

BEFORE THE
FLORIDA HOUSING FINANCE CORPORATION

ALABASTER GARDENS, LTD.,
a Florida limited partnership,

Petitioner,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

Application #: 2004-032BS

Case #: 2004- 047YW

FLORIDA HOUSING
FINANCE CORPORATION

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PETITION FOR VARIANCE FROM RULE 67-48.012(1)(g), F.A.C.

Alabaster Gardens, Ltd. ("Petitioner") hereby petitions the Florida Housing Finance Corporation (the "Corporation") for a variance from Rule 67-48.012(1)(g), Florida Administrative Code. This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code.

The Petitioner

1. The address, telephone number, and facsimile number of the Petitioner are:

Alabaster Gardens, Ltd.
attn: Rev. Arthur L. Fletcher
939 Massachusetts Ave.
Pensacola, FL 32505
850-432-3902
850-435-7210 fax

2. Petitioner successfully applied for financing from the State Apartment Incentive Loan ("SAIL") and multifamily mortgage revenue bond ("MMRB") programs

through the 2004 Universal Application Cycle (the “Universal Cycle”) that the Corporation administers pursuant to Chapters 67-21 and 67-48, Florida Administrative Code. The Petitioner’s application was #2004-032BS (the “Application”). Petitioner applied for SAIL funds and MMRB proceeds to finance a portion of the costs to develop a multifamily rental apartment complex in Escambia County, Florida to be known as Alabaster Gardens (the “Development”). The Application was for a 147-unit apartment complex to serve the Elderly demographic and designation categories under the Corporation’s rules. The sole general partner of the Applicant is related to a church in Escambia County, and the Development would be built on land adjoining the church.

3. Because of significant increases in the costs to develop much needed affordable housing in Escambia County, Petitioner is seeking relief from certain rules that limit the amount of subsidy that would be available for the Development. The unforeseen changes that this summer’s hurricanes caused in Escambia County during the time since the Petitioner filed the Application have created a substantial hardship to the Petitioner, and it would violate principles of fairness not to permit the requested changes for the Development.

The Rules from which Variance is Sought

4. Petitioner seeks a variance from Rule 67-48.012(1)(g), Florida Administrative Code. That rule requires that, “The minimum combined debt service coverage shall be 1.10 . . . , including the SAIL mortgage and all other superior mortgages.”

Statutes Implemented by the Rule

5. The statutes that the rule implements are sections 420.507 and 420.5087, Fla. Stat.

**Petitioner Requests a Variance from the Rule
For the Following Reasons**

6. When Petitioner submitted the Application to the Corporation, it did so in the good faith belief that building the Development would be a financially viable undertaking that would serve the affordable housing needs of Escambia County.

7. While the Application was pending before the Corporation, Hurricane Ivan tore through Escambia County, causing many millions of dollars in damage and destroying thousands of homes. It now appears that the need for new affordable housing in Escambia County is more pressing than ever. The Corporation is familiar with the damage in Escambia County through the considerable efforts it has undertaken to respond to the housing crises of the many residents who have lost their homes.

8. The construction efforts to repair the damage from Hurricane Ivan have exacerbated in Escambia County the dramatic increases in construction and labor costs that have been well-documented throughout Florida and the rest of the country. The Corporation is familiar with these cost increases generally, given its ongoing credit underwriting of proposed developments throughout the state.

9. Without some sort of relief or additional subsidy, the Petitioner may not be able to afford to build the Development. The Corporation's rule that limits how much of the SAIL that the Petitioner has won that it can use to build the Development imposes unusually severe financial limitations on the Development, given the recent increases in construction and labor costs in Escambia County. Rule 67-48.012(1)(g) requires that

“The minimum combined debt service coverage shall be 1.10 . . . , including the SAIL mortgage and all other superior mortgages.” (the “1.10 Requirement”) The MMRBs that provide the first mortgage typically must underwrite to a 1.15 or 1.20 debt service coverage ratio. Based on the Petitioner’s current projections, the 1.10 Requirement would obligate the Petitioner to use an extra \$1,050,000 of the SAIL proceeds to pay down bonds below the level that the bond credit enhancer would require. That is, \$1,050,000 of financial resources that should be available to build the much needed affordable housing for the elderly in Escambia County would instead be used to satisfy the 1.10 Requirement. Without relief from the 1.10 Requirement, it appears that there would not be adequate sources to finance the Development. Regardless of whether the 1.10 Requirement is appropriate in other places at other times, it violates principles of fairness and imposes a substantial hardship on the Petitioner to apply the 1.10 Requirement for Elderly affordable housing in Escambia County so soon after Hurricane Ivan.

10. The Petitioner has invested in the Development a significant amount of money and goodwill throughout the neighborhood and the adjoining, affiliated church. However, the Petitioner will be unable to build the Development unless it is able to obtain additional sources or get relief from the 1.10 Requirement. If the Corporation does not grant the relief requested in this petition, the Petitioner will suffer substantial hardship.

11. Because Hurricane Ivan made landfall in Escambia County while the Application was pending and because that landfall had a material adverse effect on the financial viability of the Development, it would violate principles of fairness not to grant Petitioner relief from the 1.10 Requirement.

Action Requested

12. Petitioner requests that the Corporation grant the Petitioner a variance from rule 67-48.012(1)(g) such that the Corporation not require the SAIL loan to the Development to meet any specific debt service coverage requirement.

13. This variance would be permanent as to the Petitioner.

14. This variance would serve the purposes of the underlying statutes because it would permit much needed affordable housing to be built in an area that has suffered significant losses of its housing stock this year. To grant the variances would help ensure that there are adequate financial sources to do so and therefore improve the financial viability of the Development.

15. A copy of this petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300.