

SUPPLEMENTAL
FOR JULY 26, 2012 BOARD MEETING

J. Paul Ozer, Chair



Tom Gann, Vice-Chair
Leslie Bingham Escareño, Member
Lowell Keig, Member
Juan Muñoz, Member
J. Mark McWatters, Member

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
July 10, 2012

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

RECOMMENDED ACTION

WHEREAS, a 2012 competitive housing tax credit scoring notice was provided to the applicant of Merritt Hill Country (#12346);

WHEREAS, the staff identified two (2) points that the applicant elected but the application does not qualify to receive; and

WHEREAS, the applicant appealed the scoring notice and requested that the Board award the two (2) points under §50.9(b)(15);

RESOLVED, the applicant's appeal of the scoring notice for Merritt Hill Country (#12346) is hereby _____.

BACKGROUND

On July 12, 2012, staff sent a scoring notice to the applicant of Merritt Hill Country, a 2012 competitive housing tax credit application submitted in Rural Region 7. This scoring notice was sent as the result of staff's review of a challenge to the application submitted by Stuart Shaw, which questioned the application's eligibility for points under §50.9(b)(15) Developments in Census Tracts with Limited Existing HTC Developments.

Applications can receive either four (4) or six (6) points for this scoring item. Four (4) points are awarded to an application if the proposed development is located in a census tract in which there are no other existing HTC developments that serve the same target population. For example, if a development site is located in Tract A and proposes to serve the general population, and there is another existing HTC development in Tract A that serves the elderly, then the application is eligible for four (4) points. Six (6) points are awarded if the proposed development is located in a census tract in which there are no other existing HTC developments at all.

The Applicant for Merritt Hill Country requested six (6) points for this scoring item. In their application they have submitted an exhibit setting out the boundaries of the census tract in which the proposed site is located, correctly identifying the 2010 census tract number as 48209010808. The application also indicates that the development will serve the general population. There is an existing HTC development in that same tract, The Springs Apartments (#99044), located within the boundaries of census tract 48209010808. Therefore it appears to be factually the case that the applicant could support claiming four (4) but not six (6) points. However, there appears to be

confusion on this item due to the owner of The Springs maintaining that the proper address is 2400 W. Highway 290, while the US Postal Service lists the address as 289 Springs Road.

The Department's 2012 HTC Site Demographic Characteristics Report, posted on the Department's website, having listed the Highway 290 address for the Springs Apartments, results in an incorrect census tract number listed in the Department's materials. Despite the issue surrounding the proper address, the physical location of The Springs is clearly within the boundaries of the same census tract as the applicant's proposed development site.

So the issue before the Board is whether, based on the facts that may be established, the applicant should or should not be accorded the benefit of the doubt or held to the standard of only being able to claim points supported by the actual facts of the location of The Springs Apartments within the same census tract as the proposed development site.



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VIA ELECTRONIC MAIL

July 18, 2012

Mr. Tim Irvine
Texas Department of Housing and Community Affairs
221 West 11th Street
Austin, Texas 78701

Re: Merritt Hill Country (Dripping Springs)
TDHCA No. 12346

Dear Tim:

We represent DDC Merritt Hill Country Ltd. (our "**Client**"), which is the Applicant for tax credits for Merritt Hill Country in Dripping Springs (the "**Development**"), bearing application number 12346. The Development seeks to serve elderly residents in Dripping Springs. Our Client is appealing the loss of two (2) points under Section 50.9(b)(15)(B) of the Qualified Allocation Plan (the "**QAP**")¹ with regard to location in a census tract with no other HTC Developments. **This issue derives solely from a mistake made by TDHCA in its published materials utilized for the 2012 Application Round, and the Applicant should not be penalized for that error.**

The Rules

The QAP provides selection criteria points as follows:

(15) Developments in Census Tracts with Limited Existing HTC Developments. The purpose of this scoring item is to encourage a de-concentration of housing tax credit Developments in census tracts, **according to the Department's Housing Tax Credit Site Demographic Characteristics Report for the current Application Round.** Applications may qualify for up to (6 points) under subparagraph (A) or (B) of this paragraph.

¹ Capitalized terms used but not defined in this letter will have the meanings given them in the QAP.

(A) If the proposed Development is located in a census tract in which there are no other existing HTC Developments that serve the same Target Population (4 points); or

(B) If the proposed Development is located in a census tract in which there are no other existing HTC Developments (6 points).

(C) Evidence of the census tract identifying the location of the proposed Development must be submitted in the Application. (emphasis added)

The Multifamily Programs Procedures Manual indicates that an Applicant need not submit anything other than the census tract data for its Development in order to receive these points. With that data, TDHCA makes the determination on eligibility. The QAP is unequivocal. **The determination is based upon the Site Demographic Characteristics Report.**

Factual Background

The census tracts for the Dripping Springs area changed from 2000 to 2010. In 2000, the area was contained in one large census tract. In 2010, the area was split into several smaller census tracts.

It is undisputed that the Merritt Hill Country Development is in census tract 48209010808 according to the 2010 census data. It is also undisputed that there is one other tax credit development in Dripping Springs – The Springs Apartments received tax credits in 1999 and serves a general resident population.²

When the Applicant was submitting its Application, it consulted the HTC Inventory 2010 Tract Change sheet, which is part of the Department's Housing Tax Credit Site Demographic Characteristics Report. This report showed The Springs having an address of 2400 West Highway 290 and a census tract number of 48209010806.³ With this information, the Applicant properly took six (6) points in self-scoring. According to TDHCA's Site Demographic Characteristics Report, there is no other Tax Credit Development in the same census tract as the proposed Merritt Hill Country Development.

² Information from Applicant's market study, along with TDHCA's HTC Property Inventory as of December 15, 2011 Board Meeting.

³ The undersigned has verified with the United States Census Bureau's website that this is the correct census tract number for this address.

A few days after the Applications were submitted on March 1, a competing Applicant sent TDHCA's Database Administrator an email, asserting that the published census tract data on the HTC Inventory 2010 Tract Change sheet was incorrect. The competitor suggested that the proper address for The Springs Apartments is 289 Springs Lane and that the census tract number for this address is 48209010808.⁴ The Database Administrator responded, acknowledging an error in the published report. (See Exhibit A.)

Despite the fact that TDHCA had been notified of this issue, the staff scored the Merritt Hill Country Application with the full six (6) points for being in a census tract without any other Tax Credit Developments, according to the Site Demographic Characteristics Report. It was not until the competitor challenged this Application in June that the staff reduced the Applicant's score to four (4) points, stating that The Springs Apartments and the Merritt Hill Country are in the same census tract but serve different resident populations. Thus, we are now in the position of appealing an issue that was known to TDHCA in March and resulted from TDHCA's acknowledged error.

Points for Consideration

- The QAP is explicit that the determination as to the eligibility for points is based upon the Site Demographic Characteristics Report. If that Report is incorrect because of TDHCA's error, an Applicant should not be penalized because of it.
- Neither the QAP nor the Multifamily Programs Procedures Manual requires an Applicant to perform any due diligence with regard to the census tracts of other existing Developments. The Applicant is allowed to rely upon TDHCA's determination, based upon TDHCA's published data.
- This is not the first Application Round in which TDHCA has encountered scoring problems due to errors in its Site Demographic Characteristics Report. In 2008, errors in the Report impacted affordable housing needs scores. TDHCA acknowledged that, pursuant to the QAP, Applicants must rely upon the Report for scoring purposes. To remedy the error, TDHCA awarded the Applicants the maximum possible score. (See Exhibit B.)
- It is undisputed that the address 2400 West Highway 290 is in census tract number 48209010806, which is a different census tract than the proposed Merritt Hill Country and the address 289 Springs Lane is in a census tract number

⁴ The undersigned has verified with the United States Census Bureau's website that this is the correct census tract number for this address.

48209010808, which is the same census tract as the proposed Merritt Hill Country.

- Despite the fact that TDHCA now indicates the appropriate address for The Springs Apartments should be 289 Springs Lane instead of 2400 West Highway 290, there are several inconsistencies that should be noted:
 - TDHCA has listed the address of The Springs Apartments as 2400 West Highway 290 since 1999, when the Application for this Development was filed. (See Exhibit C.) While it is not unusual for the street address of a Development to change after the completion of construction, it is reasonable to conclude that at some point in the last 13 years, TDHCA would have been notified of that change and modified its publications accordingly.
 - Despite being notified of this issue, both the HTC Inventory 2010 Tract Change sheet and the HTC Property Inventory as of December 15, 2011 Board Meeting still publish the address for The Springs Apartments as 2400 West Highway 290, as of the date of this letter. In other words, as of today's date, the Site Demographic Characteristics Report still shows The Springs Apartments as being in a different census tract than Merritt Hill Country. How can TDHCA take away points from an Applicant today when its own current published report shows the Applicant is entitled to those points?
 - Multiple websites show the address for The Springs Apartments as 2400 West Highway 290, including a Yellow Pages Directory. (See Exhibit D.)

Reasonableness

Staff utilizes a response in its *Frequently Asked Questions* publication to defend its decision to revoke two (2) points from this Application. Specifically, the *Frequently Asked Questions* states that, if there is an error in the Site Demographic Characteristics Report, it is ultimately the Applicant's responsibility to determine whether it qualifies for points under this scoring item. Further, staff states that they will consider whether it was reasonable for the Applicant to know that there was another Development in the same census tract.

First, there is no indication in the QAP or the Multifamily Programs Procedures Manual that an Applicant assumes any responsibility for performing due diligence on the location of any other Tax Credit Developments. As stated above, Section

50.9(b)(15)(B) says that the determination for points will be made "according to the Department's Housing Tax Credit Site Demographic Characteristics Report for the current Application Round." The Manual says:

No supporting documentation is required. The Department will verify Applicant's point request as reflected in the Self Score form and will determine eligibility based upon evidence provided in Part 5 of the Application, specifically the *Site Information* form and the Census Tract map required to be submitted behind the *Site Information* form. (emphasis added)

How is it legitimate for TDHCA to shift the burden for qualifying for these points to the Applicant when both the QAP and the Manual indicate that TDHCA will make this determination based upon its own publication and the Applicant is not responsible for providing any supporting documentation? The QAP and the Manual are plain on their face. TDHCA should not even go to the question of whether it was reasonable for the Applicant to know, because neither the QAP nor the Manual imposes such a standard. The response in the *Frequently Asked Questions* goes beyond the bounds of the stated rule.

Nonetheless, with regard to whether it was reasonable for the Applicant to know that The Springs was in the same census tract as the proposed Merritt Hill Country, staff indicates that because the Applicant knew The Springs existed, it must have then known that The Springs was in the same census tract. Staff, and the competitor who filed the challenge that initiated this situation, point to the Applicant's market study and the fact that the Applicant received a "twice state average" resolution from the City Council as evidence that the Applicant knew The Springs existed and, further, knew The Springs was in the same census tract as Merritt Hill Country. This latter assumption is a leap in logic that is decidedly unreasonable in this circumstance.

Of course the Applicant was aware of the existence of The Springs. The market study did reference this property. However, the market study did not give an address for this property or any indication that the address for the property was anything other than what TDHCA's published materials showed. Aware of the existence of The Springs, the Applicant looked up The Springs in TDHCA's published materials and found it had a different census tract number.

Further, the Applicant had no compelling reason to even visit The Springs property as part of its due diligence. The Springs is a family property, approximately 12 years old. The Applicant proposes a new elderly property. The Springs is not even a reasonable comparable for Merritt Hill Country. The Applicant was focused on working

with the City of Dripping Springs to establish utility service, variances, and other items that would lead to a successful development. It had no need to drive around The Springs site, two miles away.

Even if the Applicant did drive to The Springs site, a Mapquest map shows the 2400 West Highway 290 address to be just 0.2 miles from the 289 Springs Lane address. (See Exhibit E.) The Springs might be visible from the highway and on the same side of the highway as Merritt Hill Country. However, the fact is that the TDHCA materials showed the property having a Highway 290 address. Census tract numbers are searchable by address. With Highway 290 being the boundary line for the census tracts, it is reasonable for the Applicant to believe that the use of a Highway 290 address would put The Springs in a different census tract than Merritt Hill Country.

In the *Frequently Asked Questions*, staff states that a determination of reasonableness will "depend on the specific circumstances" and provides an example:

Q: What if the Property Inventory incorrectly identifies the census tract for a Development and that Development is actually located in the same census tract as the proposed 2012 Development?

A: While staff understands that an Applicant often relies on the information provided by the Department, it will depend on the specific circumstances and ultimately the Applicant is responsible. For example, if the other tax credit Development is owned by an affiliate of the Applicant, then the Applicant should have been aware that the presence of their own Development would disqualify the current Application for points. The Department will look at whether it was reasonable for the Applicant to have been unaware of the mistake.

In the example above, the Applicant has direct personal knowledge of TDHCA's mistake. Of course the Applicant should not receive points when TDHCA makes a mistake in that kind of circumstance. Here, the Applicant had no direct personal knowledge of the mistake. The Applicant is not affiliated with the owner of The Springs and had no way of knowing that the address for The Springs was listed incorrectly on TDHCA's published information.

Both the staff and the competitor who filed the challenge leading to this appeal are trying to impose upon the Applicant a standard and burden that is not present in the QAP. Even if some burden is placed on the Applicant, a reasonableness standard indicates that the Applicant knew of the existence of The Springs, the Applicant had every reason to believe the 2400 West Highway 290 address was correct, the Applicant could check that address on the United States Census Bureau's website and confirm the census tract number, the census tract number in TDHCA's materials was correct for the address utilized, and the Applicant concluded that the census tract number for The

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Springs was different from the census tract number for Merritt Hill Country. No matter how TDHCA staff or the competitor try to say that the Applicant should have done something different, the Applicant did absolutely nothing wrong. It followed the process described in the QAP and the Manual exactly and reasonably relied upon materials published by the agency.

Conclusion

In short, the QAP is clear on its face. The determination as to whether the Applicant should receive six (6) points is based upon the Site Demographic Characteristics Report. When there is a mistake in that Report, TDHCA should not second guess whether an Applicant "would have," "should have," or "could have" known that there was an error. TDHCA should simply own up to its mistake and not penalize the Applicant.

Further, it was completely reasonable for the Applicant to believe that the address for The Springs Apartments listed in TDHCA's materials was correct and that, given the changes in census tracts in Dripping Springs, the proposed Merritt Hill Country was in a different census tract. The Springs Apartments has been in the Tax Credit program for 13 years with the same address. The United States Census Bureau website shows that address to be in a different census tract than Merritt Hill Country, and TDHCA correctly published the census tract number for that address. With Highway 290 as a boundary line for the new census tracts, it is reasonable to believe that a Highway 290 address could have a different census tract number. The Applicant reasonably relied upon TDHCA's published materials to score its Application.

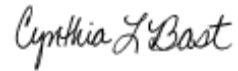
This appeal will determine the outcome for Rural Region 7. If the Applicant's appeal is granted, it will receive the Tax Credit award. If the Applicant's appeal is not granted, the competitor who filed the challenge will receive the Tax Credit award. We encourage TDHCA to once again take the position that an Applicant should not be harmed by the agency's error. This Applicant followed the rules of the QAP. TDHCA should do so as well. It should use the Site Demographic Characteristics Report, showing The Springs Apartments in a different census tract, and award the Applicant a full six (6) points.

We appreciate your consideration of this matter and know that time is short. If the Executive Director denies this appeal, we respectfully request to be heard at the July 26 Board meeting and waive any requirements for an Executive Director response or any further deadlines, if necessary to be heard by the Board.

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Thank you very much.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia L. Bast".

Cynthia L. Bast

cc: Denison Development

- Exhibit A - Competitor's Correspondence with TDHCA
- Exhibit B - 2008 Remediation for Site Demographic Characteristics Report Error
- Exhibit C - 1999 Tax Credit Application Log
- Exhibit D - Yellow Pages Directory Website
- Exhibit E - Map

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Exhibit A

5/23/12

Bonner Carrington LLC Mail – RE: Site Demographic Mapping Error

BONNER CARRINGTON

Rachel Nunley <rachel@bonnercarrington.com>

RE: Site Demographic Mapping Error

Jason Burr <jason.burr@tdhca.state.tx.us>
To: Casey Bump <cbump@bonnercarrington.com>

Mon, Mar 12, 2012 at 2:58 PM

Hello Casey,

Yes, Springs Apartments should be in the 2000 tract of 48209010801, and the 2010 tract of 48209010808. It will be corrected when I get it reposted. If possible, please try to get any site demo corrections to me before the 9% cycle begins.

Thanks,

Jason

From: Casey Bump [mailto:cbump@bonnercarrington.com]
Sent: Friday, March 09, 2012 11:18 AM
To: Jason Burr
Subject: Site Demographic Mapping Error

Jason,

The Springs Apartments in Dripping Springs, Texas TDHCA #99044 is showing up in the wrong census tract. The address for the property in the TDHCA inventory list is incorrect. The correct census tract should be in tract 08 not in 06. Take a look at the attached map and property information.

At your convenience will you let me know that you received this email and whether or not you agree with the change?

Thanks,

Casey

Exhibit B

Explanation of Regional Pre-Application Log Revised on February 7, 2008

The attached *2008 Regional Pre-Application Log* ("Regional Pre-Application Log") only includes applications that applied under the "Regional Allocation." The Regional Pre-Application Log, revised on February 7, 2008, is the result of the Department's Pre-Application evaluation. This log reflects information relating to all 2008 Pre-Applications and *Intent to Request* submissions other than those submissions in the At-Risk Set-Aside, and Rehabilitation developments in the USDA Set-Aside, pursuant to §50.11(a)(2) of the 2008 Qualified Allocation Plan and Rules ("QAP"). In addition, the Regional Pre-Application Log also includes information relating to Developments that have already received a commitment of funds out of the 2008 State Housing Credit Ceiling.

Due to an error in the 2008 Housing Tax Credit Site Demographic Characteristics Report ("Site Demographics"), scores published for points under §50.9(i)(12) of the 2008 QAP, Housing Need Characteristics, were incorrect for some places in the state. Under this scoring item, referred to as the Affordable Housing Needs Score ("AHNS"), up to six points are assigned to places throughout the state based on objective measures of housing need. The AHNS is approved by the Board annually and published on the Housing Resource Center webpage of the Department's website. Pursuant to §50.9(i)(12) of the QAP, applicants must rely on the Site Demographics report to obtain the AHNS. Staff made an error when reproducing the data to be published with the 2008 Site Demographics report. The incorrect Site Demographics report increased some scores and decreased others. This error impacted 25 of 167 Pre-Applications, with 10 being positively impacted by the error, and 15 being negatively impacted by the error. This error also impacted 4 of 30 Intent to Requests, with all 4 being positively impacted by the error.

On January 31, 2008 the Board ratified staff action related to the error. Staff has addressed the scoring error as follows:

For Pre-Applications where the proposed development is to be located in one of the places affected by the incorrect data in the Site Demographics, the Pre-Application will receive an adjusted score equal to the higher of the two Affordable Housing Needs Scores published to the Department's website, regardless of whether the higher score originated from the incorrect Site Demographics report or the correct data.

All Applicants should review the Pre-Application Log and notify Audrey Martin, HTC Administrator, of any errors in the information posted. Audrey may be reached at audrey.martin@tdhca.state.tx.us. All requests for changes must be made in writing via email or facsimile. Email requests are preferred; however if email is not accessible, Applicants may send facsimile requests to (512) 475-0764.

Exhibit C

1999 LIHTC Application Round - Application List

TDHCA #	Development Name	Development Address	Dvlprmt. City	ZIP			Household Type	Ttl Units	LI Units	Requested Credits	Pts. Req.	Pts. Awd.
				Code	Set Aside	Type						
99006	Forrest View Apartments	Loop 390 & Norwood St.	Marshall	75760	General	New	Family	92	92	\$ 1,128,597	82	75
99007	Brownwood Apartments II, The	320 Bluffview Dr.	Brownwood	76801	Rural	New	Family	72	72	\$ 390,232	80	73
99008	Greenville Apartments, The	2100 Traders Rd.	Greenville	75401	General	New	Family	96	96	\$ 395,050	73	53
99009	Timber Oakes Senior Community	Sw. cnr. of Osler Dr. & Timber Oaks Ln.	Grand Prairie	75051	General	New	Elderly	248	149	\$ 655,725	93	92
99010	Dove Park Village	301 W. Little York Rd.	Houston	77076	General	New	Family	200	150	\$ 980,000	92	80
99011	Plum Creek Townhomes	Loop 610 s. @ Telephone Rd.	Houston	77002	General	New	Family	152	114	\$ 773,758	100	88
99012	Morningstar Apartments, L.P.	N. side of Hwy. 361 (1,000 ft. w. of Main St.)	Ingleside	78362	Rural	New	Family	76	57	\$ 431,493	92	92
99013	El Patriota Apartments, L.P.	Zillock Rd. (1/2 mile s. of Hwy. 77)	San Benito	78586	Non-Profit	New	Family	96	72	\$ 475,180	96	93
99014	Bradford Trails Apartments, L.P.	1300 blk. of Windhaven	Odessa	79763	Non-Profit	New	Family	176	132	\$ 879,638	92	90
99015	La Estancia Apartments, L.P.	S. side of Mile 8 Rd. (1000 ft. e. of FM 1015)	Weslaco	78570	Non-Profit	New	Family	144	108	\$ 672,312	96	94
99016	El Patrimonio Apartments, L.P.	S. side of Sarah Ave. at 27th St.	McAllen	78503	General	New	Family	192	144	\$ 889,528	96	94
99017	Amistad Apartments, L.P.	S. side of S. Ave. (1000 ft. e. of Hutto Rd.)	Donna	78537	Rural	New	Family	76	57	\$ 400,566	96	94
99018	Winfield Estates	Se. cnr. of Leopard Dr. & S. Lake Dr.	Texasarkana	75501	General	New	Elderly	156	156	\$ 898,315	89	89
99019	Lakeside Village	2649 FM Rd. 518	League City	77573	General	New	Family	164	123	\$ 868,002	92	92
99020	Houston Villas in the Pines, The	Sam Houston Pkwy. @ Crosswinds Dr. & Aero Park	Houston	77032	General	New	Elderly	236	141	\$ 1,076,934	98	96
99021	Alvarado Seniors Apartments, L.P.	N. Cummings Rd. (across from Alvarado Middle Sch)	Alvarado	76009	TxRD	New	Elderly	24	24	\$ 37,638	68	55
99022	Eban Village II	3000 Park Row	Dallas	75215	General	New/Reh.	Family	220	165	\$ 869,728	85	83
99023	Holly Park Apartments	N. side of Holly Rd. (1000 ft. e. of inter. W/ of Koster	Corpus Christi	78415	General	New	Family	236	177	\$ 1,164,446	99	96
99024	Village, The	517 School St.	Tomball	77375	TxRD	New	Elderly	64	64	\$ 96,765	73	69
99025	Inwood Townhomes	Ne. cnr. of W. Little York Rd. & T. C. Jester Blvd.	Houston	77088	General	New	Family	160	120	\$ 543,211	92	87
99026	Valley Sun Apartments	Sw. cnr. of Puente St. & U.S. Hwy. 83	San Benito	78592	General	New	Family	152	114	\$ 763,968	96	95
99027	Lexington Club Apartments	Se. cnr. of Lexington Rd. & S. Padre Island Dr.	Corpus Christi	78458	General	New	Family	176	132	\$ 901,901	92	91
99028	Briar Bend Townhomes	N. Concord at Judy Lane	Beaumont	77704	General	New	Family	130	97	\$ 445,415	88	79
99029	Rancho del Cielo, Phase II	3755 McAllen Rd.	Brownsville	78520	General	New	Family	120	90	\$ 496,545	101	98
99030	Cardinal Ridge Apartments	S. side of Cardinal St. (e. of University Dr.)	Nacogdoches	75961	Non-Profit	New	Family	104	104	\$ 446,453	85	82
99031	Parkwood Apartments	Se. cnr. of Woodward St. & Parker Ln.	Austin	78741	Non-Profit	New	Family	104	62	\$ 412,397	91	87
99032	Las Villas de Navigation	5400 Navigation Dr.	Houston	77011	Non-Profit	New	Elderly	76	76	\$ 483,119	81	71
99033	Villas of Greenville, The	5000 blk. of Joe Ramsey Blvd.	Greenville	75401	General	New	Elderly	128	128	\$ 850,226	93	93
99034	Pine Forest Townhomes	Se. cnr. of Montgomery Rd. & Elks Dr.	Huntsville	77340	Rural	New	Family	76	76	\$ 514,384	90	88
99035	Bayberry Townhomes	Sw. cnr. of Mountcastle & E. Berry St.	Fort Worth	76119	General	New	Family	120	120	\$ 886,779	86	83
99036	Park Gardens Apartments	Se. cnr. of N. Alamo & Cunningham	San Antonio	78215	Non-Profit	New	Family	144	144	\$ 928,194	81	72
99038	New Cotton Village, Ltd.	Hwy. 60	Snook	77878	TxRD	Acq./Reh.	Family	24	24	\$ 52,595	52	50
99040	Serenity Village of Denton	Loop 288 & Spencer Road	Denton	76205	General	New	Elderly	239	143	\$ 1,015,687	93	88
99041	Twin River Apartments	Se. cnr. of inter. of Twin River Blvd. & McKinzie Ln.	Corpus Christi	78410	General	New	Family	196	146	\$ 1,025,861	92	91
99042	Bay Colony Apartments	N. side of FM 517 (700 ft. w. of inter. w/ FM 64)	League City	77573	General	New	Family	228	136	\$ 659,197	91	89
99043	Antiqua Terrace Apartments	1200 Laredo Dr.	Odessa	79761	General	New	Family	128	128	\$ 923,028	91	91
99044	Springs Apartments, The	N. side of 2400 Block of Hwy. 290 W	Dripping Springs	78620	Rural	New	Family	76	76	\$ 386,338	90	88
99045	Rolling Oaks Apartments	2350 Junction Hwy.	Kerrville	78028	Rural	New	Family	76	76	\$ 377,745	82	73
99046	Fort Branch Apartments	4300 blk. of Ed Bluestein Blvd.	Austin	78725	General	New	Family	248	184	\$ 1,196,399	92	88
99047	Heatherwilde Park Retirement Ar	16500 Yellow Sage Blvd.	Pflugerville	78660	General	New	Elderly	168	128	\$ 484,945	89	81

Exhibit D

Spring Apartments in Dripping Springs, TX - Real Estate Management - Yellow Pages Director



1 Bedroom Apts Fo
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(512) 858-2440
2400 West Highway 290
Dripping Springs, TX 78620

Spring Apartments is a business dealing in the **Real Estate Management** industry. **Spring Apartments** is located in *Dripping Springs, TX on 2400 West Highway 290.*

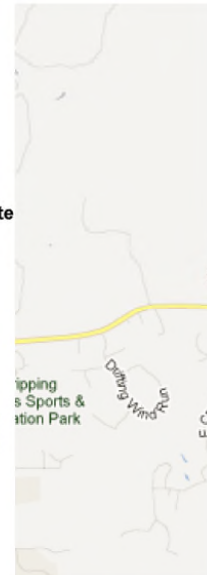
Spring Apartments telephone number is *(512) 858-2440.*

Telefax: *No fax number available*
Website: *No web address available*

Are you the business owner? Add coupon

Are you the business owner? You can [edit this listing](#).

Permalink: (Easy link to this page) Business owner? Promote this listing for your business by [linking here](#).
<http://www.yellowpagesgoesgreen.org/Dripping+S>



Find more local [business Management](#)

Exhibit E

Driving Directions from 2400 W Highway 290, Dripping Springs, Texas 78620 to 289 Sp... Page 1 of 2



Trip to:
289 Springs Ln
Dripping Springs, TX 78620-3475
0.20 miles /

Notes



2400 W Highway 290, Dripping Springs, TX 78620-3780



1. Start out going **north** on **Springs Ln**. [Map](#)

0.2 Mi

0.2 Mi Total



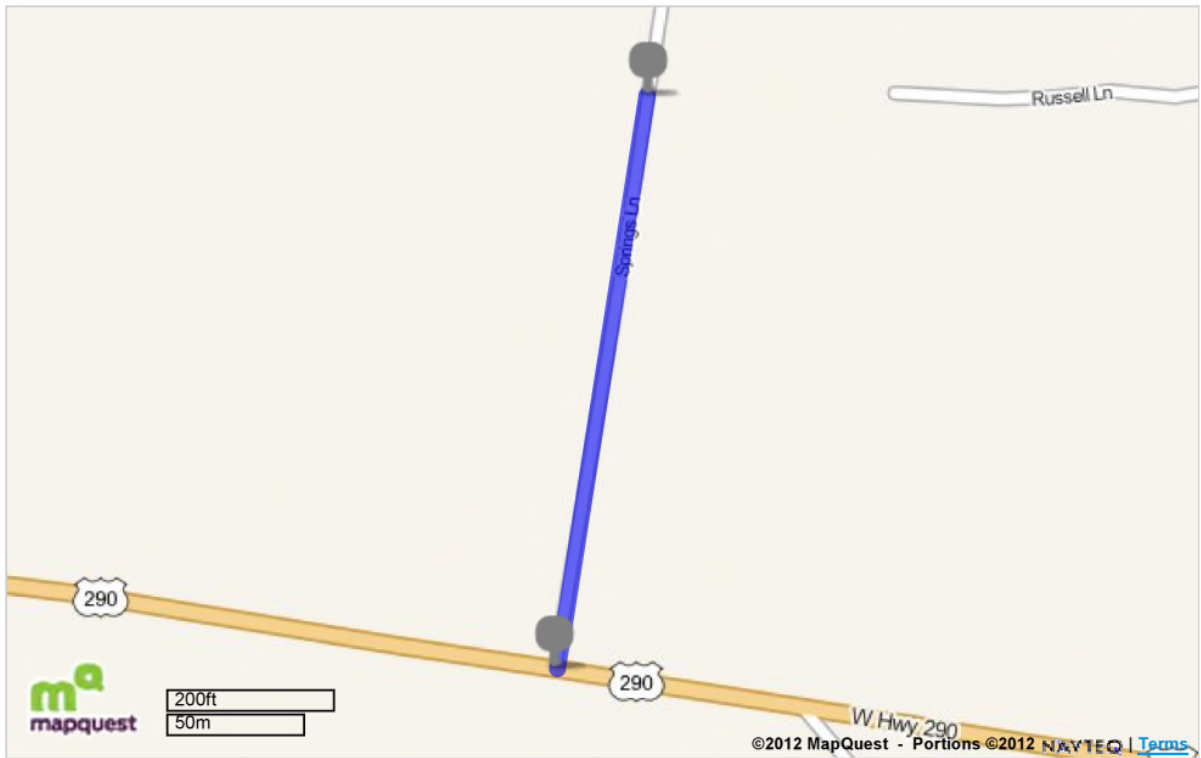
2. **289 SPRINGS LN** is on the **left**. [Map](#)



289 Springs Ln, Dripping Springs, TX 78620-3475

Driving Directions from 2400 W Highway 290, Dripping Springs, Texas 78620 to 289 Sp... Page 2

Total Travel Estimate: **0.20 miles - about**





100 Congress, Suite 300
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

VIA ELECTRONIC MAIL

July 19, 2012

Mr. Tim Irvine
Texas Department of Housing and Community Affairs
221 West 11th Street
Austin, Texas 78701

Re: Merritt Hill Country (Dripping Springs)
TDHCA No. 12346

Dear Tim:

As the deadline for the submission of an appeal for DDC Merritt Hill Country Ltd. (our "**Client**") has not passed, I respectfully ask you to allow me to supplement the appeal documentation submitted earlier today.

Please find enclosed an affidavit from Mr. Granger MacDonald, a principal of the developer of The Springs Apartments, indicating his belief that the proper address for The Springs Apartments is 2400 West Highway 290, Dripping Springs, Texas 78620. This is the address published in TDHCA's materials. The United States Census Bureau lists the census tract number for this address as 48209010806, which is different than the census tract number for Merritt Hill Country.

This should definitively resolve this matter. While The Springs Apartments may be located on a certain side of Highway 290, its address generates a different census tract number on the United States Census Bureau's website. It is not incumbent upon an Applicant to fully understand how the United States Census Bureau assigns census tract numbers. Further, if TDHCA were to deny this appeal, it would be implying that the information presented on the United States Census Bureau's website is somehow incorrect.

Mr. Tim Irvine

July 19, 2012

Page 2

While we dispute whether a "reasonableness" standard even should be applied, if it is applied, it is abundantly clear that the Applicant would not have any reason to believe that TDHCA made a mistake on its Site Demographic Characteristics Report and its HTC Property Inventory as of December 15, 2011 Board Meeting. If it had no reason to believe that TDHCA made a mistake, then it should receive the full six (6) points for this selection criteria item.

If the Executive Director does not grant this appeal, please include this information with the documentation for the appeal that will be submitted to the Board.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia L. Bast".

Cynthia L. Bast

cc: Denison Development

STATE OF TEXAS)
) §§
COUNTY OF KERRVILLE)

AFFIDAVIT

I, G. Granger MacDonald, being first duly sworn on oath, depose and say that:

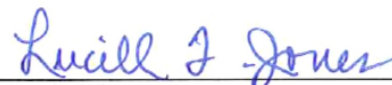
1. I am a principal of the company that developed The Springs Apartments.
2. The original address assigned to The Springs Apartments was 2400 West Highway 290. The property is located in Hays County, outside the city limits of Dripping Springs.
3. The owner of The Springs Apartments built Springs Lane for access from Highway 290 to the development. The road is private. It is maintained by the owner of The Springs Apartments. It is not recognized or maintained by the County.
4. When The Springs Apartments was completed, the United States Postal Service assigned a mailing address of 289 Springs Lane. I do not understand why the United States Postal Service would assign this address, given that the road is privately owned and essentially constitutes the driveway to the property.
5. I consider the address for The Springs Apartments to be 2400 West Highway 290, Dripping Springs, Texas 78620. Therefore, the address published in TDHCA's property inventory and demographics report is correct.

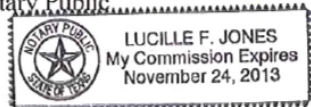
AFFIRANT:



G. Granger MacDonald

Sworn to before me on this 19th day of July, 2012.



Notary Public


Handouts for Appeal No. 12346

Merritt Hill Country

Dripping Springs, Texas

- (15) **Developments in Census Tracts with Limited Existing HTC Developments.** (\$2306.6725(b)(2)) The purpose of this scoring item is to encourage a de-concentration of housing tax credit Developments in census tracts, **according to the Department's Housing Tax Credit Site Demographic Characteristics Report for the current Application Round.** Applications may qualify for up to (6 points) under subparagraph (A) or (B) of this paragraph.
- (A) If the proposed Development is located in a census tract in which there are no other existing HTC Developments that serve the same Target Population (4 points); or
 - (B) If the proposed Development is located in a census tract in which there are no other existing HTC Developments (6 points).
 - (C) Evidence of the census tract identifying the location of the proposed Development must be submitted in the Application.

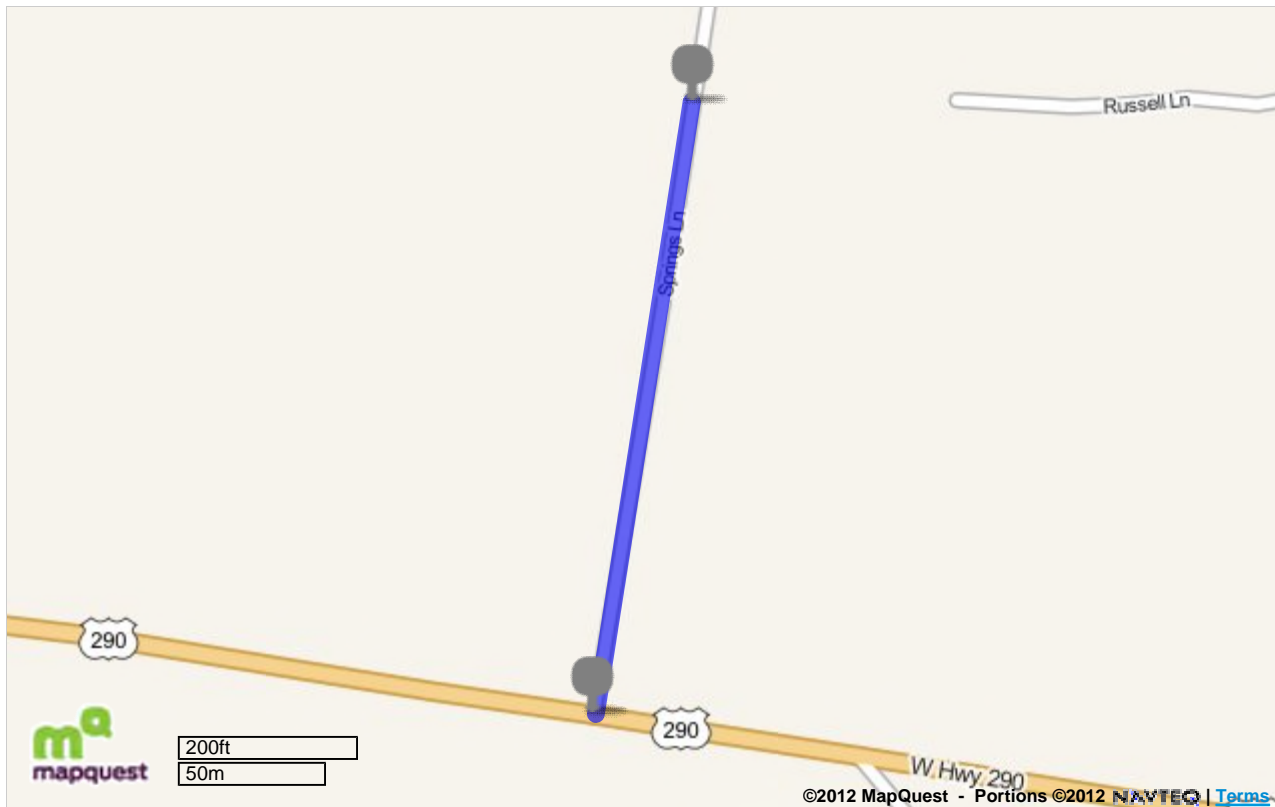
TDHCA #	Original TDHCA#	Development Name	Project Address	Project City	Zip Code	Project County	Year	Total Units	2000 Census Tract	2010 Census Tract
99044		Springs Apartments, The	2400 W. Hwy. 290	Dripping Springs	78620	Hays	1999	76	48209010801	48209010806

Excerpt from the HTC Inventory 2010
Tract Change sheet available on TDHCA's
website on July 17, 2012.

TDHCA#	Program Type	Original TDHCA#	Year	Board Approval	Development Name	Project Address	Project City	Project County	Zip Code	LIHTC Amt Awarded	Total Units	LIHTC Units	Population Served	Disabled Units	Apt. Phone #	Census Tract
99044	9% HTC		1999	1999	Springs Apartments	2400 W. Hwy. 290	Dripping Springs	Hays	78620	\$327,464	76	76	General	8	(512) 858-2440	48209010801

Excerpt from the HTC Property Inventory as of December 15, 2011 Board Meeting available on TDHCA's website on July 17, 2012.

Total Travel Estimate: **0.20 miles - about**



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Trip to:

289 Springs Ln

Dripping Springs, TX 78620-3475

0.20 miles /

Notes



2400 W Highway 290, Dripping Springs, TX 78620-3780



1. Start out going **north** on **Springs Ln**. [Map](#)

0.2 Mi

0.2 Mi Total



2. **289 SPRINGS LN** is on the **left**. [Map](#)



289 Springs Ln, Dripping Springs, TX 78620-3475