STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING FINANCE CORPORATION

GADSDEN ARMS APARTMENTS, L.P.,
a Florida limited partnership,

Petitioner,

FHFC CASE NO. 2025-058VW
Application No. 2022-101B/2022-511C

v.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

PETITION FOR WAIVER OF RULE 67-21.003(1)(b), F.A.C. (07/06/22) AND THE NON-COMPETITIVE APPLICATION INSTRUCTIONS (REV. 04-2022)

Gadsden Arms Apartments, L.P. (the "Petitioner") by and through its undersigned counsel, hereby petitions Respondent, Florida Housing Finance Corporation ("Corporation"), for a waiver of the prohibition under Rule 67-21.003(1)(b), Florida Administrative Code ("F.A.C.") (07/06/22) ("Rule") and the incorporated Non-Competitive Application Instructions (Rev. 04-2022) ("NCA") against changing the Petitioner's ownership structure in any way (materially or non-materially) prior to Multifamily Mortgage Revenue Note ("MMRN") loan closing. To remove two natural persons no longer affiliated with the Development, and for tax and other purposes, Petitioner determined that 333 Meadow LLC (2%) and Aspire Properties LLC (1%) must transfer their interests in Petitioner's organizational structure to Shevy RE LLC (1.5%) and Vista RE LLC (1.5%). These changes must occur now, as opposed to waiting until after MMRN loan closing because the 2025 tax returns must reflect the ownership entity structure that will in fact operate the Development. Since the change is requested prior to the MMRN loan closing, Petitioner respectfully requests a waiver of the Rule and NCA Instructions so that Petitioner's original

organizational chart, attached as Exhibit A, may be revised to reflect the structure depicted in Exhibit B.

In support of the foregoing, Petitioner states as follows:

A. THE PETITIONER.

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

Paul Shevchuk
1150 Kane Concourse
FL 2
Bay Harbor Islands, FL 33154
Phone: 646.770.7248
Fax: N/A
Email: pshevchuk@sbvre.com

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

Brian J. McDonough
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Tel: (305) 789-3350
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Bridget Smitha
Stearns Weaver Miller Weissler Alhadeff & Sitterson
106 East College Avenue, Suite 700
Tallahassee, FL 32301
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Fax: 850-329-4844

B. WAIVER IS PERMANENT.

3. The waiver being sought is permanent in nature.

C. DEVELOPMENT BACKGROUND.

4. The following information pertains to the development underlying this petition (the "Development"):

- Development Name: Gadsden Arms Apartments
- Development Address: 427 South Stewart Street, Quincy, FL 32351

- County: Gadsden County
- Developer: OMP Gadsden Arms Apartments, LLC
- Number of Units: 100 (acquisition and rehabilitation)
- Type: garden apartments
- Set Asides: 10% at or below 30% AMI and 90% at or below 60% AMI
- Demographics: Family
- Funding: $908,851 in 4% Non-Competitive Housing Credits and $11,975,000 in corporation issued MMRN

D. THE RULE AND NCA PROVISION FROM WHICH WAIVER IS REQUESTED.

5. To change Petitioner's principals before the MMRN loan closing, Petitioner requests a waiver of Rule 67-21.003(1)(b), F.A.C. (07/06/22) which provides in pertinent part:

> (1) Unless otherwise set forth in a competitive solicitation pursuant to rule Chapter 67-60, F.A.C., Applicants shall apply for Non-Competitive HC or a combination of MMRB and Non-Competitive HC as set forth below. For purposes of this subsection only, the term NC Award shall refer to Non-Competitive HC or a combination of MMRB and Non-Competitive HC, and funding from the Predevelopment Loan Program (PLP) will not be considered to be other Corporation funding.
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> ***
>
> (b) If the NC Award will not be made available through the competitive solicitation funding process outlined in rule Chapter 67-60, F.A.C., the Applicant shall utilize the Non-Competitive Application Package in effect at the time the Applicant submits the Application. The Non-Competitive Application Package or NCA (Rev. 04-2022) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation's website under the Multifamily Programs link labeled Non-Competitive Programs or from http://www.flrules.org/Gateway/reference.asp?No=Ref-14387, which shall be completed and submitted to the Corporation in accordance with this rule chapter.

This Rule incorporates by reference the NCA Package (Rev. 04-2022). The NCA Package includes the following requirement:

(2) For Applicants requesting MMRB, with or without Non-Competitive Housing Credits:

The Applicant entity shall be the recipient of the Non-Competitive Housing Credits and the borrowing entity for the MMRB Loan and the ownership structure of the **Applicant entity** as set forth in the Principal Disclosure Form **cannot be changed in any way (materially or non-materially) until after the MMRB Loan closing**. After loan closing, (a) any material change in the ownership structure of the named Applicant will require review and approval of the Credit Underwriter, as well as Board approval prior to the change, and (b) any non-material change in the ownership structure of the named Applicant will require review and approval of the Corporation prior to the change. The Applicant must comply with Principal disclosure requirements outlined in Rule Chapter 67-21, F.A.C. for the duration of the Compliance Period. **Changes to the ownership structure of the Applicant entity (material or non-material) prior to the loan closing** or without Board approval after the loan closing shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes prior to loan closing to the officers or directors of a Public Housing Authority, officers or directors of a Non-Profit entity, or the limited partner of an investor limited partnership or an investor member of a limited liability company owning the syndicating interest therein will not result in disqualification, however, the Corporation must be notified of the change. Changes to the officers or directors of a Non-Profit entity shall require Corporation approval. Any allowable replacement to the natural person Principals of a Public Housing Authority or officers and/or directors of a non-profit entity will apply to all preliminarily awarded Applications and Applications pending final Board action that include the Public Housing Authority or non-profit entity.

Id. at Part A Section 6.b.(2) (emphasis added); available at http://www.flrules.org/Gateway/reference.asp?No=Ref-14387

6. Petitioner is requesting the waiver so that it may amend its organizational structure from the current chart attached as Exhibit A to the proposed chart attached as Exhibit B.

E. STATUTES IMPLEMENTED BY THE RULE.

7. The Rule implements, among other sections of the Florida Housing Finance Corporation Act (the "Act"):

- 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.

8. Per Section 420.5099(1), (2), The Corporation acts as the State's housing credit agency and is authorized to establish procedures for allocating and distributing low-income housing tax credits.

F. JUSTIFICATION FOR GRANTING WAIVER OF THE RULE AND NCA INSTRUCTIONS AND FOR GRANTING CORPORATION APPROVAL.

9. Petitioner submitted non-competitive application number 2022-101B/2022-511C (the "Application") for the Development on October 2, 2022, which was finalized and approved on November 29, 2022.

10. Petitioner's 0.01% general partner was, and remains, Gadsden Arms Developers, LLC.

11. Gadsden Arms Developers, LLC has three members: Omni Affordable Florida, LLC (97%, manager); 333 Meadow LLC (2%); and Aspire Properties LLC (1%). David Fleming is the sole member of Aspire Properties LLC and Megan Thomas is the sole member of 333 Meadow LLC. Those entities, *i.e.*, 333 Meadow LLC and Aspire Properties LLC are no longer affiliated with the Development. Accordingly, Petitioner respectfully seeks a waiver so that 333 Meadow LLC and Aspire Properties LLC may transfer their interests to, and be replaced by, Shevy RE LLC (1.5%) and Vista RE LLC (1.5%). The sole member and manager of Shevy RE LLC is Paul Shevchuk and the sole member and manager of Vista RE LLC is Elizabeth Webb Moronta. If the waiver is granted, Peitioner's organizational structure would change from that depicted in Exhibit A to the structure depicted in Exhibit B.

12. The foregoing changes are being requested to reflect management changes for the Development. This change must occur now, as opposed to waiting until after MMRN loan closing

because the 2025 tax returns must reflect the ownership entity structure that will in fact operate the Development.

13. If this request for waiver is denied, the project sponsor will not be able to implement the desired management team for the Development. If the Petition is granted, neither the Corporation nor the Development would be prejudiced by the non-material change of two single-member LLCs.

G. <u>CONCLUSION.</u>

14. 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 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 fairness,[1] and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. § 120.542(2), Fla. Stat.

15. As set forth above, granting the requested waiver will prevent a substantial and unfair hardship from being imposed on Petitioner while still achieving the underlying purpose of the Rules.

16. For the foregoing reasons, Petitioner meets the standards for the requested waiver.

[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. § 120.542(2), Fla. Stat.

H. ACTION REQUESTED.

17. For the reasons set forth herein, Petitioner respectfully requests that the Corporation: (i) grant the requested permanent waiver of Rule 67-21.003(1)(b), and the applicable NCA provisions, such that Petitioner may change its organizational structure to reflect the attached Exhibit B prior to the MMRN loan closing; (ii) grant this Petition and all of the relief requested herein; and (iii) grant such further relief as it may deem appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.
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Counsel for Petitioner

By: */s/ Brian J. McDonough*
BRIAN J. MCDONOUGH, ESQ.

CERTIFICATE OF SERVICE

This Petition is being served by electronic transmission for filing with the Clerk for the Florida Housing Finance Corporation, CorporationClerk@FloridaHousing.org, with copies served by U.S. Mail on the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, this 18th day of November, 2025.

By: */s/ Brian J. McDonough*
Brian J. McDonough, Esq.

Exhibit A - Current Petitioner Organizational Chart

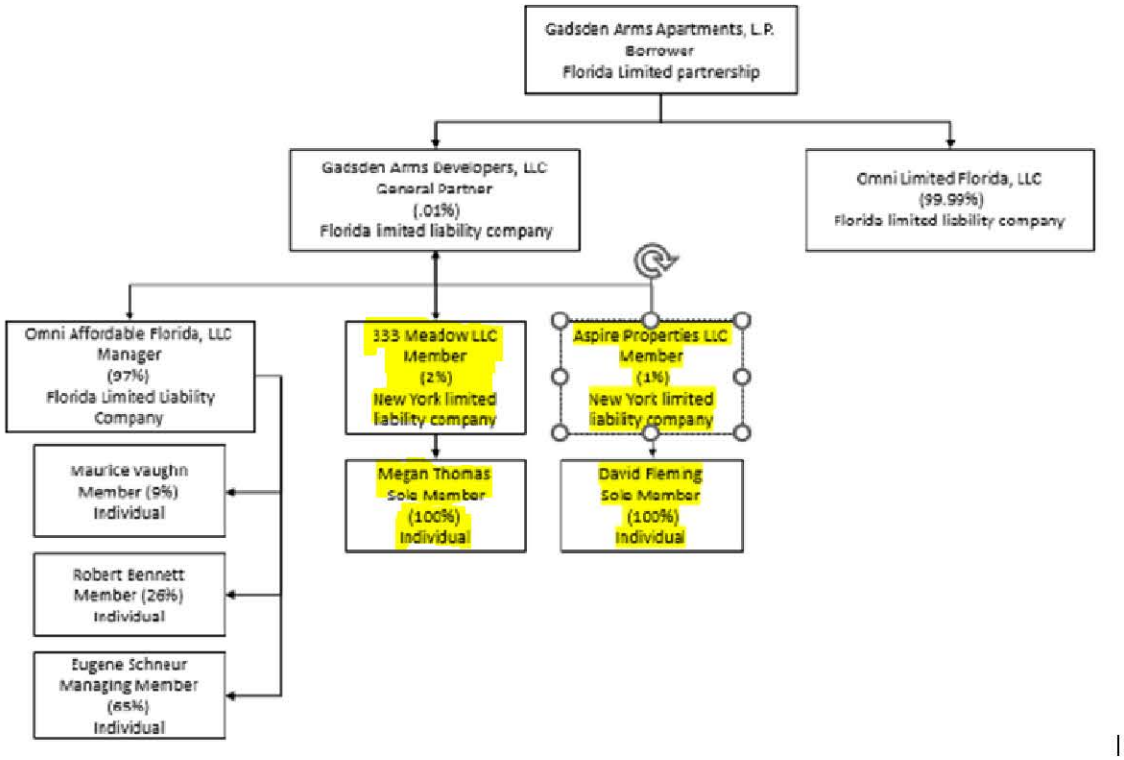


Exhibit B – Proposed Petitioner Organizational Structure

