

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

FHFC CASE NO. _____
Application No. CWHIP 06-033 (2006 CWHIP Award)

WESTSHORE COMMUNITY DEVELOPMENT CORPORATION,
A FLORIDA NON PROFIT CORPORATION,

Petitioner.

**PETITION FOR A WAIVER OF THE 2006 COMMUNITY WORKFORCE HOUSING
INNOVATION PILOT PROGRAM'S (CWHIP) REQUIREMENT OF AN EXTENSION
FEE OF ONE PERCENT OF THE CWHIP LOAN AMOUNT PURSUANT TO SECTION
420.5095, F.S. (2006) AND RULES 67-58.005(2), F.A.C. (2006), 67-58.070(6), F.A.C. (2006),
AND 28-1004.002(2), F.A.C. (2006)**

A. PETITIONER'S CONTACT INFORMATION:

Westshore Community Development Corporation
Attention: Ronald Rotella, President
3109 West Martin Luther King, Jr. Boulevard, Suite 140
Tampa, Florida 33607
Telephone: 813.289.5488
Facsimile: 813.289.6727

B. PETITIONER'S ATTORNEYS:

CARLTON FIELDS, P.A.
Laurel Lockett, Esquire
4221 West Boy Scout Boulevard, Suite 1000
Tampa, Florida 33607
Telephone: 813.223.7000
Facsimile: 813.229.4133
E-mail: llockett@carltonfields.com

C. BACKGROUND

1. Petitioner, Westshore Community Development Corporation, a Florida Non Profit Corporation, was one (1) of eleven (11) successful applicants who responded to CWHIP's 2006 request for proposals to create affordable workforce housing for essential services personnel.

2. Westshore CDC's proposed project, Westshore Landings, a community land trust ("CLT") condominium development (the "Development"), is a new fifty-seven (57) for sale

town home unit CLT development intended to serve workforce households, including extremely low and low income families, in the City of Tampa, Hillsborough County, Florida.

3. As described in the 2006 CWHIP Application, the innovative Development was subject to numerous public-private partnerships and will be built on an urban brownfield site.

4. The Florida Housing Finance Corporation (“FHFC”) awarded Westshore CDC a preliminary commitment for a 2006 CWHIP Loan in the amount of four million dollars and no cents (\$4,000,000).

5. At the time Westshore CDC submitted its 2006 CWHIP Application, it anticipated that the CWHIP Loan would complete credit underwriting and receive the approval of the Board of Directors of FHFC (the “Board”) within fourteen (14) months from the date of the acceptance of the letter of invitation, as required by Rule 67-58.070(6), F.A.C. (2006).

6. To facilitate the Development, the CLT was established and condominium documents will be submitted prior to the execution of purchase contracts for the individual units. Additionally, various lenders will require copies of the CLT and condominium documents prior to closing on the financing for the Development.

7. Because of the extensive time necessary to establish these organizational documents, and the additional development considerations that must be addressed when obtaining approvals for residential developments within a designated brownfield site, Westshore CDC is not in a position to finalize the credit underwriting process without an extension of time from the Board.

8. To that end, Westshore CDC submitted a request for an extension of time (“Extension Request”) to complete credit underwriting on May 22, 2008. The Extension

Request was deemed sufficient by Bridget Warring at FHFC. A copy of the Extension Request is enclosed herewith.

9. Normally, FHFC would charge Westshore CDC an extension fee of one (1) percent of the CWHIP loan amount if the Board approves the Extension request pursuant to Rules 67-58.005(2), F.A.C. (2006) and 67-58.070(6), F.A.C. (2006).

10. Westshore CDC respectfully requests that FHFC **permanently** waive the extension fee for good cause shown.

D. WAIVER JUSTIFICATION

11. The requested waiver would not create an unfair advantage over other applicants because it would not alter the scoring by which FHFC qualified Westshore CDC for a CWHIP Loan, as the Development was the only Hillsborough County project receiving a 2006 CWHIP Loan award.

12. The requested waiver will allow Westshore CDC to contain to a minimum the expenses for the desperately needed affordable housing Development and ensure the financial feasibility of the Development. Pursuant to the Real Property Transfer Agreement at least seventy-five percent (75%) of the units within the Development must serve households at eighty percent (80%) or less than the area median income. In addition 40% of the units must serve households at 60% or less than the area median income or 20% at 50% or less than area median income.

13. Westshore CDC, in a good faith effort to comply with all of the FHFC and CWHIP rules, obligations and time constraints, has accomplished the following pre-development requirements affiliated with the Development site:

- a. Completion and execution of the land transfer agreement with Hillsborough County;

- b. Transfer of the land to Westshore CDC;
- c. Establishment of the Community Land Trust;
- d. Approval of brownfield designation by the City of Tampa;
- e. Completion and execution of a brownfield remediation agreement;
- f. Zoning approval;
- g. Receipt of civil site work bids;
- h. Approval of manufactured modular unit plans and drawings by the Florida State Department of Community Affairs;
- i. Receipt of water and sewer commitments;
- j. Execution of contracts for the complete site work and construction of housing units; and,
- k. Receipt of predevelopment loans from FHFC and Neighborhood Lending Partners to fund the costs associated with the listed pre-development activities.
- l. Secured a construction loan commitment from a private lender.

14. Westshore CDC has positively impacted the financial viability of the Development by committing to a developer fee lower than allowed pursuant to Rule 67-58.070(15), F.A.C. (2006).

15. The requested waiver will not adversely impact the Development or FHFC, and will positively impact the pricing offered to the families and individuals in Hillsborough County who are ultimately able to purchase these homes.

16. By granting the requested waiver, FHFC would recognize the economic realities and principles of fundamental fairness in the development of affordable housing which assures long term affordability to its owners via the CLT structure. This recognition would promote participation by Westshore CDC and its public and private partner entities in meeting the purpose of the Florida Housing Finance Corporation Act, Florida Statutes Sections 420.501 through 420.516 (2006) (“the Act”), through providing new construction in an economical and efficient manner.

17. Conversely, denial of the waiver would force Westshore CDC to expend those additional funds which will be passed through to the purchasers.

18. A denial of the waiver would jeopardize the financial viability of the Development, as the unique ownership structure and brownfield designation of the site have negatively impacted the development timeline for the Development. As delays are incurred it is imperative that the extension fee is waived so that the housing prices remain affordable at the targeted household income levels.

19. A denial of the requested waiver would result in a substantial hardship for Westshore CDC. Significantly, Westshore CDC could be faced with funding an extension fee at a point when funds are necessary for the continued pre-development of the site and the ability to deliver decent, safe, and affordable housing units to a market in desperate need of extremely low and low income housing.

20. In summary, a denial of the requested waiver would (a) result in substantial economic hardship to the homebuyers within the Development because of the impact on the sales price for the units; (b) jeopardize the delivery of essential, affordable housing units in a timely manner; and (c) adversely impact construction bids presently secured for the Development because it would delay construction, thereby violating principles of fairness, as the literal application of the extension fee rule would affect Westshore CDC significantly more than other successful applicants, as Westshore CDC is facing unique challenges for construction due to the nature of the construction and the nature of the brownfield property on which the Development is to be constructed. § 120.542(2), Fla. Stat. (2006).

21. Accordingly, the requested waiver serves the purpose of Florida Statutes Section 420.5095 (2006), which is to provide affordable home ownership community workforce housing for essential services personnel affected by the high cost of housing.

E. CONCLUSION

Controlling statutes and FHFC Rules are designed to allow the flexibility necessary to provide relief from rule requirements when strict application, in particular circumstances, would lead to unreasonable, unfair, or unintended results. Waivers should be granted when the applicant subject to the rule demonstrates that strict application would: (a) create a substantial hardship or violate principles of fairness; and (b) the purpose of the underlying statute has been or will be achieved by other means. § 120.542(2), Fla. Stat. (2006).

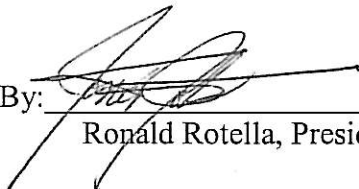
In this instance, Westshore CDC's requested waiver meets the purpose of the Act and should be granted. Should FHFC require additional information, Westshore CDC is available to answer questions and provide all information necessary for consideration of this Petition.

For all of the foregoing reasons, Westshore CDC, respectfully requests that the FHFC provide the following relief:

- A. Grant the Petition and all the relief requested herein;
- B. Waive the requirements of Rules 67-58.005(2) and 67-58.070(6), F.A.C. (2006) as they relate to charging an extension fee of one percent of the CWHIP loan amount to facilitate an extension request; and,
- C. Grant such further relief as may be deemed appropriate.

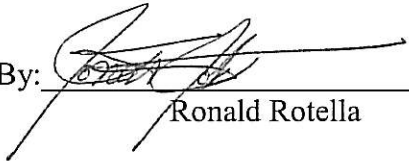
Respectfully Submitted,

Westshore Community Development Corporation
3109 West Martin Luther King, Jr. Boulevard, Suite 140
Tampa Florida, Florida 33607
Telephone: 813-289-5488
Facsimile: 813-289-6727

By: 
Ronald Rotella, President

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 5 day of June, 2008.

By: 

Ronald Rotella

cc: Laurel Lockett, Esq.

Westshore Community Development Corporation

3109 W. Dr. MLK Jr., Blvd., Suite 140

Tampa, Florida 33607

813-289-5488 Phone 289-6727 Fax

“Redeveloping Communities Is Our Business”

May 22, 2008

Mr. David Wescott
Deputy Development Officer
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301

Re: Westshore Landings One/CWHIP06-33 Extension Request

Dear Mr. Wescott,

Please view this communication as a request for an extension of the 14 month period between the acceptance of the letter of invitation to complete credit underwriting and receipt of Board approval for the referenced CWHIP award in the amount of \$ 4,000,000. Although Westshore Community Development Corporation (WCDC) has made significant progress towards the completion of numerous predevelopment activities and satisfaction of credit underwriting requirements, an extension at this time is necessary.

The basis for this extension request is due to the complicated and unique nature of the transaction resulting in Credit Underwriting taking longer than a more traditional transaction. Additionally the adverse market conditions presently existing within the “for-sale” commercial lending environment has created additional hurdles with regard to the construction loan. Significant accomplishments to date, many of which were a requirement of the County prior to the transfer of the property, include:

- Completion and execution of the land transfer agreement with Hillsborough County,
- Transfer of the land to the WCDC,
- Establishment of the Community Land Trust,
- Brown field designation approved by the City of Tampa,
- Completion and execution of brown field remediation agreement,
- Zoning approval,
- Receipt of civil site work bids,
- Approval of manufactured modular units plans and drawings by the State Department of Community Affairs,
- Receipt of water and sewer commitments,
- Execution of contracts for the site work and housing units.

It is the intention of Westshore CDC to have all credit underwriting matters addressed allowing for FHFC Board consideration at its August 2008 meeting. In an abundance of caution we request the full 10 month extension in the event that unforeseen circumstances arise within the credit underwriting and Board approval process.

Additionally Westshore CDC will submit a rule waiver request with the Corporation Clerk prior to the June 9th, 2008 deadline.

In the event that the Florida Housing Finance Corporation Board approves our project credit underwriting report at its June 13, 2008 board meeting I would ask that this extension request be rescinded.

We look forward to partnering with the Florida Housing Finance Corporation and continuing on to award approval.

Regards,

A handwritten signature in black ink, appearing to read 'Ron Rotella', is written over a horizontal line.

Ron Rotella
President