

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

COMMUNITY HOUSING TRUST OF SARASOTA COUNTY, INC.

Petitioner,

vs

APPLICATION NOS CWHIP06-11

FLORIDA HOUSING FINANCE CORPORATION,

FHFC CASE NO 2008-044VW

Respondent.

PETITION FOR A WAIVER OF RULES PER S. 120.542, F.S.

Petitioner Community Housing Trust of Sarasota County, Inc., a Florida nonprofit corporation, ("Petitioner"), by and through its undersigned counsel, hereby petitions Florida Housing Finance Corporation ("Florida Housing") for a waiver from Rule 67-58 020(6), Florida Administrative Code ("FAC"), of the one percent extension fee charged in conjunction with the granting by Florida Housing of a ten month extension to complete credit underwriting and receipt of Florida Housing Board approval, pursuant to the regulations of the Community Workforce Housing Innovation Pilot Program (CWHIP) See Rule 67-58 020(6)

THE PETITIONER

- 1 The address, telephone and facsimile number of the Petitioner is:

Community Housing Trust of Sarasota County, Inc.
Altn: Brian Meurs, CEO
3430 Magic Oak Lane
Sarasota, FL 34232
Phone: (941) 379-5252
Fax: (941) 379-6050

- 2 The address, telephone and facsimile number of the Petitioner's attorney is:

Jo Ann M Koontz, Esq
Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P A
8470 Enterprise Circle
Suite 201
Bradenton, FL 34202
Phone: (941) 907-0006
Fax: (941) 552-0108

THE RULE FROM WHICH WAIVER OR VARIANCE IS SOUGHT

3 The Petitioner seeks a waiver and/or variance from Rule 67-58 020(6) under Part III Homeownership Projects, which states:

“(6) The Applicant has 14 months from the date of the acceptance of the letter of invitation to complete credit underwriting and receive Board approval unless an extension of up to 10 months is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and detail the timeframe to close the loan. The written request will then be submitted to the Corporation’s Board for consideration. The Corporation shall charge an extension fee of one percent of the CWHIP loan amount if the Board approves the extension request.”

THE HOMEOWNERSHIP PROJECTS FOR WHICH THE WAIVER OR VARIANCE IS SOUGHT

4 Pursuant to Section 120.542(2), Fla. Stat. (2006), the Petitioner seeks a waiver and/or variance of the one percent extension fee for the Petitioner Homeownership Project known as Halton Street Houses/CWHIP06-11. The Petitioner’s Homeownership Project was assigned a preliminary CWHIP loan commitment of \$2,440,000. The Petitioner therefore stands to be assessed a total extension fee of one percent of \$ 2,440,000, or \$ 24,400.

**THE PETITIONER REQUESTS A VARIANCE AND/OR A WAIVER OF THE RULE SET FORTH
ABOVE FOR THE FOLLOWING REASONS**

5 The Petitioner was formed in late 2005, selected a Chief Executive Officer in the spring of 2006, and submitted the CWHIP applications for Halton Street Homes in December, 2006. In April, 2007 Petitioner was selected through competitive consideration to enter into CWHIP underwriting process for the Halton Street Homeownership Project, and accepted this offering in May, 2007. After a Request for Qualifications Process and efforts to obtain predevelopment financing, Petitioner had Developers and General Contractors for the project in place by the fall of 2007. Petitioner also contracted for the services of a land planning and consulting agency at the same time. Due to changing market conditions impacting the financial priorities of the original Developer/General Contractors, new Developers and General Contractors subsequently had to be selected for the development. These unexpected changes beyond

the control of Petitioner, contributed to further time delay, complicating compliance with the credit underwriting requirements and timeframes

6 The Petitioner encountered local regulatory approval requirements such as a government zone major conditional use designation for Hatton. Completion of these governmental processes will result in the 40 units of density at Hatton Street cited in the CWHIP attainable workforce housing application. Hatton has successfully completed three of four required public hearings for approval, with the fourth to occur before the Sarasota City Commission on June 16, 2008. Hatton construction plans were submitted to the City on May 27, 2008 toward building permit approval, subject to City Commission approval of the development in June. As a consequence of these factors which are outside of the Petitioner's control, delays have occurred which will prohibit Petitioner from timely complying with all of the credit underwriting requirements, and thus forcing Petitioner to request the extension of time to complete the underwriting requirements

7 During this timeframe, the Petitioner has continued to timely submit required materials for the development to the Florida Housing underwriter for review and approval. The contract for the required market studies/appraisals was issued by the underwriter in May, 2008

8 The Petitioner has worked diligently to obtain predevelopment funding and the balance of construction financing for the development, and has submitted several grant applications to national and local foundations to further decrease the borrowing needed and the sales prices to the targeted income buyers. The results of the grant applications are not yet known; local government has provided a predevelopment grant for Hatton. Construction financing is under review by (a) a consortium of five local banks; (b) a large national bank; and (c) a local Foundation. To divert the Petitioner's limited on-hand funds to payment of \$ 24,400 for an extension penalty fee would jeopardize the opportunity to continue to advance the development while these other sources of funds are pending, thus resulting in Petitioner enduring a substantial economic hardship, which could substantially erode the viability of the planned Project

9 A denial of this Petition (a) would result in substantial economic hardship to the Petitioner; (b) could deprive Sarasota County of essential, attainable workforce housing in a timely manner; and (c) could violate principles of fairness 120 542(2) Fl Stat (2006)

WAIVER WILL SERVE THE UNDERLYING PURPOSE OF THE STATUTE

10 Florida Housing's approval of the requested waiver would serve the purpose of the underlying Rule 67-58, the Community Workforce Housing Innovation Pilot Program. The purpose of the Rule, as well as the program, is to facilitate and stimulate the development of attainable and affordable workforce housing for individuals and families of limited means seeking to become home owners. If the requested waiver is granted, the Petitioner's funds can continue to be used to obtain the requisite approvals to build 40 units of attainable workforce housing in one of the counties in the State with the highest housing costs - Sarasota County. The funds can be used to address the initial higher costs of fortified construction and green building which will provide long term savings in such areas as utility and insurance expenses to the Hatton home buyers, while also enhancing the health and safety of the residents living in a safe and secure home.

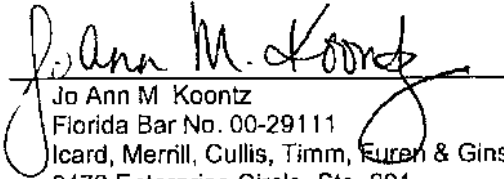
TYPE OF WAIVER BEING SOUGHT

11 The waiver being sought is permanent in nature.

SUMMARY OF ACTION BEING REQUESTED

12 The Petitioner requests a waiver from Rule 67-58 020(6) to waive the requirement that a \$ 50,000 fee be paid as an underwriting extension penalty for the Hatton development as described. The original petition is being serviced by overnight delivery to the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, along with a copy served by electronic transmission to the same.

Dated this 9th day of June, 2008


Jo Ann M Koontz
Florida Bar No. 00-29111
Icard, Merrill, Cullis, Timm, Fureh & Ginsburg, PA
8470 Enterprise Circle, Ste 201
Bradenton, Florida 34202
Telephone: 941-907-0006
Fax: 941-552-0108