposed restructuring would mean that Petitioner would now have a non-profit entity included within its applicant structure, which would in turn own all of the manager's interest in the Development held by the managing member of the Petitioner. In an abundance of caution, because Nonprofit will own 100% of OPSC Manager (i.e. the sole manager and a member of Petitioner) and not serve as the developer, this Petition requests a waiver of the Rules in order for the HOME loan to receive a 0% interest rate.

B. THE RULES FROM WHICH WAIVER IS SOUGHT

9. Petitioner requests a waiver of, or variance from, Rules 67-48.004(3)(d) and 67-48.020(2)(b), F.A.C. (Effective August 27, 2024), which provide, in relevant part, as follows:

> Rule 67-48.004(3)(d):
>
> "(3) For the SAIL, HOME and Housing Credit programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by

the Applicant after the applicable submission, unless provided otherwise below:

(d) Applicant that applied as a Non-Profit or for-profit organization, unless provided otherwise in a competitive solicitation;"

Rule 67-48.020(2)(b):

(2) The annual interest rate will be determined by the following:

(b) All qualified non-profit Applicants that own 100 percent of the ownership interest in the Development held by the general partner or managing member entity will receive a 0 percent interest rate loan. For purposes of determining the annual HOME interest rate, the definition of Non-Profit found at Rules 67-48.002 and 67-48.0075, F.A.C., shall not apply; instead, qualified non-profit Applicants shall be those entities defined in 24 CFR Part 92, Section 42(h)(5)(c), subsection 501(c)(3) or 501(c)(4) of the IRC and organized under Chapter 617, F.S., if a Florida corporation, or organized under similar state law if organized in a jurisdiction other than Florida.

10. Petitioner requested in a separate RFA waiver request waiver of, or variance from, Section Four A.3.c.(3) of RFA 2025-206 in order to make the changes to the applicant entity. Section Four A.3.c.(3) of RFA 2025-206 (the "**RFA Requirement**"), provides in relevant part:

"The Applicant entity shall be the borrowing entity and cannot be changed in any way (materially or non-materially) until after loan closing…Changes to the Applicant entity (material or non-material) prior to the loan closing…may result in disqualification from receiving funding and may be deemed a material misrepresentation…"

Note, this Petition will be presented at the November 6, 2026, Board meeting simultaneously with the credit underwriting report and the RFA waiver request to waive the RFA Requirement to change the organizational structure of applicant (i.e. Petitioner's structure).

C. STATUTES IMPLEMENTED BY THE RULES

11. The Rules are implementing, among other sections of the Florida Housing Finance Corporation Act (the "**Act**"), the statutes that designate the Corporation to administer the SAIL

and HOME programs in accordance with the State Apartment Incentive Loan Program and HOME Investment Partnerships Program. *See* §§ 420.5087 & 420.5089, Fla. Stat.

D. JUSTIFICATION FOR PETITIONER'S REQUESTED WAIVER

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 rules demonstrates that the application of the rules would: (1) create a substantial hardship[1] 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. Strict adherence to Rules would impose a hardship on Petitioner because the proposed Development would struggle to be financially feasible if the applicant did not receive a 0% HOME interest rate, which it will not qualify for unless it can be restructured to include OPSC Manager. Moreover, a waiver of the Rules is required to avoid the economic hardship of limited sources to build the Development. Columbia County is in dire need of affordable housing, and the proposed restructuring of the applicant entity (i.e., Petitioner), as proposed, would allow the proposed Development to move forward and ensure its success.

14. The Petitioner believes that a waiver will serve the purposes of Sections 420.5087 and 420.5089, Fla. Stat. and the Act that are implemented by Chapter 67-48, F.A.C., because one of the goals is for the proceeds of Corporation financing to be used to facilitate the availability of

[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* § 120.542, Fla. Stat.

decent, safe and sanitary housing in the State of Florida to low-income persons and households. The Act (Section 420.501, et seq.) was passed in order to create inducements and opportunities for private and public investment in rental housing to increase the supply of affordable housing for low-income persons and households. By granting this Petition, the Corporation would recognize the goal of increasing the supply of affordable housing units via the construction of new developments throughout Florida, particularly in Columbia County.

15. The requested waiver will not adversely affect Petitioner, the Development, or any other party that applied to receive funding in the RFA or the Corporation.

E. TYPE OF WAIVER

16. The waiver being sought is permanent in nature.

F. ACTION REQUESTED

17. For the reasons set forth herein, the Petitioner respectfully requests the Corporation (i) grant a waiver of Rule 67-48.004(3)(d) F.A.C. (Effective August 27, 2024) and Rule 67-48.020(2)(b)(Effective August 27, 2024), and approve the requested changes to the Petitioner's ownership structure pursuant to Rule 67-48.004(3)(a) and (b) F.A.C. (Effective August 27, 2024); (ii) grant this Petition and all the relief requested herein; and (iii) grant such further relief as it may deem appropriate.

Respectfully submitted,

Nicholas W. Heckman, Esq.
Fla. Bar No. 0127356
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Ave., Suite 1400
Orlando, Florida 32801
Telephone: (407) 669-4241

Email: nick.heckman@nelsonmullins.com
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 14th day of October, 2026.

By: _____
Nicholas W. Heckman, Esq.
Fla. Bar No. 0127356

Exhibit A

Current Applicant Structure

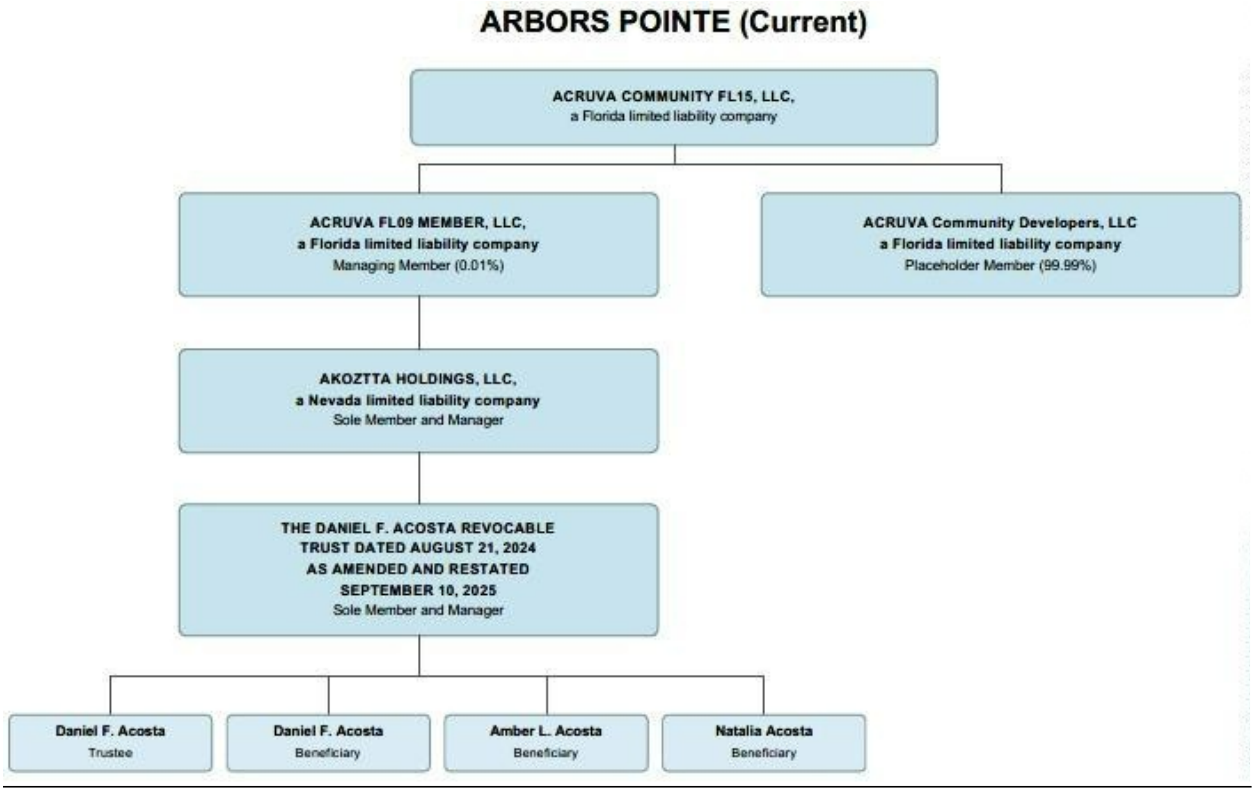


Exhibit B

Proposed Applicant Structure

