

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. _____
Application No. 2006-348CHR

VILLA PATRICIA PHASE III, LLC,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

**PETITION FOR WAIVER OF RULE 67ER06-27(14)(e) TO CHANGE
THE SITE OF THE VILLA PATRICIA III DEVELOPMENT**

Petitioner Villa Patricia Phase III, LLC, a Florida limited liability company (“Villa Patricia III”), petitions Respondent Florida Housing Finance Corporation (“Florida Housing”) for a waiver of restrictions on changing a development’s site. *See* Rule 67ER06-27(14)(e) (“RRLP Rule”).

1. Pursuant to Section 120.542, Fla. Stat. (2006), and Rules 28-104.001 through 28-104.006, F.A.C. (2006), Villa Patricia III requests waivers of the Rules to allow for a change of its development’s site.

A. THE PETITIONER

2. The name, address, and telephone and facsimile numbers for Villa Patricia III and its qualified representative are:

Villa Patricia Phase III, LLC
c/o MM Villa Patricia Phase III, LLC
Attention: Liz Wong
2937 S.W. 27th Avenue, Suite 200
Miami, Florida 33133
Telephone: 305-476-8118
Facsimile: 305-476-1557

3. The name, address, telephone and facsimile numbers, and e-mail addresses of Villa Patricia III's attorneys, for purposes of this Petition, are:

Brian J. McDonough, Esquire
STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
Telephone: 305-789-3200
Facsimile: 305-789-3395
E-mail: bmcdonough@swmwas.com

Mimi L. Sall, Esquire
STEARNS WEAVER MILLER
WEISSLER ALHADEFF &
SITTERSON, P.A.
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Fort Lauderdale, Florida 33301
Telephone: 954-462-9575
Facsimile: 954-462-9524
E-mail: msall@swmwas.com

4. During the 2006 Rental Recovery Loan Program ("RRLP") cycle, Villa Patricia III was awarded a total commitment of up to \$5,910,000 in RRLP and Supplemental Loan financing, and competitive housing tax credits ("Housing Credits") of up to \$2,435,000, subject to final approval of the credit underwriter.

5. Funding received through the RRLP Program will be used for the construction costs of Villa Patricia III, a new 89-unit apartment development (the "Development") intended to serve very-low and low-income families in Miami, Miami-Dade County, Florida.

6. Villa Patricia III received the 2006 RRLP financing because Miami-Dade County was designated as one of the Florida counties impacted by the 2004 and 2005 hurricane seasons, and 2006 RRLP financing was made available to assist affordable housing developments in their hurricane recovery efforts.

7. The requested RRLP Rule waiver will not adversely affect the Development. However, a denial of this Petition (a) would result in substantial economic hardship to Villa Patricia III; (b) could deprive Miami-Dade County of essential, affordable housing units in a timely manner; and (c) would violate principles of fairness. § 120.542(2), Fla. Stat. (2006).

8. The waiver being sought is permanent in nature.

B. Rule from Which Relief is Requested and Statute Implemented by the Rule

9. Villa Patricia III requests a waiver of the RRLP Rule that identifies non-curable matters and includes the following:

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 Deadline ... Those items are as follows:

(e) Site for the Development;

Rule 67ER06-27(14)(e).

10. The RRLP Rule is implementing, among other things, Section 31, Chapter 2006-69, L.O.F., by establishing procedures under which Florida Housing shall:

Administer the Application process, determine loan amounts, make and service mortgage loans for the construction or Rehabilitation/Substantial Rehabilitation of affordable rental units utilizing [RRLP] funds.

67ER06-25(1), F.A.C. (2006).

11. The RRLP Rule is further implementing the enactment of Florida's response to housing disasters resulting from the 2004 and 2005 hurricane seasons. § 420.55, Fla. Stat. (2006).

12. Specifically, "[t]he Florida Housing Finance Corporation is authorized to provide funds to eligible entities for affordable housing recovery in those areas of the state which sustained housing damage due to hurricanes during 2004 and 2005." Florida Housing adopted emergency rules pursuant to § 120.54, Fla. Stat. (2006), and the Legislature found "that emergency rules adopted pursuant to this section meet the health, safety, and welfare requirement of s. 120.54(4)." In addition, the Legislature determined that:

such emergency rulemaking power is necessary for the preservation of the rights and welfare of the people in order to provide additional funds to assist those areas of the state that sustained housing damage due to hurricanes during 2004 and 2005.

§ 420.55, Fla. Stat. (2006).

C. Justification for Villa Patricia III's Request to Change Its Development's Site

13. Villa Patricia III's Development is the final phase of a three-phase project of affordable housing units in Miami-Dade County, Florida.¹

14. The purpose of this Petition is to change only the Development's legal description by, in essence, separating and carving out its legal description from the entire three-phase project's description, and to meet City of Miami site plan requirements. The location of the Development will not be changed, and its Tie-Breaker Measurement Point ("TBMP"), identified in Exhibit 21 to Villa Patricia III's RRLP Application, remains within the Development's modified legal description. *See* Amended Surveyor Certification and revised legal description attached hereto as Exhibits A and B, respectively.

15. Additionally, because the Development's TBMP remains the same, the 7.5 Proximity Tie-Breaker Points awarded to Villa Patricia III would not have changed.

¹ Simultaneously with the filing of this Petition, BHG-79th St., LLC, and Villa Patricia Phase II, LLC, the applicants for the first and second phases of the project, are filing their Petitions for Rule Waivers to change the site of Villa Patricia I and Villa Patricia II. *See* Application Nos. 2005-053C and 2006-060C.

16. The requested change to the Development's legal description would not have impacted the scoring of Villa Patricia III's RRLP Application, and would not have provided Villa Patricia III with an unfair advantage over other applicants.

17. The requested waiver will not prejudice the Development or the affordable housing market to be served by the Development, and may result in a savings of construction and development costs.

D. Conclusion

18. The requested waiver will not adversely impact the Development or Florida Housing, and will ensure that 89 affordable housing units will be available in Miami-Dade County, Florida.

19. Controlling statutes and Florida Housing's Rules are designed to allow the flexibility necessary to provide relief for changed circumstances that arise through no fault of an applicant. Florida Housing generally approves such waivers when it would not affect the scoring of an application or otherwise allow an applicant to obtain a possible unfair competitive advantage. § 420.5099(2), Fla. Stat. (2006).

20. Finally, by granting the requested waiver, Florida Housing would recognize the economic realities and principles of fundamental fairness in the development of affordable rental housing. This recognition would promote participation by experienced developer entities in meeting the purpose of the Act through new construction in an economical and efficient manner.

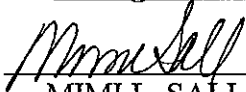
21. Should Florida Housing require additional information, Villa Patricia III is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Rule 67ER06-27(14)(e) to Change the Site of the Villa Patricia III Development.

WHEREFORE, Petitioner Villa Patricia Phase III, LLC, respectfully requests that the Florida Housing Finance Corporation grant the Petition and provide the following relief:

- A. Waive the prohibition on changing a development's site location after submission of the Universal Application;
- B. Allow the Villa Patricia III Development to be developed on the site identified in Exhibit B to this Petition; and
- C. Award such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.
Counsel for Villa Patricia Phase III, LLC
200 East Las Olas Boulevard, Suite 2100
Fort Lauderdale, Florida 33301
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Fax: (954) 462-9567
E-mail: msall@swmwas.com

By: 
MIMI L. SALL

CERTIFICATE OF SERVICE

The original Petition is being served by overnight delivery, with a copy served by electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300, this ~~25th~~ day of September, 2007.

By: 
Mimi L. Sall

2007 UNIVERSAL CYCLE - SURVEYOR CERTIFICATION

Name of Development: YVBA Patricia III

Development Location: 7815 NE 2nd Ave, Miami, FL 33138

(As a condition, provide the address assigned by the Universal Survey Point Service, including the address number, governmental city or town name, parcel number assigned, provide the section, corner designed (rectangle unit only).)

* If the Development consists of Sectioned Sites, the Development Surveyor shall submit the following information to the State: The Surveyor Measurement Point is located

The undersigned Florida Licensed Surveyor confirms that the method used to determine the following latitude and longitude coordinates conforms to Rule 61G04, F.A.C.:

Location of Sectioned Site	Latitude		Longitude			
	North	West	North	West		
Sectioned Site 1	N 25 Degrees	W 50 Minutes	48.1 Seconds (rounded after 1 decimal place)	W 80 Degrees	11 Minutes	33.4 Seconds (rounded after 1 decimal place)

State the name, address and latitude and longitude coordinates of the corner surveyed (a) on the above lot. The latitude and longitude coordinates for each station used to determine the location of the corner surveyed shall be provided in the following table. The surveyor shall provide the name, address and latitude and longitude coordinates of the corner surveyed (a) on the above lot. The surveyor shall provide the name, address and latitude and longitude coordinates of the corner surveyed (a) on the above lot. The surveyor shall provide the name, address and latitude and longitude coordinates of the corner surveyed (a) on the above lot.

Corner	Latitude		Longitude			
	North	West	North	West		
Corner 1	N 25 Degrees	W 51 Minutes	09.1 Seconds (rounded after 1 decimal place)	W 89 Degrees	11 Minutes	06.7 Seconds (rounded after 1 decimal place)
Corner 2	N 25 Degrees	W 50 Minutes	11.4 Seconds (rounded after 1 decimal place)	W 80 Degrees	11 Minutes	11.5 Seconds (rounded after 1 decimal place)

The Corporation certifies that this is a true and correct statement of the facts as stated in this certification. The Corporation will forward a copy to the State of Florida Department of Business and Professional Regulation for its records.

CERTIFICATION: I, [Signature], declare that the foregoing statement is true and correct.

See Diversified Inc.
Items of Survey

1200 NW 17th Ave, Suite 5
Address
Delray Beach, FL 33443

Name of Type State of Secretary: [Signature]

4549
Florida License Number

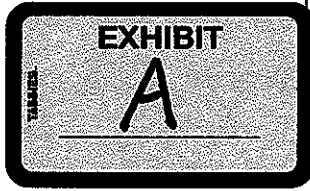
561-243-4920

Name of Type State of Secretary: [Signature]

4549
Florida License Number

561-243-4920

This certification may not be signed by the Applicant, by any related parties of the Applicant, or by any individual or financial beneficiary of the Applicant. If the certification is illegibly signed, the Applicant will not receive a surveyor certificate. If the certification contains corrections or "value-add", it will be scanned, imaged, altered, reprinted, and the Applicant will receive a copy of the original. The Applicant may not be eligible for automatic renewal. The certification may be photocopied.



DESCRIPTION

Villa Patricia Phase 3

A parcel of land, being a portion of Tract "A", **VILLA PATRICIA**, according to the Plat thereof, as recorded in Plat Book 166, page 61 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

BEGIN at the northwest corner of said Tract "A"; thence along the northerly and easterly lines of said Tract "A" the following four (4) courses; thence South 89°59'22" East, 86.00 feet; thence South 00°01'08" West, 50.00 feet; thence South 89°59'22" East, 50.00 feet; thence South 00°01'08" West, 56.00 feet; thence North 89°59'22" West, 20.00 feet; thence South 00°01'08" West, 79.76 feet; thence South 89°53'38" West, 116.00 feet to a point on the West line of said Tract "A"; thence along said line, North 00°01'08" East, 186.00 feet to the Point of Beginning.

Said lands lying and situate in Miami-Dade County, Florida, and containing 0.4863 acres (21,181 square feet) more or less, and subject to all easements and Rights-of-Way of record.

