

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

**SALT CREEK APARTMENTS, LTD,
a Florida limited partnership**

Petitioner

FHFC CASE NO. 2014-073VW

vs.

FLORIDA HOUSING FINANCE CORPORATION

Respondent.

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**PETITION FOR WAIVER/VARIANCE OF
RULE 91-35.006(6), FLORIDA ADMINISTRATIVE CODE**

Petitioner hereby petitions by and through its undersigned counsel and pursuant to Section 20.542, Florida Statutes and Chapter 28-104, Florida Administrative Code ("F.A.C."), hereby petitions the Florida Housing Finance Corporation ("Florida Housing") for a waiver and/or variance of Rule 91-35.006(6), Florida Administrative Code.

PETITIONER

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

Salt Creek Apartments, Ltd.
c/o Pinellas Affordable Living, Inc.
445 31st Street North
St. Petersburg, FL 33713
Tel: 727-821-4819
Fax: 727-822-6240

THE RULE FROM WHICH WAIVER OR VARIANCE IS SOUGHT

2. The Petitioner seeks a waiver and/or variance from Rule 91-35-006(6), Florida Administrative Code, which provides:

“(6) If, in its application, the Applicant agrees to a very low income set aside for a term longer than that required by law, the deferred SAIL interest due pursuant to 91-35-006.F.A.C. shall be forgiven in an amount equal to the amount of interest due pursuant to 91-35-006 F.A.C. multiplied by .05 multiplied by the number of years, not to exceed 15, that the very low income set-aside was extended beyond that required by law.”

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

3. Petitioner was awarded a \$245,583.00 SAIL loan from SAIL Cycle #985-006 in connection with the financing of the “Salt Creek Apartments” (the “Project”), a residential rental housing project affordable for individuals or families of very low, low, moderate or middle income located in the State of Florida. The term of the loan commenced on March 1, 1999 and matures on September 1, 2014.

4. While the Petitioner has successfully operated the Project since its inception, the Project does not generate sufficient cash flow to pay the deferred interest under the SAIL loan.

5. The Petitioner desires to continue operating the Project and has been negotiating with the Respondent to forgive all deferred interest regarding the SAIL loan and to re-amortize the outstanding balance of the SAIL loan over a term of 30 years, at an interest rate of 0%.

6. The repayment of the unforgiven deferred interest would create a substantial hardship in that this development provides affordable housing to individuals or families of very low, low, moderate or middle income, and cannot generate sufficient income to pay the interest due.

7. The Florida Legislature has recognized the hardship caused by requiring low income development to pay this amount of interest and revised the SAIL statute to reduce the interest rate on affordable housing for low income developments from 9% to 0% to 3%. Likewise, the Respondent has revised its rules to allow for 0% to 3% interest rates for low income individuals or family developments.

8. A Waiver and/or variance of the rule will allow the Petitioner to continue to operate the affordable housing Project, and will facilitate a new loan structure wherein the principal balance of the loan will amortize.

**A WAIVER AND/OR VARIANCE WILL SERVE THE UNDERLYING
PURPOSE OF THE STATUTE**

9. A waiver and/or variance of the Rule will serve the purposes of the underlying statute which is implemented by the Rule. The Florida Legislature created a goal for Florida Housing to develop affordable housing for individuals or families with no less than 10% of the SAIL funds each year, and by authorizing lower interest payments for these loans. Section 420.5087(3)©, and Section 420.507(22)(a)(2), F.S. The statute also authorizes Florida Housing to renegotiate any mortgage loan with a borrower in default, to waive any default or consent to the modification of the terms of any mortgage loan. Section 420.507(17), Florida Statutes. For the reasons set forth herein, Petitioner respectfully request Florida Housing to grant the requested variance of Rule 91-35.006(6), to provide forgiveness of all outstanding SAIL interest.

10. The variance would be permanent as to the Petitioner.

TYPE OF WAIVER/VARIANCE

A copy of the Petition has been provided to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, FL 32399-1300, as required by Section 120.542(5), Florida Statutes.

Dated this 6th day of August, 2014.



JOSEPH A. DIVITO, ESQ.
Florida Bar No. 228915
DiVito & Higham, P.A.
4514 Central Avenue
St. Petersburg, FL 33711
Tel: 727-321-1201
Fax: 727-321-5181
E-mail: jad@divitohigham.com

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