STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

MORNING POINTE, LLLP,
a Florida limited liability limited partnership,

Petitioner,

CASE NO. 2026-068VW

vs.

Application No. 2025-526BC

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

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FLORIDA HOUSING FINANCE CORPORATION

PETITION FOR WAIVER OF RULE 67-21.006(2), F.A.C. (7/10/2025)

The petitioner, Morning Pointe, LLLP, a Florida limited liability limited partnership ("Petitioner"), submits this petition to the respondent, Florida Housing Finance Corporation ("Respondent" or "Corporation"), for a waiver of Rule 67-21.006(2), Florida Administrative Code (July 10, 2025) (the "Rule), which requires that each residential building in a development financed with multifamily mortgage revenue bonds issued by the Corporation ("MMRB") contain two (2) or more dwelling units. The Development (as hereinafter defined) is an existing, occupied HUD mixed-finance public housing and affordable rental community that has been subject to recorded HUD restrictive covenants since 2003 and to a recorded extended low-income housing agreement with the Corporation since 2004, and six (6) of its fifty-three (53) existing residential buildings are single-family rental homes. Petitioner seeks to acquire, rehabilitate and preserve the Development in its entirety, without carving out those homes. Petitioner, therefore, respectfully requests a waiver of the Rule. In support thereof, Petitioner states as follows:

A. THE PETITIONER

1. The name, mailing address, telephone number, and email address for Petitioner and its qualified representative are:

Benjamin Stevenson
Executive Director-Secretary
430 Hartsell Avenue
Lakeland, Florida 33815
Telephone: (863) 687-2911
E-mail: bstevenson@lakelandhousing.org

2. The name, mailing address, telephone number, and email address for Petitioner's attorney are:

DarrowEverett LLP
Attention: Jozette V. Chack-On, Esquire
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B. THE DEVELOPMENT

3. Petitioner submitted its non-competitive funding application (the "Application") for Corporation-issued MMRB and Non-Competitive four percent (4%) housing credits ("4% HC") with respect to the following development (the "Development"):

- Name: Morning Pointe Apartments (currently known as Renaissance at Washington Ridge)
- Address: 150 W. 14th Street, 491 W. 4th Street and 484 W. 4th Street, Lakeland, Florida 33805 (Scattered Sites)
- Developer: Lakeland-Polk Housing Corporation
- County of Development: Polk
- Number of Units: 226 (196 existing units to be rehabilitated and 30 new construction units)
- Development Category: Acquisition and Preservation
- Type: Garden Apartments (an existing three-story apartment building and existing single-family, duplex and quadraplex residential buildings, together with new construction duplexes)

- Set Asides: MMRB: 40% of units at or below 60% AMI; HC: 13% of units at or below 30% AMI and 87% of units at or below 60% AMI; ELIHA (as hereinafter defined): 100% of units, including not less than 15.31% of units at or below 33% AMI

- Demographics: Family

- Rental Assistance: 118 units with project-based rental assistance (108 existing public housing units converting to Section 8 project-based vouchers under the Rental Assistance Demonstration program and 10 new construction units with Section 8 project-based vouchers)

- Requested Funding: $15,635,000 Corporation-issued MMRB; $2,381,229 of 4% HC (annual allocation amount)

C. PERMANENCY OF WAIVER

4. The waiver being sought is permanent in nature.

D. RULE FROM WHICH WAIVER IS SOUGHT

5. Petitioner requests a waiver from the following Rule of the Florida Administrative Code ("F.A.C."), which provides, in relevant part, as follows:

> "A Development shall at a minimum meet the following requirements or an Applicant shall be able to certify that the following requirements shall be met with respect to a Development: [. . .] (2) Must be owned, managed and operated as a Development to provide multifamily residential rental property comprised of a building or structure or several proximate buildings or structures, each containing two (2) or more dwelling units and functionally related facilities, in accordance with section 142(d) of the Internal Revenue Code."

Rule 67-21.006(2), F.A.C. (effective July 10, 2025).

6. To the extent that the Rule has been subsequently repromulgated or amended (including the version of the Rule effective August 13, 2026), and any such subsequent version of the Rule applies to Petitioner or the Development, Petitioner seeks a waiver of the Rule as so repromulgated or amended.

E. STATUTES IMPLEMENTED BY THE RULE

7. The Rule implements the Florida Housing Finance Corporation Act (the "Act"), including specifically Sections 420.502 (Legislative findings), 420.507 (Powers of the

corporation), 420.508 (Special powers; multifamily and single-family projects), and 420.509 (Revenue bonds) of the Florida Statutes (2026).[1] Pursuant to Section 420.508(3) of the Act, the Corporation is authorized to make mortgage loans to sponsors to finance the development costs of projects, which the Act defines to include "the acquisition of existing residential housing, or the remodeling, improvement, rehabilitation, or reconstruction of existing housing." *See* Section 420.503(35) of the Act.

F. JUSTIFICATION FOR WAIVER

8. The Development is an existing affordable rental community located in the City of Lakeland, Polk County, Florida, currently known as Renaissance at Washington Ridge, that was financed in part with low-income housing tax credits allocated by the Corporation in 2001. In connection with that allocation, the Corporation and the Development's then-owner, Renaissance at Washington Ridge, Ltd., entered into an Extended Low-Income Housing Agreement (FHFC Application # 2001-030C), recorded on September 30, 2004, in Official Records Book 5936, Page 453, of the Public Records of Polk County, Florida (Instrument No. 2004198134) (the "ELIHA"). The ELIHA runs with the land and binds the owner's successors and assigns. *See* ELIHA § 10(b).

9. The ELIHA provides that the development it governs shall consist entirely of fifty-three (53) residential buildings containing 196 units, all of which shall be owned by the same person for federal tax purposes and financed pursuant to a common plan of financing. *See* ELIHA § 2(e). The ELIHA further requires that one hundred percent (100%) of the units be set aside for low-income tenants for an extended use period of fifty (50) years, including not less than 15.31%

[1] The Florida Housing Finance Corporation Act is set forth, in its entirety, in Sections 420.501 through 420.55 of the Florida Statutes (2026). *See also* Rule 67-21.006, F.A.C. (identifying the laws implemented by the Rule as Sections 420.502, 420.507(9), (11), (14), (18), (19), (20) and (21), 420.508 and 420.509, Florida Statutes).

of the units for households with incomes at or below 33% of area median income, and it restricts occupancy of any unit by the owner or a related person. *See* ELIHA §§ 2(n), 3(a), 3(g) and 6(c).

10. The Development is also an existing HUD mixed-finance public housing development. It was constructed as the first on-site phase of the Washington Ridge revitalization of the Paul A. Diggs neighborhood in Lakeland, for which the Housing Authority of the City of Lakeland, Florida (the "Authority") was awarded a HOPE VI grant in 1999. The Development is subject to a Declaration of Trust and Restrictive Covenants in favor of the United States Department of Housing and Urban Development ("HUD"), recorded on January 3, 2003, in Official Records Book 5220, Page 2034, of the Public Records of Polk County, Florida (Instrument No. 2003001775) (the "Declaration of Trust"), and to a Regulatory and Operating Agreement between the Authority and the Development's owner, recorded on January 3, 2003, in Official Records Book 5220, Page 2059, of the Public Records of Polk County, Florida (Instrument No. 2003001777) (the "Regulatory Agreement"). Under the Regulatory Agreement, the Development's public housing units assisted under the Authority's Annual Contributions Contract with HUD (the "ACC") are not fixed units; they "float" and, to the extent feasible, are to be scattered throughout the Development and within its buildings, and the public housing and non-public housing units are to be maintained and operated without distinction. *See* Regulatory Agreement §§ 2(a)–(b). Both instruments restrict the transfer or disposition of the Development, or any portion of it, without HUD's written approval (and, under the Regulatory Agreement, the Authority's), and the Declaration of Trust may not be amended, modified or released without HUD's prior written consent. *See* Declaration of Trust ¶¶ 7 and 9; Regulatory Agreement § 10(a). Both instruments also expressly contemplate that the same Development would be subject to the

Corporation's housing credit restrictive covenant. *See* Declaration of Trust ¶ 7(e); Regulatory Agreement, Recital I and § 10(c)(iv).

11. Six (6) of the Development's fifty-three (53) existing residential buildings are detached single-family rental homes located at 249 W. 14th Street, 420 W. 5th Street, 245 Whitehurst Street, 1420 N. New York Avenue, 1536 Hawkins Way and 1550 Hawkins Way, Lakeland, Florida (collectively, the "Single-Family Homes"). Four (4) of the Single-Family Homes (249 W. 14th Street, 420 W. 5th Street, 1536 Hawkins Way and 1550 Hawkins Way) are currently designated as public housing units assisted under the ACC, and the other two (1420 N. New York Avenue and 245 Whitehurst Street) are housing credit units that do not receive public housing assistance. The Single-Family Homes contain all four (4) of the Development's four-bedroom units and two (2) of its three-bedroom units, and two (2) of the Single-Family Homes are designated as mobility-accessible (UFAS) units. Each of the Development's other forty-seven (47) existing residential buildings contains two (2) or more dwelling units, and the Development also includes a community center building. The sixty-eight (68) residential buildings reported in the Application consist of these fifty-three (53) existing buildings and fifteen (15) new construction duplex buildings, each of which will contain two (2) dwelling units.

12. Petitioner proposes to acquire, rehabilitate and preserve the Development using Corporation-issued MMRB and 4% HC, including the conversion of the Development's 108 existing public housing units, four (4) of which are located in Single-Family Homes, to Section 8 project-based vouchers under HUD's Rental Assistance Demonstration program ("RAD").[2] Upon its acquisition of the Development, Petitioner will be bound by the ELIHA as the successor owner.

[2] The Declaration of Trust and the Regulatory Agreement each recite that 109 of the Development's units would be operated as public housing units. *See* Declaration of Trust, second recital; Regulatory Agreement, Recitals B and H and § 2(a). The Application reflects 108 existing ACC units, which will convert to project-based vouchers under RAD.

Petitioner intends to preserve the entire Development, including the Single-Family Homes, under a single owner, a single management agent and a unified set of Corporation program documents, consistent with the ELIHA, rather than to carve the Single-Family Homes out of the Development.

13. Petitioner disclosed in the Application that the Development's existing family units are located within single-family, two-family (duplex) and four-family (quadraplex) residential buildings. During its review of the Application, Corporation staff raised the requirement that each residential building contain two (2) or more dwelling units, and Petitioner explained the circumstances of the Single-Family Homes, provided aerial imagery identifying them at staff's request, and asked whether the Corporation would allow them to remain in the Development rather than require their removal. The Corporation thereafter invited Petitioner to enter credit underwriting on June 24, 2026. On September 23, 2026, Corporation staff advised Petitioner that a waiver of the Rule is required.

14. As previously represented to Corporation staff, the Single-Family Homes have been excluded from the Development's eligible basis and from the sizing of the MMRB, and no MMRB proceeds are allocated to their rehabilitation. Petitioner does not seek a waiver of any requirement of Section 142(d) of the Internal Revenue Code or the Treasury Regulations thereunder, and the Development will comply with all such requirements as determined by the Corporation's Bond Counsel. In this regard, the applicable Treasury Regulations describe a residential rental project as a building or structure containing "one or more similarly constructed units," treat detached houses as buildings, and exclude a building or structure containing fewer than five units, one of which is occupied by an owner of the units. *See* Treas. Reg. § 1.103-8(b)(4)(i), (b)(4)(iv) and (b)(8)(iv). None of the Single-Family Homes is owner-occupied, and each is and will remain a rental unit subject to the ELIHA.

15. Neither the Development, the Corporation, nor any other applicant would be prejudiced if this petition is granted. The Single-Family Homes are existing rental homes that have been part of the Development, and subject to the Declaration of Trust, the Regulatory Agreement and the ELIHA, for more than two decades, and the requested waiver does not increase the Development's unit count, change the Development's site, reduce any set-aside or affordability commitment, or confer any competitive advantage, as the Application was submitted through the Corporation's Non-Competitive application process. Indeed, preserving the Single-Family Homes as part of the Development keeps all of the Development's existing units under a single owner, a single management agent and a unified set of Corporation program documents, inuring to the benefit of the Corporation and the Corporation's affordable housing mission.

16. Under Section 120.542(1), Florida Statutes (2026), and Chapter 28-104, Florida Administrative Code, the Corporation has the power and authority to grant variances and waivers to its rule requirements when strict application of such rules would lead to unreasonable, unfair, and unintended results in particular instances.[3] Pursuant to Section 120.542(2), Florida Statutes (2026), variances and waivers shall be granted by the Corporation when the person (who is subject to the rule) demonstrates that: (i) the purpose of the underlying statute will be or has been achieved by the person through other means, and (ii) the application of the applicable rule would either create a substantial hardship or violate principles of fairness.[4]

[3] A "variance" means a decision by an agency to grant a modification to all or part of the literal requirements of an agency rule to a person who is subject to the rule. A "waiver" means a decision by an agency not to apply all or part of a rule to a person who is subject to the rule. *See* Sections 120.52(22) and 120.52(23), Florida Statutes (2026).

[4] A "substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. "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* Section 120.542(2), Florida Statutes (2026).

17. If the requested waiver is not granted by the Corporation, then Petitioner will suffer a substantial and unnecessary economic, legal and operational hardship. Strict application of the Rule would require Petitioner either to remove the Single-Family Homes from an existing development that the ELIHA requires to consist entirely of its fifty-three (53) residential buildings under common ownership and a common plan of financing, or to forgo the Corporation-issued MMRB on which the preservation of the Development is structured. Removing the Single-Family Homes would require a separate disposition of each home subject to Section 4 of the ELIHA; the approval of HUD and the Authority under the Declaration of Trust and the Regulatory Agreement, including HUD's consent to any modification or release of the Declaration of Trust; separate ownership, management and financing arrangements for six scattered homes; and the restructuring and re-underwriting of the Development's financing, resulting in additional costs and delay that are disproportionate to any regulatory benefit and that could jeopardize Petitioner's ability to complete credit underwriting within the timeframes established by the Corporation. It would also remove four (4) of the Development's public housing units from the Development and from its RAD conversion as currently structured, units that count toward the Development's obligation, as a Preservation development funded through the Corporation, to "maintain at least the same number of PBRA or ACC units," Rule 67-21.002(85), F.A.C., and would eliminate every four-bedroom unit in the Development. Denial of the waiver by the Corporation could jeopardize the Corporation's funding for the acquisition, rehabilitation and preservation of a 226-unit affordable family housing development in Polk County, including the conversion of 108 existing public housing units to Section 8 project-based vouchers. The Development is financed through multiple public funding sources, including $15,635,000 in Corporation-issued MMRB and an annual 4% HC allocation of $2,381,229, and a denial by the Corporation could jeopardize these

aforementioned funding arrangements. Strict application of the Rule would also violate principles of fairness, because the Rule affects Petitioner in a manner significantly different from the way it affects other similarly situated applicants: unlike an applicant proposing new construction, which can design each building to contain two (2) or more dwelling units, Petitioner is preserving an existing development whose configuration Petitioner did not create, that HUD and the Authority have governed since 2003 under recorded instruments under which its public housing units float among, and are operated without distinction from, its other units, and that the Corporation has regulated as a single housing credit development since 2004.

18. In this instance, Petitioner meets the standards for the requested waiver. The purpose underlying the Act has been achieved if the Corporation approves the relief set forth in this petition. The Development will provide 226 residential units of safe, decent and sanitary affordable housing for families in Polk County, including 118 units with project-based rental assistance, and all of the Development's existing units, including the Single-Family Homes, will remain restricted under the ELIHA for the remainder of its fifty (50) year extended use period. The Single-Family Homes also serve households that the rest of the Development cannot: they contain the Development's only four-bedroom units, allowing larger families, including public housing families, to live in appropriately sized homes within the same integrated community that serves smaller households and elderly residents, and two (2) of them are accessible units. In the Authority's experience, families needing four bedrooms have few appropriately sized affordable rental options and often must rely on Housing Choice Vouchers to find single-family homes in the private market. The inclusion of the Single-Family Homes in the Development does not impair the quality, safety or affordability of the Development; the Single-Family Homes will remain residential rental units available to the general public and subject to the same income and rent

restrictions, compliance monitoring and management as every other unit in the Development. The waiver set forth in this petition will serve the purposes of the Act because one of the Act's primary purposes is to facilitate the availability of decent, safe and sanitary housing in the State of Florida, including through the acquisition and rehabilitation of existing housing, and the Development directly advances that purpose.[5]

19. The requested waiver will not adversely affect the Corporation, the Development, or any other applicant. The Single-Family Homes have been excluded from the Development's eligible basis and from the sizing of the MMRB, and no MMRB proceeds are allocated to their rehabilitation. The Corporation continues to exercise its authority under Section 120.542, Florida Statutes, to waive requirements of Rule Chapter 67-21, F.A.C., where strict application of a rule would impose a substantial hardship and the purpose of the underlying statute would still be achieved.

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

G. RELIEF REQUESTED

Consequently, for the reasons set forth in this petition, Petitioner respectfully requests that the Corporation:

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[5] *See* Sections 420.502(4) and 420.502(7) of the Act (finding that there exists "a serious shortage of decent, safe, and sanitary housing in the state available to persons and families of low, moderate, and middle income," and that it is necessary to create a state housing finance corporation, among other purposes, "to stimulate the construction and rehabilitation of residential housing"); Section 420.503(38) of the Act (defining "residential housing" to mean "one or more new or existing residential dwelling units"); *see also* Section 420.0003(2)(c), Florida Statutes (2026) ("The existing stock of affordable housing must be preserved and improved through rehabilitation programs and expanded neighborhood revitalization efforts to promote suitable living environments for individuals and families."); *id.* § 420.0003(2)(d) ("The wide range of need for safe, decent, and affordable housing must be addressed, with an emphasis on assisting the neediest persons."); *id.* § 420.0003(2)(d)5. ("The important contribution of public housing to the well-being of citizens in need shall be acknowledged through efforts to continue and bolster existing programs.").

a. Grant Petitioner the requested permanent waiver from the Rule 67-21.006(2), F.A.C. (eff. 7/10/2025) such that, in connection with the Development, the Single-Family Homes may be included in, and remain part of, the Development notwithstanding that each of the Single-Family Homes contains fewer than two (2) dwelling units;

b. Grant this petition and all the relief requested therein; and

c. Award or grant such other or further relief as may be deemed appropriate.

Respectfully submitted,

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/s/ Jozette V. Chack-On, Esq.
/s/ Jake Schulman, Esq.

CERTIFICATE OF SERVICE

This petition is being served via electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation (CorporationClerk@FloridaHousing.org), with a copy being served by U.S. Mail on the Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 West Madison Street, Tallahassee, Florida 32399-1400, as of this 14th day of October, 2026.

/s/ Jozette V. Chack-On
/s/ Jake Schulman, Esq.