

Office of School Facilities
Raul F. Perez, Chief Facilities Design & Construction Officer

SUBJECT: RECOMMEND APPROVAL TO MIAMI-DADE COUNTY OF A REQUEST FROM THE GALLERY AT SMATHERS PLAZA, LLC, FOR EXEMPTION FROM EDUCATIONAL FACILITIES IMPACT FEES IN CONNECTION WITH A HOUSING PROJECT FOR THE ELDERLY, LOCATED AT 1040 SW 29 COURT, MIAMI, FLORIDA 33135

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Pursuant to the terms of the Educational Facilities Impact Fee Ordinance (“Ordinance”), and Section 33K-8(a) of the Miami-Dade County (“County”) Code of Ordinances, an applicant shall be exempt from the terms of the Ordinance if the proposed development activity is not capable of creating a demand for capital educational facilities during its useful lifetime, as a matter of law and fact. The Ordinance requires that the County seek a recommendation from the School Board as it relates to the exemption.

The County’s Office of Regulatory and Economic Resources (“RER”) has submitted a request from The Gallery at Smathers Plaza, LLC, a Florida limited liability company (“Applicant”), in connection with a housing project for the elderly consisting of 139 housing units (the “Project”) located at 1040 SW 29 Court, Miami, Florida 33135. The Applicant has made a request to the County for exemption from Educational Facilities Impact Fees (“Impact Fees”), and proffered a Covenant Related to Elderly Housing (“Covenant”), which covenants that the Project is to be used exclusively for elderly housing. The impact fee exemption value is \$165,079.50.

Based on the criteria stipulated in the Ordinance, RER advised it agrees that The Gallery at Smathers Plaza housing project for the elderly should be recommended for exemption from Impact Fees.

The proposed Covenant will stipulate the following:

- a) The Project is solely intended to be operated and maintained to meet the social and physical needs of persons fifty-five (55) years of age and older;

- b) No dwelling unit within the Project shall be occupied by any person under the age of eighteen (18);
- c) The restrictions set forth in the Covenant shall not be subject to revocation or amendment for a period of thirty (30) years, after which it shall be extended automatically for successive periods of ten (10) years each;
- d) In the event the Applicant seeks to terminate the Covenant, the Applicant shall tender the full amount of the applicable Educational Facilities Impact Fees in effect at the time of the requested release, and the Covenant may only be released with the prior written consent of the County and the School Board;
- e) The County's Department of Regulatory and Economic Resources shall have the right, at any time, of entering and investigating the use of the premises, to determine whether or not the requirements of the Ordinance and the conditions of the Covenant are being complied with; and
- f) Failure of the property owner to enforce any of the requirements of the Covenant shall result in Educational Facilities Impact Fees becoming due and payable for all dwelling units within the Project.

The terms and conditions of the proposed Covenant have been reviewed by the School Board Attorney's Office for compliance with the Ordinance.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, recommend approval to Miami-Dade County of a request from Gallery at Smathers Plaza, LLC, ("Applicant"), in connection with a housing project for the elderly consisting of 139 housing units, located at 1040 SW 29 Court, Miami, Florida 33135

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