BOARD MEETING OF OCTOBER 9, 2014

J. Paul Oxer, Chair

TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Juan Muñoz, Vice-Chair
J. Mark McWatters, Member
Leslie Bingham Escareño, Member
Robert D. Thomas, Member
Tom Gann, Member

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

A G E N D A
10:00 AM
October 9, 2014

John H. Reagan Building
Room JHR 140, 105 W 15th Street
Austin, Texas

CALL TO ORDER, ROLL CALL — **J. Paul Oxer, Chairman**
CERTIFICATION OF QUORUM

Pledge of Allegiance - ***I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.***

Texas Allegiance - ***Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.***

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act.

ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

EXECUTIVE — **Barbara Deane**, Board Secretary

a) Presentation, Discussion, and Possible Action on Board Meeting Minutes Summary for July 31, 2014

b) Presentation, Discussion, and Possible Action to Approve Staffing for the Internal Audit Division

INTERNAL AUDIT: — **Betsy Schwing**, Acting Director Internal Audit

c) Presentation, Discussion, and Possible Approval of the Fiscal Year 2015 Internal Audit Work Plan

LEGAL

d) Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning The Shire Apartments (HTC 02470 / CMTS 3273) — **Jeff Pender**, Deputy General Counsel

RULES

e) Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC Chapter 20, Single Family Umbrella Rule, §§20.1-20.16 — **Marni Holloway**, Director NSP

f) Presentation, Discussion and Possible Action on orders adopting new 10 TAC Chapter 2, Enforcement and adopting the repeal of 10 TAC §1.14 related to Administrative Penalties, the repeal of 10 TAC §5.17 related to Sanctions and Contract Close Out, and the repeal of 10 TAC Chapter 60 related to Administrative Penalties, all directed to be published in the *Texas Register* — **Patricia Murphy**, Chief of Compliance

g) Presentation, Discussion, and Possible Action on proposed amendments to 10 TAC §1.5 concerning Previous Participation Reviews and directing its publication for public comment in the *Texas Register*

TEXAS HOMEOWNERSHIP — **Eric Pike**, Director, Texas Homeownership Division

h) Presentation, Discussion, and Possible Action on Resolution No. 15-002 authorizing programmatic changes to the To Be Announced ("TBA") Single Family Taxable Mortgage Program ("TMP-79")

i) Presentation, Discussion, and Possible Action adopting Resolution No. 15-003 authorizing application to the Texas Bond Review Board for reservation of private activity bond authority from the existing single family set aside

HOME DIVISION — **Jenifer Molinari**, Director, HOME Program

j) Presentation, Discussion, and Possible Action to authorize the issuance of an Amendment to the 2014 HOME Single Family Programs Reservation System Notice of Funding Availability ("NOFA") and publication of the amended NOFA in the *Texas Register*

ASSET MANAGEMENT: — **Cari Garcia**, Dir. Asset Management

k) Presentation, Discussion, and Possible Action on Housing Tax Credit Application Amendments

13247 The Reserves at South Plains Lubbock

MULTIFAMILY FINANCE DIVISION: — **Jean Latsha**, Dir. Multifamily Finance

l) Presentation, Discussion, and Possible Action Regarding Modifications to Terms of NSP1 Multifamily Loans

m) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credit with another issuer

14406 Avenue Station Houston

REPORT ITEMS

The Board accepts the following reports:

1. Results from Compliance Division Customer Service Survey and update on Compliance Activities — **Patricia Murphy**, Chief of Compliance
2. Report on Status of Efforts to Affirmatively Further Fair Housing — **Cameron Dorsey**, DED of MF and Fair Housing

ACTION ITEMS

ITEM 2: INTERNAL AUDIT: — **Betsy Schwing**, Acting Dir. Internal Audit

Report from the Audit Committee Meeting

ITEM 3: MULTIFAMILY FINANCE DIVISION: — **Jean Latsha**, Dir. Multifamily Finance

a) Presentation, Discussion, and Possible Action on a Request for a Waiver of §11.3(e) of the 2014 Qualified Allocation Plan Relating to Developments in Certain Sub-regions and Counties for Villas at Plano Gateway

b) Presentation, Discussion, and Possible Action on Awards of Competitive 9% Low Income Housing Tax Credits from the 2014 State Housing Tax Credit ceiling from the Waiting List for the 2014 Housing Tax Credit Application Round

ITEM 4: ASSET MANAGEMENT: — **Cari Garcia**, Dir. Asset Management

a) Presentation, Discussion, and Possible Action on a Waiver of 10 TAC §50.4(d)(16)(H) and approval of Land Use Restriction Agreement ("LURA") Amendments

12404	Pine Club Apartments	Beaumont
12405	Saddlewood Club Apartments	College Station
12406	Ridgewood West Apartments	Huntsville
12407	Woodglen Park Apartments	Dallas
12408	Willow Green apartments	Houston
12409	Tealwood Place Apartments	Wichita Falls

b) Presentation, Discussion, and Possible Action on Material LURA Amendments

95026	Fonseca Ltd.	El Paso
97089	Prado, Ltd.	El Paso
98091	NCDO Housing, Ltd.	El Paso
01018	Western Whirlwind, Ltd.	Horizon City
01119	Cactus Rose, Ltd.	Anthony
02061	Painted Desert Townhomes	Clint
03222	Whispering Sands Townhomes	Anthony

c) Presentation, Discussion, and Possible Action regarding an appeal of staff decision under 10 TAC §10.902(a)(7) related to the denial of a change to the Land Use Restriction Agreement ("LURA") for Sabine Park Apartments in Orange (File No 96134)

ITEM 5: APPEALS: — **Jean Latsha**, Dir. Multifamily Finance

a) Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under the Department's Program Rules

14000	Trinity Oaks Apartments	Sulphur Springs
14004	Northwest Apartments	Georgetown

b) Presentation, Discussion, and Possible Action on Timely Filed Appeals of Underwriting

14127	Haymon Krupp	El Paso
14130	Tays Apartments	El Paso
14129	Westfall Baines	El Paso
14128	Sherman Plaza	El Paso

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public): — **J. Paul Oxer**, Chairman

1. The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee
2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
   a) The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al., filed in federal district court, Northern District of Texas.

   b) Relman, Dane & Colfax PLLC letters to HUD concerning the State's Phase 2 Analysis of Impediments

3. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't. Code, Chapter 551:
   a) Any posted agenda item

4. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or-
5. Pursuant to Tex. Gov't. Code, §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989, at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Jorge Reyes, 512-475-4577 at least three (3) days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

1a

BOARD ACTION REQUEST

BOARD SECRETARY

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action on Board Meeting Minutes Summary for July 31, 2014.

RECOMMENDED ACTION

Approve Board Meeting Minutes Summary for July 31, 2014

RESOLVED, that the Board Meeting Minutes Summary for July 31, 2014, as having been specifically approved, are hereby approved as presented.

Texas Department of Housing and Community Affairs Governing Board

Board Meeting Minutes Summary

July 31, 2014

On Thursday, the 31st day of July, 2014, at 9:00 a.m., the regular monthly meeting of the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA") was held in Room JHR 140 of the John H. Reagan Building, Austin, Texas.

The following members, constituting a quorum, were present and voting:

- J. Paul Oxer
- Leslie Bingham Escareño
- Tom Gann
- Dr. Juan Muñoz
- Robert Thomas

J. Paul Oxer served as Chair, and Barbara Deane served as secretary.

1) Leslie Bingham Escareño led the Board in honoring Sandy Donoho, Director of Internal Audit, for her seven years of service to TDHCA and in recognition of her retirement.

2) Marni Holloway, Neighborhood Stabilization Program Director, provided clarification and modified language on Consent Agenda Item 1(e) – Presentation, Discussion, and Possible Action on the proposed amendment to 10 TAC Chapter 20, Single Family Umbrella Rule, §§20.1-20.16, and directing its publication for public comment in the *Texas Register*. Following public comment (listed below), the Board unanimously approved the Consent Agenda as modified.

- Belinda Carlton, Texas Council for Developmental Disabilities, testified in support of staff recommendation on the amendment for Item 1(e)

3) Action Item 2 – Report from the Deputy Executive Director for Single Family, Community Affairs, and Metrics – no verbal presentation was provided on this Item.

4) Cameron Dorsey, Deputy Executive Director for Multifamily Programs and Fair Housing, presented on Action Item 3 – Presentation of report from the fair housing team and possible authorization to select crime data provider. The Board voted unanimously to approve staff recommendation authorizing staff to select and contract with a qualified crime data statistics provider through an Invitation for Bid.

5) Action Item 4 – Presentation, Discussion, and Possible Action on Material LURA Amendments – was pulled from the agenda.

6) Action Item 5 – Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under the Department's Program Rules – was presented by Jean Latsha, Director of Multifamily Finance.

On Item #14063 Hudson Providence in Hudson, no action was taken as the item was pulled from the agenda.

On Item #14106 Manor Lane Senior Apartments in Hondo, after public comment listed below, the Board voted unanimously to approve staff recommendation denying the appeal. (Note: Dr. Muñoz was absent from the room at the time of the vote)

- Mark du Mas, Paces Foundation and the nonprofit Community Housing Development Organization sponsor of the proposed development, testified in opposition to staff recommendation.

On Item #14130 Tays in El Paso, after public comment listed below, the Board voted unanimously to approve staff recommendation granting the applicant's appeal providing they meet the referenced carryover deadline by November 1, 2014.

- Gerald Cichon, Housing Authority of the City of El Paso and the applicant, testified in support of staff recommendation
- Barry Palmer, Coats Rose law firm representing the applicant, provided additional information to Mr. Cichon's testimony

On Item #14181 The Trails on Mockingbird Lane in Abilene, after public comment listed below, the Board voted unanimously to approve staff recommendation in denial of the applicant's appeal.

- Gene Reed, Abilene Housing Authority (the applicant), testified in opposition to staff recommendation
- Janine Sisak, DMA Development Company (the applicant), answered questions from the Board
- Diana McIver, DMA Development Company, testified to clarify comments made prior and answered questions from the Board

7) Action Item 6(b) – Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer for #14405 Pine Grove in Orange – was presented by Ms. Latsha. After public comment listed below, the Board unanimously approved staff recommendation to approve the award with conditions as amended.

- Barry Palmer, Coats Rose law firm representing the applicant, testified in opposition to one element of staff's recommendation.
- Chris Akbari, ITEX Group and the applicant, testified in opposition to one element of staff's recommendation

8) Action Item 6(a) – Presentation, Discussion, and Possible Action regarding Awards from the 2014 State Housing Credit Ceiling and Approval of the Waiting List for the 2014 Housing Tax Credit Application Round, including resolution of any outstanding previous participation issues – was presented by Ms. Latsha. After public comment listed below, the Board unanimously approved the staff recommended awards and list.

- Robert Papierz, staff representing State Representative Allen Fletcher, testified in opposition to staff recommendation with regards to the award for #14272 The Lodge at Huffmeister.
- Michael Lyttle, TDHCA Chief of External Affairs, read a letter into the record from State Representative Dwayne Bohac in opposition to staff recommendation with regards to the award for #14017 The Catalon.
- Kay Smith, Harris County Department of Education, testified in opposition to staff recommendation with regards to the awards for #14272 The Lodge at Huffmeister and #14017 The Catalon.
- Doak Brown, Brownstone Affordable Housing, testified with concerns about 2014 awards in Region 11 and how the Qualified Allocation Plan should be amended to address the concerns he outlined.
- Roque Vela, Jr., City Councilman for the City of Laredo, testified in opposition to staff recommendation
- Donna Rickenbacker, Marque Real Estate Consultants, testified and asked the Board to exercise its discretion in allocating 2014 awards in Region 11
- Sara Reidy, Casa Linda Development Corporation, testified in support of staff recommendation
- Apolonio Flores, from San Antonio, testified and expressed concerns about the staff recommendation for awards in Region 11
- Veronica Soto, from the City of El Paso, testified to thank TDHCA staff for how it responded to the City of El Paso's input in 2013 regarding the 2014 award process
- Henry Flores, representing application #14283 Bella Vista, testified in support of staff recommendation
- Barbara Hardin, a citizen from Houston, testified in opposition to staff recommendation

9) Action Item 6(c) – Presentation, Discussion, and Possible Action regarding Staff's Request for Guidance with respect to the Drafting of the 2015 Qualified Allocation Plan and Uniform Multifamily Rules – was presented by Ms. Latsha and Mr. Dorsey. In addition to the public comment listed below, the Board did provide various comments to staff with regards to the formation of the 2015 Qualified Allocation Plan and Uniform Multifamily Rules.

- Tamea Dula, Coats Rose law firm, provided comments with regards to the 2015 rules
- Jocklin Kaville, City of Houston, provided comments with regards to the 2015 rules
- Stedman Grigsby, City of Houston, provided comments with regards to the 2015 rules
- Stuart Shaw, Bonner Carrington, provided comments with regards to the 2015 rules
- George Littlejohn, Texas Affiliation of Affordable Housing Providers, provided comments with regards to the 2015 rules
- Terri Anderson, Anderson Capital, provided comments with regards to the 2015 rules
- Dennis Hoover, Rural Rental Housing Association of Texas, provided comments with regards to the 2015 rules
- Claire Palmer, attorney and consultant, provided comments with regards to the 2015 rules

10) At 12:35 p.m. the Board went into Executive Session and reconvened in open session at 1:24 p.m. No action was taken in or as a result of Executive Session.

Except as noted otherwise, all materials presented to and reports made to the Board were approved, adopted, and accepted. These minutes constitute a summary of actions taken. The full transcript of the meeting, reflecting who made motions, offered seconds, etc., questions and responses, and details of comments, is retained by TDHCA as an official record of the meeting.

There being no further business to come before the Board, the meeting adjourned at 2:23 p.m. The next meeting is set for Thursday, September 4, 2014.

____
Secretary

Approved:

____
Chair

1b

BOARD ACTION REQUEST

EXECUTIVE

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action to Approve Staffing for the Internal Audit Division.

RECOMMENDED ACTION

WHEREAS, the Internal Audit Division currently reflects four budgeted positions, including the Director of Internal Audit,

WHEREAS, prior to the infusions of funding associated with recovery from Hurricanes Rita, Ike, and Dolly, the Housing and Economic Recovery Act of 2008, and the American Recovery and Reinvestment Act of 2009, the Internal Audit Division had a staff of three, but its staffing was increased to address those extraordinary circumstances, and

WHEREAS, with the Department's activities returning to normalized (and in some instances declining) levels, the Executive Director recommends that the Board approve taking the level of Internal Audit staff back to three for the foreseeable future, it remaining within the power of this Board, with advice and recommendations from the Audit Committee, to make further adjustments, downward or upward, as it may from time to time deem prudent.

NOW, therefore, it is hereby

RESOLVED, that the Internal Audit staff shall be comprised of a Director of Internal Audit, appointed by the Executive Director and approved by this Board in accordance with TEX. GOV'T CODE, §2306.073, and two staff auditors, selected by the Director of Internal Audit.

BACKGROUND

The Internal Audit Division has undergone a number of changes in recent years and in the last few months it has encountered two key staffing losses with the retirement of the Director of Internal Audit and the resignation of a senior auditor to go to another state agency. Betsy Schwing is very capably managing through this situation as the Interim Director of Internal Audit. We are currently in the recruitment process to identify a Director of Internal Audit and believe it prudent to obtain Board direction prior to making staffing decisions that might not align with what the person ultimately approved by the Board as Director of Internal Audit would recommend.

The complexity of this situation is compounded by timing issues. We are in the beginning of FY 2015, and this is the time of year when Internal Audit is typically finalizing its risk assessment and working with the Audit Committee to finalize the annual audit plan. Yet another variable has been thrown into the mix as the management team has expressed an interest in making greater use of Internal Audit for consulting engagements to improve processes and provide greater assurance that those processes properly identify and appropriately mitigate risks. Regardless of the Internal Audit staff, entering into this new approach will be a challenge, requiring greater front-end clarity on engagements.

The Executive Director recommends setting the staffing resources of Internal Audit at three auditors, including the Director of Internal Audit, and working closely with this staff and the Audit Committee to make this activity as responsive as possible to agency needs and to ensure the sufficiency and optimal allocation of Internal Audit resources.

1c

BOARD ACTION REQUEST

INTERNAL AUDIT DIVISION

OCTOBER 9, 2014

Presentation, Discussion and Possible Approval of the Fiscal Year 2015 Internal Audit Work Plan.

RECOMMENDED ACTION

WHEREAS, the Texas Government Code § 2306.073 (b), the Internal Auditing Act and audit standards require the Department's Governing Board to approve an annual audit work plan that outlines the internal audit projects planned for the fiscal year;

NOW, therefore, it is hereby

RESOLVED, the internal audit work plan for Fiscal Year 2015 is approved as presented.

BACKGROUND

The annual internal audit work plan is required by the Texas Government Code § 2306.073 (b), the Texas Internal Auditing Act (Texas Government Code Chapter 2102) and by the *International Standards for the Professional Practice of Internal Auditing* (Standards). The plan is prepared by the internal auditor based on an agency-wide risk assessment as well as input from the Department's Governing Board and executive management. The plan identifies the individual audits to be conducted during Fiscal Year 2015. The plan also outlines other planned activities that will be performed by the Internal Audit Division.

Texas Department of Housing and Community Affairs Internal Audit Division Fiscal Year 2015 DRAFT Audit Plan[1]		
Activity/Program/Division	**Estimated Hours**	**Comments**
FY2015 Proposed Audit Projects (estimated hours 1,925)		
Program Income	900	The specific project objective(s) and scope will be determined by the detailed assessment of relative risks identified during the project planning process.
Payroll	800	
Record Retention Process	175	
Management Requests or Special Projects	50	As requested
FY2014 Carry Over Project (estimated hours 550)		
HOME Program - Single Family	550	The specific project objective(s) and scope will be determined by the detailed assessment of relative risks identified during the project planning process.
Internal Audit Requirements and Responsibilities (estimated hours 1,100)		
Administration of the Fraud Hotline, Tracking, Follow Up and Disposition of Fraud Complaints	260	Internal Audit is responsible for the Fraud Hotline and reviewing allegations of fraud, waste and abuse
Prior Audit Issues Tracking, Follow-Up and Disposition	240	Required by the Audit Standards
Annual Risk Assessment and Audit Plan Development	180	Required by the Audit Standards and the Texas Internal Auditing Act
Continuing Professional Education and Staff Development	180	Required by the Audit Standards
Quality Assurance Self-Assessment Review	80	Required by the Audit Standards
Coordination with External Auditors and Oversight Agencies	80	Ongoing requirement
Preparation and Submission of the Annual Internal Audit Report	60	Required by the Texas Internal Auditing Act
Annual Review and Revision of Internal Audit Charter	20	Required by the Audit Standards

[1] The audit plan is a dynamic document that may change during the fiscal year as circumstances change. Requests from management, changes in audit resources and changes in the agency's organization or operations could result in changes to the plan. Significant changes will be presented to management, the Audit Committee and the Governing Board for review and approval.

1d

BOARD ACTION REQUEST

LEGAL SERVICES

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning The Shire Apartments (HTC 02470 / CMTS 3273)

RECOMMENDED ACTION

WHEREAS, The Shire Apartments ("Property"), owned by The Shire Apartments, Ltd., a Texas limited partnership ("Owner"), has a history of not timely resolving compliance findings of the applicable Land Use Restriction Agreement ("LURA") and the associated statutory and rule requirements;

WHEREAS, on August 26, 2014, a representative for Owner met with the Administrative Penalty Committee and agreed, subject to Board approval, to enter into an Agreed Final Order calling for a penalty of $2,500;

WHEREAS, compliance findings discovered during the 2013 Uniform Physical Condition Standards ("UPCS") inspection and file monitoring review have now been fully resolved, with the exception of three Fair Housing Disclosure Notice violations that cannot be resolved because the tenants have moved out; and

WHEREAS, staff has based its recommendations for an Agreed Final Order on the Department's rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case;

NOW, therefore, it is hereby

RESOLVED, that the Agreed Final Order assessing a $2,500 administrative penalty as outlined above for noncompliance at The Shire Apartments (HTC 02470 / CMTS 3273), substantially in the form presented at this meeting, and including any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

The Shire Apartments, Ltd. is the current owner of The Shire Apartments, a 310 unit low income apartment complex in Port Arthur, Jefferson County. The Property is subject to a Land Use Restriction Agreement ("LURA") effective as of July 6, 2005, in consideration for a Housing Tax Credit allocation in the annual amount of $561,170.

A UPCS inspection was performed on May 22, 2013, and a file monitoring review was performed on August 21, 2013. Compliance findings were discovered and corrective deadlines were set, but the Owner failed to timely resolve all findings. The following compliance findings were considered by the Administrative Penalty Committee:

1. 2013 UPCS Findings. Inspection was performed May 22, 2013, and a corrective deadline was set for September 16, 2013. Findings were not fully resolved until June 10, 2014;
2. 2013 File Monitoring Findings. Monitoring review was performed August 21, 2013, and a corrective deadline was set for January 9, 2014. Findings included:
    a. Household income above income limit upon initial occupancy for units 13-4040-221 and 4-4220-201. Acceptable corrective documentation was submitted January 30, 2014;
    b. Failure to screen for student status for unit 3-420-105. Acceptable corrective documentation was submitted January 30, 2014; and
    c. Failure to execute Fair Housing Disclosure Notice for units 16-3960-139, 5-4200-105, and 4-4220.201. Findings are uncorrectable because the households moved out without signing the notice.

An informal conference was held with the Administrative Penalty Committee on March 25, 2014. Property representatives argued that all UPCS violations had been timely resolved, and they presented a large binder of work orders that they indicated had been submitted but rejected without explanation. They also requested clarification regarding what constitutes an acceptable work order. The Administrative Penalty Committee tabled a decision and voted to refer the property to the Compliance Committee for further review in accordance with 10 TEX. ADMIN. CODE § 10.605 (Compliance Committee). Per 10 TEX. ADMIN. CODE § 10.605(b), Patricia Murphy met with property representatives informally on May 6, 2014, to discuss work order requirements, and she performed a full review of the binder that had been submitted on March 25, 2014. She determined that some work orders received before the corrective action deadline should have been accepted, but 49 violations remained unresolved. She also reviewed work orders received after the corrective action deadline and found a total of 34 remaining violations. She provided written notice of her review results on May 13, 2014, and set a 30-day deadline for Respondent to request a meeting with the Compliance Committee if they disagreed with her findings. Respondent did not request a meeting with the Compliance Committee and final work orders were received on June 10, 2014, resolving the remaining 2013 UPCS findings. Representatives for the owner met again with the Administrative Penalty Committee on August 26, 2014, and subsequently agreed to pay a $2,500 penalty.

Owner is also involved with a prior administrative penalty recommendation relating to previous file monitoring findings at the Property. That penalty case is currently in queue for a contested case hearing with the State Office of Administrative Hearings in late 2014, early 2015, and is not included in the Agreed Final Order that is being contemplated today.

Consistent with direction from the Department's Administrative Penalty Committee, a penalty in the amount of $2,500 is recommended for The Shire Apartments, Ltd. with respect to the 2013 UPCS and file monitoring findings indicated above and further described in the Agreed Final Order.

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
THE SHIRE APARTMENTS, LTD.	§	TEXAS DEPARTMENT OF
WITH RESPECT TO THE SHIRE	§	HOUSING AND
APARTMENTS (HTC FILE # 02470)	§	COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 9th day of October, 2014, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA") considered the matter of whether enforcement action should be taken against **THE SHIRE APARTMENTS, LTD.,** a Texas Limited Partnership ("Respondent").

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act ("APA"), Tex. Gov't Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Administrative Penalties Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

WAIVER

Respondent acknowledges the existence of their right to request a hearing as provided by TEX. GOV'T CODE § 2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by TEX. GOV'T CODE § 2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

FINDINGS OF FACT

Jurisdiction:

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TEX. ADMIN. CODE §1.14 and 10 TEX. ADMIN. CODE Chapter 60.

2. During 2003, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of $561,170.00 to acquire, rehabilitate, and operate The Shire Apartments ("Property") (HTC file No. 02470 / CMTS No. 3273 / LDLD No. 173).

3. Respondent signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective July 6, 2005, and filed of record at Document Number 2005039185 of the Official Public Records of Real Property of Jefferson County, Texas.

4. Respondent is a Texas limited partnership that is approved by TDHCA as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations[1]:

5. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on May 22, 2013. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 10.616 (Property Condition Standards). Notifications of noncompliance were sent and a September 16, 2013, corrective action deadline was set. Partial corrective documentation was submitted before the deadline, but several documents were missing and multiple work orders were incomplete. Final corrective documentation was not received until June 10, 2014, after intervention by the Administrative Penalty Committee. Dates of correction for each violation are indicated in Attachment 1, which includes fourteen violations with corrected dates after the deadline.

6. An on-site monitoring review was conducted on August 21, 2013, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a January 9, 2014, corrective action deadline was set, however, the following violations were not resolved by the deadline:

   a. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 13-4040-221 and 4-4220-201, a violation of 10 TEX. ADMIN. CODE §10.606 (Determination, Documentation and Certification of Annual Income) and the LURA. Acceptable corrective documentation was submitted on January 30, 2014, 21 days after the corrective deadline.

   b. Respondent failed to ensure that the household in unit 3-420-105 qualified for occupancy, by allowing the unit to be occupied by non-qualified full time students and/or not maintaining evidence of an exception, a violation of 10 TEX. ADMIN. CODE §10.609 (Annual Recertification for All Programs and Student Requirements for HTC, Exchange, TCAP, and BOND Developments), which requires developments to screen for student status. Acceptable corrective documentation was submitted on January 30, 2014, 21 days after the corrective deadline.

[1] Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TEX. ADMIN. CODE, CHAPTERS 10 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

c. Respondent failed to provide the Fair Housing Disclosure Notice for units 16-3960-139, 5-4200-105, and 4-4220.201, a violation of 10 TEX. ADMIN. CODE § 10.608 (Lease Requirements), which requires all developments to provide prospective households with a fair housing disclosure notice within a certain time period. At the time of the monitoring review, TDHCA rules did not include a way to resolve the finding and it was held in abeyance pending a rule amendment. 10 TEX. ADMIN. CODE § 10.612 (Tenant File Requirements) became effective on November 28, 2013, incorporating corrective instructions for the violation and a deadline of February 17, 2014, was set. The tenants in all three units have moved out and the violation is considered uncorrectable.

7. An informal conference was held with the Administrative Penalty Committee on March 25, 2014. Property representatives argued that all UPCS violations had been timely resolved, and they presented a large binder of work orders that they indicated had been submitted but rejected without explanation. They also requested clarification regarding what constitutes an acceptable work order. The Administrative Penalty Committee tabled a decision and voted to refer the property to the Compliance Committee for further review in accordance with 10 TEX. ADMIN. CODE § 10.605 (Compliance Committee). Per 10 TEX. ADMIN. CODE § 10.605(b), Patricia Murphy first met with property representatives informally on May 6, 2014, to discuss work order requirements, and she performed a full review of the binder that had been submitted on March 25, 2014. She determined that some work orders received before the corrective action deadline should have been accepted, but 49 violations remained unresolved. She also reviewed work orders received after the corrective action deadline and found a total of 34 remaining violations. She provided written notice of her review results on May 13, 2014, and set a 30 day deadline for Respondent to request a meeting with the Compliance Committee if they disagreed with her findings. Respondent did not request a meeting with the Compliance Committee and final work orders were received on June 10, 2014, resolving the remaining 2013 UPCS violations. Corrected dates in the final column of the spreadsheet at Attachment 1 represent the dates that work was performed by Respondent to repair each finding.

8. Another informal conference was held with the Administrative Penalty Committee on August 26, 2014, and property representatives subsequently agreed to sign an Agreed Final Order calling for a penalty in the amount of $2,500.00 for the above UPCS and file violations that were found during 2013. All of the 2013 UPCS and file violations indicated above are considered corrected, with the exception of the violations listed in FOF #6c which cannot be resolved and will remain on the issues of noncompliance report for three years.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, 10 TAC §1.14 and 10 TAC, Chapter 60.

2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).

3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.

4. Respondent violated 10 TEX. ADMIN. CODE § 10.616 and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered during 2013, and not timely corrected.

5. Respondent violated representations made on page 1 of the LURA, Section 4 of the LURA, and 10 TEX. ADMIN. CODE §10.606 in 2013 by failing to provide documentation that household incomes are within prescribed limits upon initial occupancy for units 13-4040-221 and 4-4220-201.

6. Respondent violated 10 TEX. ADMIN. CODE §10.609 in 2013 by failing to screen for student status for unit 3-420-105.

7. Respondent violated 10 TEX. ADMIN. CODE §10.608 in 2013, as amended by 10 TEX. ADMIN. CODE § 10.612, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for units 16-3960-139, 5-4200-105, and 4-4220.201.

8. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.

9. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.

10. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.

11. An administrative penalty of $2,500.00 is an appropriate penalty in accordance with 10 TAC §§60.307 and 60.308.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of $2.500.00.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay the $2,500.00 administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" on or before November 10, 2014, to the following address

If via overnight mail (FedEx, UPS):	**If via USPS:**
TDHCA Attn: Ysella Kaseman 221 E 11th St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on ________________________, 2014.

By: ________________________________
Name: J. Paul Oxer
Title: Chair of the Board of TDHCA

By: ________________________________
Name: Barbara B. Deane
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
§
COUNTY OF __________ §

Before me, the undersigned notary public, on this _______ day of _________________, 2014, personally appeared J. Paul Oxer, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

____
Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this _______ day of _________________, 2014, personally appeared Barbara B. Deane, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(Seal)

____
Notary Public, State of Texas

STATE OF TEXAS ______________ §
§
COUNTY OF ________________ §

BEFORE ME, ______________________, a notary public in and for the State of ________________, on this day personally appeared ______________________, known to me or proven to me through _____________________________ to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is ______________________, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.

2. I hold the office of ___________________________ for Respondent. I am the authorized representative of Respondent, owner of The Shire Apartments, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.

3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

THE SHIRE APARTMENTS, LTD., a Texas Limited Partnership

By: _____________________________

Name: _____________________________

Title: _____________________________

Given under my hand and seal of office this ______ day of ____________, 2014.

____
Signature of Notary Public

____
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF _____________

My Commission Expires: __________________

Attachment 1

2013 UPCS Violation List

(see attached)

The Shire
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Area	Bldg	Unit	Inspectable Item	Deficiency	Level	Note	Corrected
Site			Grounds	Erosion/Rutting Areas	L3	building 8-erosion adjacent to retaining wall > 8 x 5 inches	8/1/2013
Site			Grounds	Overgrown/Penetrating Vegetation	L2	building 3 front walkway-tree limbs protruding into walkway at eye level	7/20/2013
Site			Health & Safety	Electrical Hazards - Exposed Wires/Open Panels	L3	grounds at Laundry II-holes in disconnect box on power generation panel	9/12/2013
Site			Health & Safety	Garbage and Debris - Outdoors	L3	throughout carport roofs-garbage and debris on carport roofs	9/12/2013
Site			Health & Safety	Hazards - Tripping	L3	walkway near Laundry I-trip hazard in concrete walkway > 3/4 inch, building 20-side grounds-damaged concrete walkway presents trip hazard	9/2/2013
Site			Market Appeal	Graffiti	L1	building 12-front wall-graffiti	7/24/2013
Unit	1	105	Bathroom	Plumbing - Leaking Faucet/Pipes	L1	hall bath-shower leaks at tape connection	7/15/2013
Unit	1	205	Bathroom	Lavatory Sink - Damaged/Missing	L1	both bathrooms-water stop missing	7/18/2013
Unit	1	205	Bathroom	Shower/Tub - Damaged/Missing	L1	both bathrooms-water stop missing	7/18/2013
Unit	1	205	Doors	Missing Door	L1	laundry-closet doors missing	7/18/2013
Unit	1	205	Smoke Detector	Missing/Inoperable	L3	bedroom 1-inoperable	7/18/2013
Unit	1	208	Bathroom	Lavatory Sink - Damaged/Missing	L1	hall bath-water stop missing	7/18/2013
Unit	1	208	Bathroom	Shower/Tub - Damaged/Missing	L1	master bath-shower head and water stop missing, hall bath-water stop missing	7/18/2013
Common Areas	10		Halls/Corridors/Sta	Needs Paint	L2	halls-> 4 sq. ft. paint missing	9/12/2013
Unit	10	101-va	Bathroom	Shower/Tub - Damaged/Missing	L1	master bath-water stop missing-RDI	5/22/2013
Unit	10	101-va	Doors	Damaged Hardware/Locks	L3	entry door privacy dead bolt lock inoperable-RDI	5/22/2013
Unit	10	101-va	Electrical	GFI Inoperable	L3	hall bath-inoperable-will not test	9/10/2013
Unit	10	108	Bathroom	Water Closet - Damaged/Clogged/Missing	L2	bath-toilet seat cover damaged	6/7/2013
Unit	10	108	Doors	Damaged Hardware/Locks	L3	entry door chain lock component missing-RDI	5/22/2013
Unit	10	206	Smoke Detector	Missing/Inoperable	L3	hall-inoperable	5/24/2013
Building Exterior	11		Foundations	Spalling/Exposed Rebar	L3	side wall-exposed rebar throughout	7/4/2013
Unit	11	105	Electrical	GFI Inoperable	L3	kitchen-inoperable-will not test	6/10/2013
Unit	11	105	Health & Safety	Infestation - Insects	L3	roaches	6/10/2013
Unit	11	108	Doors	Damaged Hardware/Locks	L3	entry door backset hardware inoperable	7/9/2013

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Unit	11	108	Smoke Detector	Missing/Inoperable	L3	living room-inoperable	5/24/2013
Unit	11	207	Doors	Damaged Frames/Threshold/Lintels/Trim	L3	light visible at frame of closed entry door	7/29/2013
Unit	11	207	Doors	Damaged Surface (Holes/Paint/Rusting)	L3	bedroom 2-door surface separated > 1 inch	6/10/2013
Unit	11	207	Electrical	GFI Inoperable	L3	2nd floor bath-inoperable-will not test	6/10/2013
Unit	11	207	Windows	Inoperable/Not Lockable	L3	bedroom 2-window lock component missing-RDI	5/22/2013
Building Exterio	12		Foundations	Spalling/Exposed Rebar	L3	side wall-exposed rebar throughout	7/24/2013
Common Areas	12		Halls/Corridors/St	Needs Paint	L2	halls-floor paint missing > 4 sq. ft.	7/10/2013
Unit	12	110-le	Doors	Damaged Frames/Threshold/Lintels/Trim	L3	light visible at frame of closed entry door	7/10/2013
Unit	12	110-le	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	bedroom-walk-in closet door lockset hardware reversed with lock on room side of door-no egress	7/10/2013
Unit	12	110-le	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	disposal inoperable	7/10/2013
Unit	12	110-le	Smoke Detector	Missing/Inoperable	L3	hall-inoperable	5/24/2013
Unit	12	112	Windows	Inoperable/Not Lockable	L3	living room-window lock missing-RDI	5/22/2013
Unit	12	211-le	Bathroom	Shower/Tub - Damaged/Missing	L1	2nd floor bath-water stop missing-RDI	5/22/2013
Unit	12	211-le	Doors	Damaged Frames/Threshold/Lintels/Trim	L3	bedrooms 1 and 2-frame restricts door from functioning as designed	7/10/2013
Unit	12	211-le	Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable	L3	missing	7/10/2013
Unit	12	211-le	Kitchen	Range/Stove - Missing/Damaged/Inoperable	L3	missing	7/10/2013
Unit	12	211-le	Kitchen	Refrigerator-Missing/Damaged/Inoperable	L3	missing	7/10/2013
Unit	12	211-le	Smoke Detector	Missing/Inoperable	L3	2nd hall-inoperable, living room-missing	5/24/2013
Unit	12	215	Ceiling	Water Stains/Water Damage/Mold/Mildew	L1	2nd hall-moisture stains > 1 sq. ft.	6/10/2013
Unit	12	215	Doors	Damaged Frames/Threshold/Lintels/Trim	L3	light visible at frame of closed entry door	6/10/2013
Unit	12	215	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	bedroom 1-door lock reversed with lock on hall side of door-no 2nd egress from room	6/10/2013

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Unit	12	215	Health & Safety	Hazards - Tripping	L3	throughout-tv cable presents trip hazard	6/10/2013
Unit	12	215	Laundry Area	Dryer Vent Missing/Inoperable	L3	dryer not vented	6/10/2013
Unit	12	215	Outlets/Switches	Missing	L3	living room-outlet damaged-unsafe for use	6/10/2013
Unit	12	215	Smoke Detector	Missing/Inoperable	L3	living room-inoperable-RDI	5/22/2013
Common Areas	13		Halls/Corridors/Sta	Needs Paint	L2	halls-> 4 sq. ft. paint missing	10/1/2013
Unit	13	117	Bathroom	Shower/Tub - Damaged/Missing	L1	hall bath-water stop missing-RDI	5/22/2013
Unit	13	117	Health & Safety	Air Quality - Mold and/or Mildew Observed	L3	hall bath-mold on tub caulk	6/10/2013
Unit	13	124	Electrical	GFI Inoperable	L3	hall bath-inoperable-will not test	6/10/2013
Unit	13	219	Doors	Damaged Hardware/Locks	L2	bedroom 1-door lockset hardware missing	7/26/2013
Unit	13	219	Electrical	GFI Inoperable	L3	kitchen-two inoperable-will not test	9/10/2013
Unit	13	219	Smoke Detector	Missing/Inoperable	L3	bedroom 1-inoperable\	5/24/2013
Unit	13	219	Walls	Damaged/Deteriorated Trim	L1	entry door wall casing missing	9/10/2013
Building Exterior	14-Office		Doors	Damaged Hardware/Locks	L3	maintenance-entry door closure inoperable, marketing office-entry door closure/lockset hardware does not function as designed	7/10/2013
Building System	14-Office		Emergency Power	Auxiliary Lighting Inoperable	L3	marketing office, community room and lobby-auxiliarly light fixtures/exit signs inoperable	7/10/2013
Common Areas	14-Office		Office	Holes/Missing Tiles/Panels/Cracks	L1	marketing office-hole in ceiling > 3 inches	7/10/2013
Common Areas	14-Office		Storage	Missing Door	L1	maintenance-door missing	7/10/2013
Unit	15	231-le	Bathroom	Shower/Tub - Damaged/Missing	L2	> 50% of tub surface exhibits rust stains	8/12/2013
Unit	15	231-le	Doors	Damaged Hardware/Locks	L3	entry door backset hardware inoperable	8/12/2013
Unit	15	231-le	Walls	Damaged	L1	laundry-holes in wall > 2 inches	8/12/2013
Unit	15	232-le	Health & Safety	Infestation - Insects	L3	roaches	8/7/2013
Unit	15	232-le	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	dishwasher missing, disposal inoperable	8/7/2013
Unit	15	232-le	Kitchen	Range/Stove - Missing/Damaged/Inoperable	L3	missing	8/7/2013
Common Areas	16		Halls/Corridors/Sta	Graffiti	L1	hall near 140-graffiti on wall	7/24/2013
Unit	16	133	Doors	Damaged Hardware/Locks	L3	entry door dead bolt lock inoperable, bath-door lockset hardware inoperable	7/24/2013
Unit	16	135	Smoke Detector	Missing/Inoperable	L3	hall-missing	7/8/2013

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Unit	16	238-va	Health & Safety	Garbage and Debris - Indoors	L3	throughout-trash and debris	8/13/2013
Unit	16	238-va	Kitchen	Range/Stove - Missing/Damaged/Inoperable	L2	right rear burner missing	8/13/2013
Unit	16	238-va	Walls	Damaged	L1	bedroom 2 and hall-hole in wall > 1 inch	8/13/2013
Unit	17	151-va	Bathroom	Plumbing - Leaking Faucet/Pipes	L1	toilet tank leaking into fixture	10/1/2013
Unit	17	151-va	Electrical	GFI Inoperable	L3	bath-inoperable-will not test	10/1/2013
Unit	17	151-va	HVAC System	Inoperable	L3	thermostat missing	10/1/2013
Unit	17	151-va	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	dishwasher missing	10/1/2013
Unit	17	151-va	Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable	L3	missing	10/1/2013
Unit	17	151-va	Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1	missing	10/1/2013
Unit	17	151-va	Smoke Detector	Missing/Inoperable	L3	bedroom 1-inoperable, hall-missing	5/24/2013
Unit	17	242	Smoke Detector	Missing/Inoperable	L3	bedroom-inoperable	5/24/2013
Unit	17	248-va	Lighting	Missing/Inoperable Fixture	L1	kitchen-ceiling light fixture inoperable	7/15/2013
Building Exterior	18		Roofs	Damaged Soffits/Fascia	L1	wall near 253-fascia board damaged and soffit trim board unfastened	7/29/2013
Unit	18	153	Ceiling	Needs Paint	L2	bedroom-repaired area > 4 sq. ft. needs fininsh/paint	7/10/2013
Unit	18	153	Health & Safety	Air Quality - Mold and/or Mildew Observed	L3	bath-mold on wall behind toilet	7/10/2013
Unit	18	153	Kitchen	Plumbing - Clogged Drains	L3	sink completely clogged	7/10/2013
Unit	18	159	Doors	Deteriorated/Missing Seals (Entry Only)	L3	entry door wearther stripping damaged	6/12/2013
Unit	18	159	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	disposal inoperable	6/12/2013
Unit	18	260	Doors	Damaged Frames/Threshold/Lintels/Trim	L2	bedrooms 1 and 2-frame restricts door from closing	5/12/2013
Unit	18	260	Doors	Damaged Hardware/Locks	L2	bedroom 2-door backset hardware inoperable	5/12/2013
Unit	18	260	Smoke Detector	Missing/Inoperable	L3	bedroom 2-inoperable, dining room-inoperable-RDI	5/22/2013
Building Exterior	19		Foundations	Spalling/Exposed Rebar	L3	front wall-exposed rebar in numerous areas	7/24/2013
Unit	19	168	Electrical	GFI Inoperable	L3	kitchen-inoperable-will not test	8/14/2013
Unit	19	168	Windows	Inoperable/Not Lockable	L3	living room-window lock missing-RDI	5/22/2013

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Unit	19	261	Health & Safety	Infestation - Insects	L3	roaches	6/14/2013
Unit	19	261	Walls	Damaged	L1	hall-hole in wall > 1 inch	6/13/2013
Unit	19	268	Health & Safety	Air Quality - Mold and/or Mildew Observed	L3	bath-mold on tub caulk	8/20/2013
Unit	19	268	Health & Safety	Hazards - Other	L3	rseident fan missing cover	8/20/2013
Unit	19	268	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	disposal inoperable	8/20/2013
Building Exterior	2		Roofs	Damaged Soffits/Fascia	L1	side wall-6 ft. of metal fascia missing	7/29/2013
Building System	2		Fire Protection	Missing/Damaged/Expired Extinguishers	L3	hall near 105-fire extinguisher discharged	5/24/2013
Unit	2	105	Bathroom	Shower/Tub - Damaged/Missing	L1	both bathrooms-water stop missing	7/18/2013
Unit	2	105	Doors	Damaged Hardware/Locks	L2	bedroom 1-door lockset hardware inoperable	7/18/2013
Unit	2	105	Electrical	GFI Inoperable	L3	master bath-inoperable-will not test	7/18/2013
Unit	2	105	Health & Safety	Air Quality - Mold and/or Mildew Observed	L3	hall bath-mildew/mold on tub caulk	7/18/2013
Unit	2	106	Bathroom	Lavatory Sink - Damaged/Missing	L1	both bathrooms-water stop missing-RDI	5/22/2013
Unit	2	106	Bathroom	Shower/Tub - Damaged/Missing	L1	master bath-water stop missing-RDI	5/22/2013
Unit	2	106	Doors	Damaged Hardware/Locks	L3	entry door-hasp lock hardware inoperable-RDI	5/22/2013
Unit	2	201	Bathroom	Cabinets - Damaged/Missing	L1	hall bath-cabinet front missing	7/18/2013
Unit	2	201	Bathroom	Lavatory Sink - Damaged/Missing	L1	hall bath-water stop missing	7/18/2013
Unit	2	201	Bathroom	Shower/Tub - Damaged/Missing	L1	hall bath-water stop missing	7/18/2013
Unit	2	201	Doors	Damaged Hardware/Locks	L3	master bath-door lockset hardware inoperable	7/18/2013
Unit	2	201	Smoke Detector	Missing/Inoperable	L3	hall-missing-RDI	5/22/2013
Unit	20	176	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	disposal inoperable	6/13/2013
Unit	20	273-al	Electrical	GFI Inoperable	L3	kitchen-inoperable-will not test	6/13/2013
Building Exterior	3		Health & Safety	Hazards - Other	L3	front wall-gfi outlets inoperable-will not test	7/18/2013
Common Areas	3		Halls/Corridors/Sta	Needs Paint	L2	halls-> 4 sq. ft. paint missing	9/12/2013
Unit	3	201	Bathroom	Lavatory Sink - Damaged/Missing	L1	hall bath-water stop missing-RDI	5/22/2013
Unit	3	201	Bathroom	Plumbing - Leaking Faucet/Pipes	L1	master bath-shower leaks at tape connection, hall bath-tub faucet leaking	7/18/2013
Unit	3	201	Doors	Damaged Hardware/Locks	L3	hall bath-door backset hardware inoperable	7/18/2013

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Unit	3	201	Health & Safety	Air Quality - Mold and/or Mildew Observed	L3	hall bath-mildew/mold on tub caulk	7/18/2013
Unit	3	201	Health & Safety	Hazards - Other	L3	bedroom 1-resident fan missing cover	7/30/2013
Common Areas	4		Halls/Corridors/Sta	Needs Paint	L2	halls-> 4 sq. ft. paint missing	7/12/2013
Unit	4	103-al	Smoke Detector	Missing/Inoperable	L3	hall-inoperable	5/24/2013
Unit	4	105	Bathroom	Lavatory Sink - Damaged/Missing	L1	hall bath-water stop missing-RDI	5/22/2013
Unit	4	105	Doors	Damaged Hardware/Locks	L1	bedroom 1-both closet door backsets inoperable	7/18/2013
Unit	4	105	Electrical	GFI Inoperable	L3	master bath-inoperable-will not test	7/18/2013
Unit	4	204-va	Doors	Damaged Hardware/Locks	L2	bedroom 2-door lockset hardware inoperable	9/12/2013
Unit	4	204-va	Health & Safety	Hazards - Tripping	L3	dining room-unfastened carpet at vct terminus presents trip hazard	9/12/2013
Unit	4	204-va	Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable	L3	missing	9/12/2013
Unit	4	204-va	Smoke Detector	Missing/Inoperable	L3	bedroom 1-inoperable	5/23/2013
Unit	4	207	Bathroom	Ventilation/Exhaust System - Inoperable	L2	master bath-inoperable	7/18/2013
Unit	4	207	Doors	Damaged Hardware/Locks	L3	master bath-door strike plate hardware missing	7/18/2013
Unit	4	207	Electrical	GFI Inoperable	L3	kitchen-inoperable-will not test	7/18/2013
Unit	4	207	Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable	L3	inoperable	7/18/2013
Building Exterior	5		Health & Safety	Hazards - Other	L3	rear wall-gfi inoperable-will not test	7/18/2013
Common Areas	5		Halls/Corridors/Sta	Needs Paint	L2	halls-> 4 sq. ft. paint missing	9/12/2013
Unit	5	104-va	Electrical	GFI Inoperable	L3	master bath-inoperable-will not test	7/18/2013
Unit	5	104-va	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	disposal inoperable	11/14/2013
Unit	5	202-va	Outlets/Switches	Missing/Broken Cover Plates	L1	kitchen-outlet cover damaged-RDI	5/22/2013
Unit	5	205	Health & Safety	Hazards - Tripping	L3	hall-tv cable presents trip hazard	7/25/2013
Unit	5	205	Windows	Damaged Window Sill	L1	rear wall-2 sill bricks missing	7/18/2013
Building Exterior	7		Health & Safety	Hazards - Other	L3	rear wall-gfi inoperable-will not test	6/6/2013
Common Areas	7		Halls/Corridors/Sta	Holes/Missing Tiles/Panels/Cracks	L1	hall near 205-hole in ceiling > 3 inches	7/11/2013
Common Areas	7		Halls/Corridors/Sta	Needs Paint	L2	halls-> 4 sq. ft. floor paint missing	9/12/2013
Unit	7	102-le	Bathroom	Cabinets - Damaged/Missing	L1	both bathrooms-cabinet front missing	9/12/2013
Unit	7	102-le	Bathroom	Lavatory Sink - Damaged/Missing	L1	master bath-water stop missing-RDI	5/22/2013

including documentation provided 5/6/2014

Unit	7	102-le	Bathroom	Shower/Tub - Damaged/Missing	L1	master bath-water stop missing-RDI	**5/22/2013**
Unit	7	102-le	Bathroom	Water Closet - Damaged/Clogged/Missing	L2	master bath-toilet seat missing	**9/12/2013**
Unit	7	102-le	Doors	Damaged Hardware/Locks	L3	master bath-door lockset hardware inoperable, bedroom 3-door lockset hardware inoperable	**9/12/2013**
Unit	7	102-le	Doors	Damaged Surface (Holes/Paint/Rusting)	L3	bedroom 1-hole in door > 2 inches	**9/12/2013**
Unit	7	102-le	Kitchen	Cabinets - Missing/Damaged	L2	3 drawer fronts missing	**9/12/2013**
Unit	7	102-le	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	disposal inoperable	**9/12/2013**
Unit	7	102-le	Smoke Detector	Missing/Inoperable	L3	bedrooms 1 and 3-missing	**5/24/2013**
Unit	7	102-le	Walls	Damaged	L1	bedroom 1-hole in wall > 4 inches	**7/30/2013**
Unit	7	105	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	bedroom 1-only window in room restricted frpom opening with metal fastener-no 2nd egress from room	**6/1/2013**
Unit	7	201	Bathroom	Lavatory Sink - Damaged/Missing	L1	master bath-water stop missing-RDI	**5/22/2013**
Unit	7	201	Bathroom	Water Closet - Damaged/Clogged/Missing	L2	hall bath-tank cover missing	**7/30/2013**
Unit	7	201	Doors	Damaged Hardware/Locks	L2	bedroom 1-door lockset hardware inoperable	**7/30/2013**
Unit	7	201	Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1	door gasket damaged	**7/30/2013**
Unit	7	207	Doors	Damaged Hardware/Locks	L2	bedroom 2-backset hardware inoperable	**7/30/2013**
Unit	7	207	Electrical	GFI Inoperable	L3	hall bath-inoperable-will not test	**7/30/2013**
Unit	7	207	Health & Safety	Hazards - Tripping	L3	bedroom 3-tv cable presents trip hazard	**11/21/2013**
Unit	7	207	Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1	door gasket damaged	**11/21/2013**
Building Exterior	8		Health & Safety	Hazards - Other	L3	front wall-gfi inoperable-will not test	**8/1/2013**
Building System	8		Fire Protection	Missing/Damaged/Expired Extinguishers	L3	hall near 105-fire extinguisher discharged	**5/24/2013**
Common Areas	8		Halls/Corridors/Sta	Missing Flooring	L2	halls-> 4 sq. ft. paint missing	**11/21/2013**
Unit	8	103	Windows	Deteriorated/Missing Caulking/Seals	L3	living room-insulated glass failure	**8/10/2013**
Unit	8	203	Bathroom	Shower/Tub - Damaged/Missing	L2	hall bath-> 50% of tub surface exhibits rust stains	**6/7/2013**
Unit	8	203	Doors	Damaged Surface (Holes/Paint/Rusting)	L3	bedroom 2-hole in closet door > 1 inch	**6/7/2013**

Unit	8	203	Health & Safety	Air Quality - Mold and/or Mildew Observed.	L3	master bath-mildew/mold on tub caulk	**6/7/2013**
Unit	8	203	Health & Safety	Hazards - Tripping	L3	bedroom 1-tv cable presents trip hazard	**6/7/2013**
Unit	8	208	Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable	L1	filter missing	**7/23/2013**
Unit	8	208	Smoke Detector	Missing/Inoperable	L3	hall-inoperable-RDI	**5/22/2013**
Building Exterior	9		Health & Safety	Hazards - Other	L3	front wall-gfi inoperable-will not test	**9/10/2013**
Common Areas	9		Halls/Corridors/St	Needs Paint	L2	halls-> 4 sq. ft. paint missing	**11/21/2013**
Unit	9	103-le	Bathroom	Lavatory Sink - Damaged/Missing	L1	hall bath-water stop missing-RDI	**5/22/2013**
Unit	9	103-le	Bathroom	Shower/Tub - Damaged/Missing	L1	hall bath-water stop missing-RDI	**5/22/2013**
Unit	9	103-le	Outlets/Switches	Missing/Broken Cover Plates	L3	throughout-outlet and switch covers missing	**5/24/2013**
Unit	9	108	Bathroom	Lavatory Sink - Damaged/Missing	L1	master bath-water stop missing-RDI	**5/22/2013**
Unit	9	108	Bathroom	Shower/Tub - Damaged/Missing	L1	master bath-water stop missing-RDI	**5/22/2013**
Unit	9	108	Doors	Damaged Hardware/Locks	L3	hall bath-door lockset hardware inoperable	**6/7/2013**
Unit	9	108	Health & Safety	Air Quality - Mold and/or Mildew Observed	L3	master bath-mold on tub caulk	**6/7/2013**
Unit	9	108	Outlets/Switches	Missing/Broken Cover Plates	L1	dining room-outlet cover cracked	**6/7/2013**
Unit	9	108	Smoke Detector	Missing/Inoperable	L3	bedrooms 1 and 3-inoperable	**5/24/2013**
Unit	9	206-le	Doors	Damaged Hardware/Locks	L1	hall-closet door lockset hardware missing	**9/20/2013**
Unit	9	206-le	Electrical	Missing Breakers/Fuses	L3	1 breaker missing-RDI	**5/22/2013**
Unit	9	206-le	Windows	Inoperable/Not Lockable	L3	throughout-window lock components missing-RDI	**5/22/2013**
Unit	9	208	Bathroom	Lavatory Sink - Damaged/Missing	L1	master bath-water stop missing-RDI	**5/22/2013**
Unit	9	208	Electrical	GFI Inoperable	L3	master bath-inoperable-will not test	**6/7/2013**
Unit	9	208	Health & Safety	Hazards - Tripping	L3	hall-tv cable presents trip hazard	**11/14/2013**
Unit	9	208	Windows	Deteriorated/Missing Caulking/Seals	L2	bedroom 2-window glazing damaged	**6/7/2013**
Building Exterior	Laundry I		Doors	Damaged Hardware/Locks	L3	rear entry door inoperable-no key	**9/12/2013**
Building Exterior	Laundry I		Lighting	Broken Fixtures/Bulbs	L2	side wall-light fixture damaged	**9/12/2013**
Building Exterior	Laundry I		Walls	Missing Pieces/Holes/Spalling	L2	side wall-hole in siding > 1 inch	**9/12/2013**
Building Exterior	Laundry II		Doors	Damaged Frames/Threshold/Lintels/Trim	L3	light visible at frame of closed rear entry door	**9/14/2013**

Building Exterior	Laundry II	Doors	Damaged Hardware/Locks	L3	entry door lockset hardware inoperable, water tank room-entry door dead bolt lockset hardware inoperable	9/14/2013
Building System	Laundry II	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels	L3	water tank room-hole in main circuit panel box-exposed wires	9/14/2013
Common Areas	Laundry II	Laundry Room	Security Bars Prevent Egress	L3	only window in room blocked with fixed metal bars	7/1/2013
Common Areas	Pool Pump B	Restrooms/Pool St	Missing or Broken	L3	outlet cover missing-RDI	5/22/2013

Total in each category	#	as a % of total violations	Correction date w/in CA period	as a %	Correction date after CA period	as a %
L1	51	25.50%	47	92.16%	4	7.84%
L2	37	18.50%	32	86.49%	5	13.51%
L3	112	56.00%	107	95.54%	5	4.46%
Totals	200	100.00%	186	93.00%	14	7.00%

• Deficiency #1: Accessible Parking Space Sign (Fair Housing Act Design Manual reference pg. 2.20) Parking space(s) designated as reserved for the disabled were reported as not having a disabled-only parking sign.

8/18/2013		8/18/2013

• Deficiency #2: Accessible Parking Space (Fair Housing Act Design Manual reference pg. 2.20) An accessible parking space(s) designated as reserved for the disabled was reported as not being at least 96" wide.

ok		ok

including documentation provided 5/6/2014

1e

BOARD ACTION REQUEST

SINGLE FAMILY PROGRAMS

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC Chapter 20, Single Family Umbrella Rule, §§20.1 – 20.16

RECOMMENDED ACTION

WHEREAS, at the July 31, 2014 Board meeting the Board approved the publication of proposed amendments to 10 TAC §§20.1 – 20.16 in the *Texas Register*, and the public comment period has ended,

NOW, therefore, it is hereby

RESOLVED, that the amendments to 10 TAC Chapter 20, Single Family Umbrella Rule, §§20.1 – 20.16 are hereby ordered and that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to publish the adoption in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Board approved the proposed amendments to 10 TAC §§20.1 – 20.16, Single Family Umbrella Rule at the July 31, 2014 meeting to be published in the *Texas Register* for public comment. The rulemaking was published in the August 15, 2014, issue of the *Texas Register* and made available for public comment from August 15, 2014, through September 15, 2014.

Attachment 1. Preamble, adoption of amendment to 10 TAC §§20.1 – 20.16, Single Family Umbrella Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the amendments to 10 TAC §§20.1 – 20.16, Single Family Umbrella Rule with changes to the proposed text as published in the August 15, 2014, issue of the *Texas Register* (Volume 39, Number 33) without changes.

REASONED JUSTFICATION: The Department finds that the proposed amendment will increase efficiency and effectiveness of single family programs.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS:
Comments were accepted from August 15, 2014 through September 15, 2014, and the following comments were received

General Comments

COMMENT SUMMARY: Commenter (Rosa Gonzales-Abrego of Easter Seals Central Texas) requested that the Department refrain from imposing additional requirements on the Amy Young Barrier Removal (AYBR) Program through the Single Family Umbrella Rule, such as the burden to prove program beneficiaries' clear title on their properties and other requirements suggested for major rehabilitation programs (which the AYBR Program is not). Commenter believes such requirements would create unnecessary challenges to the Program.

STAFF RESPONSE: Staff agrees with the comment regarding no additional burdens and advises that no additional requirements are being imposed upon the AYBR Program through the Single Family Umbrella Rule. The only new requirement under which future rounds of the AYBR Program must operate is 10 TAC Chapter 21, the Minimum Energy Efficiency Requirement for Single Family Construction Activities, which becomes effective on January 1, 2015. Staff believes that the new energy efficiency requirements will not pose new challenges to Administrators because existing program guidelines already prompt compliance with the new energy efficiency rules. No changes have been made to the rule in response to this comment.

§20.2(1) Applicability

COMMENT SUMMARY: Commenter (Will Gudeman of Equity Community Development Corporation) questioned what inspection and construction requirements would apply to the AYBR Program if the Program is exempt from §20.10, Inspection and Construction Requirements in the proposed Single Family Umbrella Rule. Commenter recommends that the Program be required to follow §20.10. Commenter also recommends that AYBR Program activities be required to follow the applicable sections of the Texas Minimum Construction Standards on a project-by-project basis.

STAFF RESPONSE: Staff will put summarized AYBR Program inspection and construction requirements in AYBR Program Notices of Funding Availability, and detailed requirements in AYBR Program manuals. No changes have been made to the rule in response to this comment.

§20.3(3) Definitions

COMMENT SUMMARY: Commenter (Will Gudeman of Equity Community Development Corporation) questioned the applicability of Affirmative Marketing requirements, including HUD Form 935.2B or an equivalent plan to market rehabilitation programs to homeowners. Additionally the Commenter questioned if the Department will review and approve equivalent plans.

STAFF RESPONSE: In response to Commenter's questions, the intent of the rule is to ensure that Administrators are affirmatively marketing the assistance they offer to persons who are least likely to apply. The Department will review equivalent plans for meeting requirements as specified in the rule at the time of monitoring or as needed in the event of complaints received by the Texas Workforce Commission or the Department. A proposed amendment to 10 TAC §20.9(d), concerning Affirmative Marketing Requirements has been posted to the TDHCA website, and the amendment will be presented to the Board at a future meeting. It is anticipated that the amendment will provide further clarification of Department expectations regarding compliance with regulatory requirements. No changes have been made to the rule in response to this comment.

§20.3(7) Definitions

COMMENT SUMMARY: Commenter (Will Gudeman of Equity Community Development Corporation) questioned how the Department would remove barriers and address health and safety issues in the AYBR Program if the Program is exempt from §20.10 Inspection and Construction Requirements in the proposed Single Family Umbrella Rule.

STAFF RESPONSE: See the Staff Response to comment regarding §20.2(1) above.

§20.4 (c) Eligible Single Family Activities

COMMENT SUMMARY: Commenter (Will Gudeman of Equity Community Development Corporation) questioned the prohibition on rehabilitation of Manufactured Housing Units with Federal funds.

STAFF RESPONSE: In response to Commenter's question, the Department has two primary programs that can be used to provide accessibility features for low-income Texans: the Amy Young Barrier Removal (AYBR) program is funded by state of Texas general revenue funds and can be used to add accessibility features to existing units, while the HOME Investment Partnerships Program (HOME) can be used to repair or replace substandard housing units. The Department proposes to allow the AYBR program to remove barriers for all housing types including manufactured housing units (MHUs), as long as there is sufficient funding to address life and safety concerns. The Department is not proposing to allow HOME Investment

Partnerships Program (HOME) to rehabilitate existing MHUs because unlike AYBR, the program can be used to replace units with a new MHU unit that is accessible, including funding for ramps and driveway access. It is not a prudent use of HOME funds to rehabilitate MHUs for the primary purpose of removing architectural barriers when the use of such funds triggers additional property condition requirements that go beyond addressing life and safety issues. No changes have been made to the rule in response to this comment.

§20.10(b)(2) Inspection and Construction Requirements

COMMENT SUMMARY: Commenter (Will Gudeman of Equity Community Development Corporation) stated that the Department's various programs use different inspection forms and some Administrators use third-party inspection software. Commenter recommends that the Department create a universal inspection form that is applicable to all Department programs. Commenter also recommends that Administrators be permitted to use third-party inspection software if it complies with Department requirements.

STAFF RESPONSE: The Department agrees in part with the Commenter, and will develop an inspection form to be used by all Administrators with the revised Texas Minimum Construction Standards, which will be effective on January 1, 2015. Unless the Department specifically authorizes an Administrator's use of any third-party software, Administrators must use the applicable Department form to administer Department programs. No changes have been made to the rule in response to this comment.

§20.16 Waivers and Appeals

COMMENT SUMMARY: Commenter (Will Gudeman of Equity Community Development Corporation) stated that the time allowed for Department response to a request for waiver for Texas Minimum Construction Standards is excessive, and may result in the loss of the contractor hired to complete rehabilitation work, or an increase in costs to the project.

STAFF RESPONSE: The Department agrees in part with the Commenter, and will work closely with Administrators as the revised Texas Minimum Construction Standards become effective on January 1, 2015. Training will emphasize the importance of a complete and accurate initial inspection, in order to minimize the need to request a waiver once work is underway. Further, while the Department will work diligently to respond to waiver requests in fewer than the 14 business days allowed by the Rule, sufficient time must be allowed to resolve more complicated requests. No changes have been made to the rule in response to this comment.

STATUTORY AUTHORITY. The amendments are adopted pursuant to §2306.053 of the Texas Government Code, which authorizes the Department to adopt rules. The proposed amendments affect no other code, article, or statute.

TITLE 10. COMMUNITY DEVELOPMENT.

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.

CHAPTER 20. SINGLE FAMILY PROGRAMS UMBRELLA RULE.

20.1. Purpose.

This Chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the "Department") single family Programs, which includes the Department's HOME Investment Partnerships Program (HOME), Texas Housing Trust Fund (HTF), Bond/First Time Homebuyer (FTHB), Taxable Mortgage Program (TMP), Texas Neighborhood Stabilization (NSP), and Office of Colonia Initiatives (OCI) Programs and other single family Programs as developed by the Department. Single family Programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with Texas Government Code, Chapter 2306 and any applicable statutes and federal regulations.

20.2. Applicability.

Unless otherwise noted, this Chapter only applies to single family Programs. Program Rules may impose additional requirements related to any provision of this Chapter. Where Program Rule conflict with this Chapter, the provisions of this Chapter will control Program decisions.

(1) The Amy Young Barrier Removal Program is excluded from the Inspection and Construction Requirements identified in **20.10** and Survey Requirements in **20.11**.

(2) Small Repair is excluded from having all the deficiencies noted on the inspection report being cured or addressed and the Survey Requirements in **20.11**.

20.3. Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings unless the context or the NOFA indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306 and Chapter 1 of this Title (relating to Administration), and the applicable federal regulations.

(1) Activity--A form of assistance provided to a Household or Administrator by which single family funds are used for acquisition, new construction, reconstruction, rehabilitation, refinance of an existing Mortgage, tenant-based rental assistance, or other single family Department approved expenditure for single family housing.

(2) Administrator--A unit of local government, Nonprofit Organization or other entity acting as a Community Housing Development Organization under 24 C.F.R. Part 92("CHDO"), Subrecipient, Developer or similar organization that has an executed written Agreement with the Department.

(3) Affirmative Marketing Plan--HUD Form 935.2B or equivalent plan created in accordance with HUD requirements to direct specific marketing and outreach to potential tenants and homebuyers who are considered "least likely" to know about or apply for housing based on an evaluation of market area data.

(4) Affiliate--If, directly or indirectly, either one Controls or has the power to Control the other or a third person Controls or has the power to Control both. The Department may determine Control to include, but not be limited to:

A. interlocking management or ownership;
B. identity of interests among family members;
C. shared facilities and equipment;
D. common use of employees; or
E. a business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

(5)Affiliated Party--A person or entity with a contractual relationship with the Administrator through an Agreement with the Department.

(6) Agreement--Same as "Contract." May be referred to as a "Reservation System Agreement" or "Reservation Agreement" when providing access to the Department's Reservation System as defined in this Chapter.

(7) Amy Young Barrier Removal Program--Program designed to remove barriers and address immediate health and safety issues as outlined in the Program Rule or NOFA.

(8) Annual Income--The definition of Annual Income and the methods utilized to establish eligibility for [other types of] housing or other types of assistance as defined under the Program Rule.

(9) Applicant--An individual, unit of local government, nonprofit corporation or other entity who has submitted to the Department an Application for Department funds or other assistance.

(10) Application--A request for a Contract award or a request to participate in a Reservation System submitted by an Applicant to the Department in a form prescribed by the Department, including any exhibits or other supporting material.

(11) Certificate of Occupancy--Document issued by a local authority to the owner of premises attesting that the structure has been built in accordance with building ordinances.

(12) Chapter 2306--Texas Government Code, Chapter 2306.

(13) Combined Loan to Value (CLTV)--The aggregate principal balance of all the Mortgage Loans, including Forgivable Loans, divided by the appraised value.

(14) Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.

(15) Conforming Mortgage Loan--A first-lien Mortgage Loan that meets Federal Housing Administration (FHA), U.S. Department of Agriculture (USDA), U.S. Department of Veterans Affairs (VA), and Fannie Mae or Freddie Mac guidelines.

(16) Contract--The executed written Agreement between the Department and an Administrator performing an Activity related to a single family Program that describes performance requirements and responsibilities. May also be referred to as "Agreement."

(17) Contract Administrator (CA)--Same as "Administrator."

(18) Control--The possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person or entity, whether through the ownership or voting securities, by contract or otherwise, including ownership of more than 50 percent of the general partner interest in a limited partnership, or designation as a managing member of a limited liability company or managing general partner of a limited partnership or any similar member.

(19) Deobligate--The cancellation of or release of funds under a Contract or Agreement as a result of the termination of or reduction of funds under a Contract or Agreement.

(20) Department--The Texas Department of Housing and Community Affairs as defined in Chapter 2306.

(21) Developer--Any person, general partner, Affiliate, or Affiliated Party or affiliate of a person who owns or proposes a Development or expects to acquire control of a Development and is the person responsible for performing under the Contract with the Department.

(22) Domestic Farm Laborer--Individuals (and the family) who receive a substantial portion of their income from the production or handling of agricultural or aquacultural products.

(23) Draw--Funds requested by the Administrator, approved by the Department and subsequently disbursed to the Administrator.

(24) Forgivable Loan--Financial assistance in the form of money that, by Agreement, is not required to be repaid if the terms of the Mortgage Loan are met.

(25) HOME Program--HOME Investment Partnerships Program at 42 U.S.C. 12701 - 12839.

(26) Household--One or more persons occupying a rental unit or owner-occupied Single Family Housing Unit. May also be referred to as a "family" or “beneficiary.”

(27) Housing Trust Fund (HTF)--State-funded Programs authorized under Section 2306 of Texas Government Code.

(28) Housing Contract System (HCS)--The electronic information system that is part of the "central database" established by the Department to be used for tracking, funding, and reporting single family Contracts and Activities.

(29) HUD--The United States Department of Housing and Urban Development or its successor.

(30) Life of Loan Flood Certification--Tracks the flood zone of the Single Family Housing Unit for the life of the Mortgage Loan.

(31) Limited English Proficiency (LEP)--Requirements as issued by HUD and the Department of Justice to ensure meaningful and appropriate access to programs and activities by individuals who have a limited ability to read, write, speak or understand English.

(32) Loan Assumption--An agreement between the buyer and seller of Single Family Housing Unit that the buyer will make remaining payments and adhere to terms and conditions of an existing Mortgage Loan on the Single Family Housing Unit and Program requirements. A Mortgage Loan assumption requires Department approval.

(33) Loan to Value (LTV)--The amount of the Mortgage Loan (s) divided by the Single Family Housing Unit's appraised value, excluding Forgivable Loans.

(34) Manufactured Housing Unit (MHU)--A structure that meets the requirements of Texas Manufactured Housing Standards Act, Texas Occupations Code, Chapter 1201 or FHA guidelines as required by the Department.

(35) Mortgage--Has the same meaning as defined in Section 2306.004 of the Texas Government Code.

(36) Mortgage Loan--Has the same meaning as defined in Section 2306.004 of the Texas Government Code.

(37) Nonconforming Mortgage Loan--Any Mortgage Loan that does not meet the definition of a "Conforming Mortgage Loan" defined in this section.

(38) Neighborhood Stabilization Program (NSP)--A HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA) and 1497 of the Wall Street Reform and Consumer Protection Act of 2010, as a supplemental allocation to the CDBG Program.

(39) NOFA--Notice of Funding Availability.

(40) Nonprofit Organization--An organization that is organized as such under state or federal laws and does not have a pending Application for nonprofit status.

(41) Office of Colonia Initiatives--A division of the Department authorized under Chapter 2306 of Texas Government Code which acts as a liaison to the colonias and manages some Programs in the colonias

(42) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in the collateral.

(43) Persons with Disabilities--Any person who has a physical or mental impairment that substantially limits one or more major life activities and has a record of such impairment; or is regarded as having such impairment.

(44) Principal Residence--The primary Single Family Housing Unit that a Household inhabits. May also be referred to as "primary residence."

(45) Program--The specific fund source from which single family funds are applied for and used.

(46) Program Income--Gross income received by the Administrator or Affliate directly generated from the use of Single Family funds.

(47) Program Manual--A set of guidelines designed to be an implementation tool for the single family Programs which allows the Administrator to search for terms, statutes, regulations, forms and attachments. The Program Manual is developed by the Department and amended or supplemented from time-to-time.

(48) Program Rule--Chapters of this Title which pertain to specific single family Program requirements.

(49) Reconstruction--The demolition and rebuilding a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of Application.

(50) Rehabilitation--The improvement or modification of an existing residential unit through an alteration, addition, or enhancement.

(51) Reservation--Funds set-aside for a Household Applicant or single family Activity registered in the Department's registration system.

(52) Reservation System--The Department's computer registration system(s) that allows Administrators to reserve funds for a specific Household.

(53) Resolution--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws.

(54) Self-Help--Housing Programs that allow low, very low, and extremely low-income families to build or rehabilitate their Single Family Housing Units through their own labor or volunteers

(55) Set-up--The creation of a new Activity in the Department database by an Administrator, which requires review and approval by the Department.

(56) Single Family Housing Unit--A home designed and built for one person or one Household for rental or owner-occupied. This includes the acquisition, construction, reconstruction or rehabilitation of an attached or detached unit. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

(57) Small Repair--An Activity specific to the Colonia Self Help Center Program designed to address repairs by the homeowner using self help methods.

(58) Soft costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs. May also be referred to as "direct delivery" costs.

(59) Subgrantee--Same as "Administrator."

(60) Subrecipient--Same as "Administrator."

(61) TAC--Texas Administrative Code.

(62) TMCS--Texas Minimum Construction Standards as amended and described in the Miscellaneous Section of the Texas Register.

(63) TREC--Texas Real Estate Commission.

20.4. Eligible Single Family Activities.

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (9) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

(1) acquisition or acquisition with rehabilitation including accessibility modifications to Single Family Housing Units.

(2) rehabilitation, or new construction of Single Family Housing Units;

(3) rehabilitation or reconstruction of existing housing on the same site;

(4) new construction of site-built housing on the same site to replace an existing owner-occupied Manufactured Housing Unit (MHU);

(5) Replacement of existing owner-occupied housing with a new MHU;or

(6) new construction of site-built housing on another site;

(7) refinance of an existing Mortgage;

(8) tenant-based rental assistance; and

(9) any other single family Activity as determined by the Department.

(c) Rehabilitation of an MHU with federal funds is an ineligible activity.

20.5. Funding Notices.

(a) The Department will make funds available for eligible Administrators for single family activities through NOFAs, requests for qualifications (RFQs), request for proposals (RFPs) or other methods for the release of funding describing the submission and eligibility guidelines. The Program Rule or NOFA shall outline the process for correcting deficiencies.

(b) Funds may be allocated through Contract awards by the Department or by the Department's providing authority to submit Reservations.

(c) Funds may be subject to regional allocation in accordance with Chapter 2306.

(d) The Department will develop and publish Application materials for participation in the HCS and/or Reservation Systems[reservation systems]. Eligible Applicants must comply with the provisions of the Application materials and NOFA and are responsible for the accuracy and timely completion and submission of all Applications.

20.6. Applicant Eligibility.

(a) Eligible Applicants may include entities such as units of local governments, Nonprofit Organizations, or other entities as further provided in the Program Rule and/or NOFA.

(b) Applicants shall be in good standing with the Department, Texas Office of the Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.

(c) Applicants shall comply with all applicable state and federal rules, statutes, or regulations including those requirements in Chapter 1 of this Title.

(d) Resolutions must be provided in accordance with the applicable Program Rule or NOFA.

(e) The violations described in paragraphs (1) - (5) of this subsection may cause an Applicant and any Applications they have submitted, to be ineligible:

(1) Applicant did not satisfy all eligibility requirements described in the Program Rule and NOFA to which they are responding;

(2) Applicant failed to make timely payment on fee commitments or on debts to the Department and for which the Department has initiated formal collection or enforcement actions;

(3) Applicant failed to comply with any other provisions of debt instruments held by the Department including, but not limited to, such provisions as timely payment of property taxes and proper placement and maintenance of insurance;

(4) Applicant is debarred by HUD or the Department; or

(5) current or previous noncompliance. Each Applicant will be reviewed for compliance history by the Department. Applications submitted by Applicants found to be in noncompliance or otherwise violating the Rules of the Department may be terminated and/or not recommended for funding.

(f) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.

(g) The Department may decline to fund any Application if the proposed Activities [activities] do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.

20.7. Household Eligibility Requirements.

(a) The method used to determine Annual Income will be provided in the Program Rule or NOFA.

(b) Households must occupy the Single Family Housing Unit as their Principal Residence for a period of time as established by the Program Rule or NOFA.

20.8. Single Family Housing Unit Eligibility Requirements.

(a) A Single Family Housing Unit to be acquired or constructed with Department funds must be located in the State of Texas, and must have good and marketable title at the closing of any Mortgage Loan.

(b) Real property taxes assessed on an owner-occupied Single Family Housing Units must be current (including prior years) or the Household must be satisfactorily participating in an approved payment plan with the taxing authority, must qualify for an approved tax deferral plan or has received a valid exemption from real property taxes.

(c) An owner-occupied Single Family Housing Unit must not be encumbered with any liens which impair the good and marketable title. The Department will require the owner to be current on any existing Mortgage Loans or home equity loans prior to assistance.

20.9. General Administration and Program Requirements.

(a) Costs incurred by Administrator for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the U.S. General Services Administration (GSA) per diem rates at: http://www.gsa.gov/portal/category/21287.

(b) Administrators must comply with all applicable local, state, and federal laws, regulations, and ordinances for procurement with single family Program funds.

(c) In addition to Chapter 1, Subchapter B of this Title, Administrators receiving Federal funds must comply with all applicable state and federal rules, statutes, or regulations, involving accessibility including the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Architectural Barriers Act as well as state and local building codes that contain accessibility requirements; where local, state, or federal rules are more stringent, the most stringent rules shall apply.

(d)Administrators receiving Federal funds must also comply with HUD's Affirmative Fair Housing Marketing and Limited English Proficiency Requirements and the Age Discrimination Act of 1975. Administrators receiving Federal funds must also have an Affirmative Fair Housing Marketing Plan.

20.10. Inspection Requirements for Construction Activities.

(a) Initial Inspections.

(1) An initial inspection report must be provided to both the Department and the homeowner or homebuyer for all construction projects. A rehabilitation project is eligible for Reconstruction if the initial inspection report estimates that the cost to rehabilitate exceeds the rehabilitation threshold, which shall be $40,000, or the pre-rehabilitation value of the structure to be rehabilitated, whichever is less.

(2) All deficiencies identified in the initial inspection report shall be addressed in the work write-up for rehabilitation projects.

(b) Construction Completion Requirements and Final Inspections.

(1) Compliance with Accessibility Requirements--Applicant must submit one of the documents described in subparagraph (A) or (B) of this paragraph to ensure that requirements of Texas Government Code, 2306.514 and other Program Rules are met.

(A) A copy of the proposed plans and specifications for Reconstruction and New Construction of Single Family Units. All plans submitted must be prepared and executed by an architect licensed by the state of Texas; or

(B) A certification of compliance which includes the seal of the architect.

(2) Final inspections are required for all rehabilitation, reconstruction or new construction activities and must ensure that the construction on the Single Family Housing Unit is complete and meets all applicable state and local codes, and have no observed deficiencies related to health and safety standards.

(3) A copy of the final inspection report must be provided to the Department and the Household for rehabilitation, reconstruction and new construction activities.

(4) A Certificate of occupancy shall be issued prior to final payment for construction, as applicable. If no certificate of occupancy is available from an incorporated area, a document from the local government entity showing that the Single Family Housing Unit has passed all required building codes must be obtained and provided to the Department.

(5) Any deficiencies noted on the certificate of occupancy or the inspector's report must be corrected prior to the final Draw.

(6) Cosmetic issues such as paint, wall texture, etc. will not be required to be corrected if utilizing a self-help construction program.

(c) Requirements for use of professional inspectors or qualified inspection individuals.

(1) Professional home inspectors or qualified inspection individuals shall conduct all initial and final inspections for new construction, reconstruction and rehabilitation activities utilizing the Department's single family program funds.

(2) Municipal code officials, as applicable, shall conduct inspections inside of city limits and extraterritorial jurisdictions.

(3) Professional home inspector requirements.

(A) Inspections may be conducted by a professional home inspector as evidenced by the Administrator to ensure inspections are performed by a person who has received current and comprehensive training to enable them to conduct effective inspections. Completion of the training required to be a licensed TREC inspector would be acceptable evidence of such training.

(B) The professional home inspector may be a staff member of the Administrator.

(4) Qualified inspection individual Requirements.

(A) Inspections may be conducted by a qualified inspection individual if certified by the Administrator that the individual has professional certifications, relevant education or minimum five (5) years experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical, plumbing and electrical systems found in Single Family Housing Units, as evidenced by inspection logs, certifications, training courses or other documentation.

(B) Inspections may be performed by qualified inspection individuals if allowed by the Program Rules or NOFA.

(C) Qualified inspection individuals may be a staff member of the Administrator.

(d) Other inspection requirements.

(1) All inspectors shall inspect properties utilizing applicable construction standards prescribed by the Department; and

(2) All inspectors shall utilize Department approved and prescribed inspection forms/checklists for applicable inspections.

(e) Single Family Housing Units receiving only utility connections under the Colonia Self Help Center Program are exempt from inspection requirements.

20.10. Inspection and Construction Requirements

(a) Construction Inspections

(1) Initial Inspections.

(A) An initial inspection identifying all substandard conditions listed in Texas Minimum Construction Standards along with any other health or safety concerns must be conducted for all rehabilitation or reconstruction projects.

(B) The initial inspection report must be provided to both the Department and the homeowner.

(C) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up in adequate detail.

(2) Interim Inspections of construction progress may be required to document construction Draw requests.

(3) Final Inspections.

(A) Final construction inspections are required for all new construction, reconstruction and rehabilitation Activities. The inspection must ensure that the construction of the Single Family Housing Unit is complete and meets all applicable codes and requirements including zoning ordinances as applicable, and have no observed deficiencies related to health and safety standards.

(B) Final inspections must document that all substandard conditions identified in the initial inspection have been corrected, repaired or removed. A copy of the final inspection report must be provided to the Department and the Household.

(C) Any deficiencies noted on the inspector's report must be corrected prior to the final Draw.

(D) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. If no Certificate of Occupancy is available from an incorporated area, a document from the local government entity showing that the Single Family Housing Unit has passed all required building codes must be obtained and provided to the Department.

(E) The Certificate of Occupancy may substitute for a final construction inspection, if available and acceptable to the Program. If no Certificate of Occupancy is available, a final construction inspection must be conducted and the report provided to the Department and homeowner.

(F) Cosmetic issues such as paint, wall texture, etc. identified in a final inspection will not be required to be corrected if utilizing a Self-Help construction Program, or if acceptable to the Program as outlined in Program Rule or NOFA.

(b) Other inspection requirements.

(1) All inspectors shall inspect properties utilizing applicable construction standards prescribed by the Department.

(2) All inspectors shall utilize Department approved and prescribed inspection forms/checklists for applicable inspections.

(3) Single Family Housing Units receiving only utility connections under the Colonia Self Help Center Program are exempt from inspection requirements.

(4) The Department reserves the right to reject any inspection report which in its sole determination does not accurately represent the property conditions or if the inspector does not meet Program requirements. If an inspection report is rejected, all related construction costs may be disallowed until appropriate corrections are made.

(c) Requirements for Use of professional inspectors or qualified inspection individuals.

(1) Professional home inspectors or qualified inspection individuals shall conduct all initial and final inspections for New Construction, Reconstruction and Rehabilitation activities.

(2) Municipal code officials, as applicable, shall conduct inspections inside of city limits and extraterritorial jurisdictions.

(3) The active TREC licensed professional home inspector may be a staff member of the Administrator.

(4) Inspectors used to verify compliance with this Chapter must meet Program requirements.

(d) Reconstruction and new construction Requirements

(1) Compliance with Accessibility Requirements--Applicant must submit one of the documents described in subparagraph (A) or (B) of this paragraph to ensure that requirements of Texas Government Code, 2306.514 and other Program Rules are met.

(A) Prior to commencement of construction, a copy of the proposed plans and specifications for reconstruction and new construction of Single Family Housing Units. All plans submitted must be prepared and executed by an architect licensed by the state of Texas;

(B) A certification of compliance from a licensed architect.

(e) Rehabilitation Requirements

(1) Administrators shall meet the applicable requirements of the Texas Minimum Construction Standards (TMCS) for all Rehabilitation projects.

(2) TMCS requirements may be waived only through the process provided in 20.16 of this Chapter.

20.11. Survey Requirements.

When assistance is provided in the form of an acquisition Mortgage Loan:

(a) a Category 1A (Texas Society of Professional Surveyors) land title survey is required for single family acquisition where:

(1) the Department is a lien holder and the Program funds are used for construction or purchase because:

(A) the rehabilitation project is enlarging the footprint; or

(B) the project is reconstruction or new construction or purchasing an existing home; and

(2) if allowed by the Program Rules or NOFA, existing surveys for acquisition only activities may be used if the Household certifies that no changes were made to the footprint of any building or structure, or to any improvement on the Single Family Housing Unit;

(b) the Department reserves the right to determine the survey requirements on a per project basis if additional survey requirements would, at the sole discretion of the Department, benefit the project.

20.12. Insurance Requirements for Acquisition Activities.

(a) Title Insurance requirements. A Mortgagee's Title Insurance Policy is required for all non-conforming Department Mortgage Loans as required by the Program Rules or NOFA, exclusive of Mortgage Loans financed with mortgage revenue bonds or through the Taxable Mortgage Program. The title insurance must be written by a title insurer licensed or authorized to do business in the jurisdiction where the Single Family Housing Unit is located. The policy must be in the amount of the Mortgage Loan. The mortgagee named shall be: "Texas Department of Housing and Community Affairs."

(b) Title Reports.

(1) Title reports may be provided in lieu of title commitments only for grants when title insurance is not available. Title reports shall be required when the grant funds exceed $20,000.

(2) The preliminary title report may not be older than allowed by the Program Rule or NOFA.

(3) Liens, or any other restriction or encumbrances that impair good and marketable title must be cleared on or before closing of the Department's transaction.

(c) Builder's Risk (non-reporting form only) is required where construction funds in excess of $20,000.00 for a Single Family Housing Unit is being financed and/or advanced by the Department. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(d) Hazard Insurance.

(1) The hazard insurance provisions are not applicable to HOME Program activities unless required in the Program Rule or NOFA.

(2) If Department funds are provided in the form of a Mortgage Loan, then:

(A) the Department requires property insurance for fire and extended coverage;

(B) Homeowner's policies or package policies that provide property and liability coverage are acceptable. All risk policies are acceptable;

(C) the amount of hazard insurance coverage at the time the Mortgage Loan is funded should be no less than 100 percent of the current insurable value of improvements; and

(D) the Department should be named as a loss payee and mortgagee on the hazard insurance policy.

(e) Flood insurance must be maintained for all structures located in special flood hazard areas where the U.S. Federal Emergency Management Agency (FEMA) has mandated flood insurance coverage.

(1) A Household may elect to obtain flood insurance even though flood insurance is not required. However, the Household may not be coerced into obtaining flood insurance unless it is required in accordance with this section.

(2) Evidence of insurance, as required in this Chapter, must be obtained prior to Mortgage Loan funding. A one year insurance policy must be paid and up to two (2) months of reserves may be collected at the closing of the Mortgage Loan. The Department must be named as loss payee on the policy.

20.13. Loan, Lien and Mortgage Requirements for Activities With Acquisition.

(a) The requirements in this section shall apply to Nonconforming Mortgage Loans for Activities with acquisition of real property, unless otherwise provided in the Program Rule, NOFA or Program guidelines.

(b) The fee requirements described in paragraphs (1) - (3) of this subsection apply to Nonconforming Mortgage Loans:

(1) Allowable expenses are restricted to reasonable third party fees.

(2) Fees charged by third party Mortgage lenders are limited to the greater of 2 percent of the Mortgage Loan amount or $3,500, including but not limited to origination, Application, and/or underwriting fees.

(3) Fees paid to other parties that are supported by an invoice and reflected on the HUD-1 will not be included in the limit.

(c) Maximum Debt Ratio. The total debt-to-income ratio may not exceed 45 percent. A borrower's spouse who does not apply for the Mortgage Loan will be required to execute the information disclosure form and the deed of trust as a "non-purchasing" spouse. The "non-purchasing" spouse will not be required to execute the note. For credit underwriting purposes all debts and obligations of both the borrower and the “non-purchasing” spouse will be considered in the borrower's total debt-to-income ratio.

(d) The Department reserves the right to deny assistance in the event that the senior lien conditions are not to the satisfaction of the Department, as outlined in the Program Rule or NOFA.

(e) Lien position requirements.

(1) A Mortgage Loan made by the Department shall be secured by a first (1st) lien on the real property if the Department's Mortgage Loan is the largest Mortgage Loan secured by the real property; or

(2) The Department may accept a Parity Lien position if the original principal amount of the leveraged Mortgage Loan is equal to or greater than the Department's Mortgage Loan; or

(3) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least $1,000 or greater than the Department's Mortgage Loan. However liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loan, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan.

(4) A subordinate Mortgage Loan may be re-subordinated, at the discretion of the Department, and as provided in the Program Rules or NOFA.

(f) Escrow Accounts.

(1) An escrow account must be established if:

(A) the Department holds a first lien Mortgage Loan which is due and payable on a monthly basis to the Department; or

(B) the Department holds a subordinate Mortgage Loan and the first lien lender does not require an escrow account, the Department may require an escrow account to be established.

(2) If an escrow account held by the Department is required under one of the provisions described in this subsection, then the provisions described in subparagraphs (A) - (F) of this paragraph are applicable:

(A) The borrower must contribute monthly payments to cover the anticipated costs of real estate taxes, hazard and flood insurance premiums, and other related costs as applicable;

(B) Escrow reserves shall be calculated based on land and completed improvement values;

(C) The Department may require up to two (2) months of reserves for hazard and/or flood insurance and property taxes to be collected at the time of closing to establish the required Escrow account;

(D) In addition, the Department may also require that the property taxes be prorated at the time of closing and those funds be deposited with the Department;

(E) The borrower will be required to deposit monthly funds to an escrow account with the Mortgage Loan servicer in order to pay the taxes and insurance. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due; and

(F) These funds are included in the borrower's monthly payment to the Department or to the servicer. The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) if applicable.

20.14. Amendments to Agreements and Contracts and Modifications to Mortgage Loan Documents.

(a) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver amendments to any written Agreement or Contract provided that the requirements of this section are met.

(b) Time extensions. The Executive Director or his/her designee may grant up to a cumulative twelve (12) months extension to the end date of any Contract unless otherwise indicated in the Program Rules or NOFA. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director identifying the unusual, non-foreseeable or extenuating circumstances justifying the extension. If more than a cumulative twelve (12) months of extension is requested and the Department determines there are no unusual, non-foreseeable, or extenuating circumstances, it will be presented to the Board for approval, approval with revisions, or denial of the requested extension.

(c) Award or Contract Reductions. The Department may decrease an award for any good cause including but not limited to the request of the Administrator, insufficient eligible costs to support the award, or failure to meet deadlines or benchmarks.

(d) Changes in Households. Reductions in Contractual deliverables and Households shall require an amendment to the Contract. Increases in Contractual deliverables and Households that do not shift funds, or cumulatively shift less than 10 percent of total award or Contract funds, shall be completed through an amendment to the Contract.

(e) Increases in Award and Contract Amounts.

(1) For a specific single family Program's Contract, the Department can award a cumulative increase of funds up to the greater of 25 percent of the original award amount or $50,000.

(2) Requests for increases in funding will be evaluated by the Department on a first-come, first-served basis to assess the capacity to manage additional funding, the demonstrated need for additional funding and the ability to expend the increase in funding within the Contract period.

(3) The requirements to approve an increase in funding shall include, at a minimum, Administrator's ability to continue to meet existing deadlines, benchmarks and reporting requirements.

(4) Funding may come from Program funds, Deobligated funds or Program income.

(5) Qualifying requests will be recommended to the Executive Director for approval.

(6) The Board must approve requests for increase in Program funds in excess of the cumulative 25 percent or $50,000 threshold.

(f) The Executive Director may approve budget changes or amendments to the Contract that do not significantly decrease the benefits to be received by the Department.

(g) The single family Program's Director may approve Contract budget modifications provided the guidelines described in paragraphs (1) - (4) of this subsection are met:

(1) funds must be available in a budget line item;

(2) the budget change(s) are less than 10 percent of the total Contract's budget;

(3) if units or activities are desired to be increased, but funds must be shifted from another budget line item in which units or activities from that budget line item have been completed, a Contract amendment will only be necessary if the cumulative budget changes exceed 10 percent of the Contract amount; and

(4) the cumulative total of all Contract's budget modifications cannot exceed 10 percent of the total Contract's budget amount.

(5) If these guidelines are not met, an amendment to the Contract will be required.

(h) The Department may terminate a Contract in whole or in part if the Administrator does not achieve performance benchmarks as outlined in the Contract or NOFA or for any other reason in the Department's reasonable discretion.

(i) In all instances noted in this section, where an expected Mortgage Loan transaction is involved, Mortgage Loan documents will be modified accordingly at the expense of the Administrator/borrower.

20.15. Compliance and Deobligation.

The compliance requirements and Deobligation remedies identified under other provisions of this Title apply to all single family Program activities.

20.16. Waivers and Appeals

(a) Appeal of TDHCA staff decisions or actions will follow requirements in Program Rules, NOFA, or Chapter 1 of this Title.

(b) Waiver of Texas Minimum Construction Standards

(1) Waiver may be requested if a legal or factual reason makes compliance with provisions of TMCS impossible.

(2) Waivers must be approved prior to the commencement of rehabilitation work.

(3) Lack of adequate initial inspection is not a valid basis for waiver

(4) Waiver requests must be made in writing, specifically identify the grounds for waiver, and include all necessary documentation to support the request.

(5) Each request will be reviewed by TDHCA staff with sufficient knowledge of the construction process to render an opinion on the validity of the request. The staff opinion will be provided to the Executive Director or his/her designee, along with the original request and the supporting documents.

(6) On or before the fourteenth business day after receipt of the request by the Department, the Executive Director or his/her designee will approve or disapprove the request, and provide written notice to the Administrator.

(7) Appeal of the Executive Director's decision will follow the Staff Appeal process provided in other provisions of this Title.

1f

BOARD ACTION REQUEST

EXECUTIVE

OCTOBER 9, 2014

Presentation, Discussion and Possible Action on orders adopting new 10 TAC, Chapter 2, Enforcement and adopting the repeal of 10 TAC, Chapter 1, §1.14 related to Administrative Penalties, the repeal of 10 TAC, Chapter 5, §5.17 related to Sanctions and Contract Close Out and the repeal of 10 TAC, Chapter 60 related to Administrative Penalties all directed to be published in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, as a result of actions taken by the 83rd Texas Legislature, the Department's debarment authority was expanded;

WHEREAS, staff recognizes the benefit of having all possible sanctions addressed in one chapter of the Texas Administrative Code;

WHEREAS, staff published the proposed new 10 TAC Chapter 2, concerning Enforcement, the proposed repeal of 10 TAC, Chapter 1, §1.14 related to Administrative Penalties, the proposed repeal of 10 TAC, Chapter 5, §5.17 related to Sanctions and Contract Close Out and the proposed repeal of 10 TAC, Chapter 60 related to Administrative Penalties in the *Texas Register* for review and public comment; and

WHEREAS, public comment was received and the Department has carefully considered the public comment and made changes in response to public comment;

NOW, therefore, it is hereby

RESOLVED, that the Governing Board hereby adopts new 10 TAC Chapter 2, concerning Enforcement, repeal of 10 TAC, Chapter 1, §1.14 related to Administrative Penalties, repeal of 10 TAC, Chapter 5, §5.17 related to Sanctions and Contract Close Out and repeal of 10 TAC, Chapter 60 related to Administrative Penalties in the form presented to this meeting; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and director, for and on behalf of the Department, to cause the publication of the adoptions in the *Texas Register,* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

As a result of actions taken by the 83rd Texas Legislature, the Department's debarment authority was expanded to give authority to debar persons not only from the housing tax credit program but from participation in any program administered by the Department. Staff drafted a rule to incorporate and implement this new authority and in doing so recognized the benefit of having all possible sanctions addressed in one Chapter of the Texas Administrative Code. Therefore, staff drafted a proposed new Chapter 2, Enforcement, with four subchapters, Subchapter A, General; Subchapter B, Enforcement Regarding Community Affairs Contract Administrators in Chapter 5), Subchapter C, Administrative Penalties and Subchapter D, Debarment from Participation in Programs Administered by the Department.

Opportunities for public input have been provided. A preliminary draft of the proposed rule was first posted to the TDHCA website on February 24, 2014, and an online discussion forum was opened. In March staff hosted a conference call regarding the draft rule and hosted roundtables to solicit feedback. At the April 2014 Board meeting, the concept of this rule was brought as a discussion item to seek additional public engagement and input, and, considering that input, to obtain guidance from the Board as to the direction staff should take with this rule. On May 8, 2014, the Board directed staff to publish the proposed rule and proposed repeals in the *Texas Register* for public comment; the proposed rule and appeals were published in the May 23, 2014, issue of the *Texas Register*. Public comments were accepted in writing and by email from May 23, 2014, through June 23, 2014, and are summarized below.

Attachment A. Preamble and Adoption of the new 10 TAC Chapter 2

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 2, concerning Enforcement with changes to the proposed text as published in the May 23, 2014 issue of the *Texas Register*. The primary changes to the proposed rule include administrative clarification of terminology to ensure consistent use of a term; provision of notice in several suggested places being clarified as "written" notice; provision of several clarifying edits for consistency between Section 2.201 and Section 2.202; addition of language that provides for due process for CSBG subrecipients; makes several penalty fee adjustments for greater consistency between the Community Affairs, Multifamily and Single Family fee structures; and revises the requirement for the Department to debar from a "shall" to a "may." The adoption of repeals of other Department rules that bear on the matters contained in this new chapter are being published concurrently with this adoption.

REASONED JUSTIFICATION FOR THE RULE. The adoption of Chapter 2, concerning Enforcement, and the concurrent repeal of rules located within Title 10 TAC Chapters 1, 5 and 60 jointly provide for one consolidated location for program guidance relating to enforcement, sanctions and administrative penalties which facilitates program administration.

SUMMARY OF PUBLIC COMMENTS AND STAFF RECOMMENDATIONS.

The Department accepted public comments between May 23, 2014, through June 23, 2014. Comments regarding the amendments were accepted in writing and by email, with comments received from: (1) Texas Association of Community Action Agencies ("TACAA"), and (2) Scott Marks.

General Comment

COMMENT SUMMARY: Commenter (1) suggests that the Department should not adopt administrative penalties to the community action agencies as a "fear tactic". These nonprofits are on "fixed incomes" and have no way in most cases to pay for administrative penalties. Because many of the community action agencies are significantly federally funded, they may not have sufficient non-federal funds to cover such penalties. Commenter also indicated that the Department committed to apply this rule only for those entities that have been given ample opportunity to correct violations and have still not responded. Commenter (1) does not feel that the rule transparently reflects this.

STAFF RESPONSE: No change is recommended. As it relates to transparency all of the Department's rules are available on the Secretary of State's website and links are available through TDHCA's website.

General Comment

COMMENT SUMMARY: Commenter (1) suggests that the Department needs to transfer the procedures and timelines outlined in 10 TAC §1.14 TAC to the new Enforcement Rule in Chapter 2.

STAFF RESPONSE: Staff agrees with this comment and has made this change and is repealing 10 TAC §1.14.

General Comment

COMMENT SUMMARY: Commenter (1) suggests that the enforcement rule as it pertains to Community Affairs should be left in Chapter 5 resulting in an easy and user-friendly reference point specific to programs in the Community Affairs realm.

STAFF RESPONSE: Staff disagrees with this comment and recommends no change. The rule as adopted ensures greater consistency in Department rules and operations.

General Comment

COMMENT SUMMARY: Commenter (1) does not agree with the posted preamble for the proposed rule that there are no foreseeable changes related to costs or revenues to the state or local government.

STAFF RESPONSE: Staff does not agree with this comment. The commenter suggests that added costs are generated for Department staff time to clarify the rules and for training and technical assistance by TDHCA staff. The considerations identified in new Chapter 2, as noted above, are now inclusive of what had previously been Section 1.14, which staff had already been implementing. No additional training is needed; subrecipients that are operating consistently with their state and federal rules will not prompt applicability of this rule. In the rare cases that they do, staff will engage with subrecipients as they have been – personally and with clear guidance on what next steps need to be taken. This work is at no additional expense to the subrecipient. No change is made in response to this comment.

Subchapter B, General Comment

COMMENT SUMMARY: Commenter (1) believes that this rule provides for an unbalanced use of authority in which the Department singles out Community Affairs Subrecipients and applies a more rigorous standard than housing administrators, particularly relating to Sanctions and Modified Cost Reimbursement. This comment is repeated several times throughout the commenter's letter, but is summarized and responded to only once, in this paragraph. The commenter suggests that all penalties and rules apply to its programs equitably.

STAFF RESPONSE: Staff disagrees. The rule as proposed applies sanctions that are germane to each program type. Equalizing sanctions between housing and non-housing programs does not take into account the distinct differences between these types of activities. For instance, modified cost reimbursement is only germane for programs in which funds are advanced and in which there is a need to have costs more thoroughly reviewed prior to a subsequent advance. Alternatively, housing programs do not advance funds and only have access to funds on a reimbursement basis. So the opportunity to obtain advances is a benefit of the community affairs programs, but a correlated sanction needs to be provided for. To apply this standard equitably would essentially need to be administered in the same fashion and require no longer having advances as a funding method. Staff does not believe this is what was intended of the commenter. Staff recommends no changes in response to this comment.

§2.101, Policy and Purpose

COMMENT SUMMARY: Commenter (1) believes that the reference in §2.101(e) of this rule does not correlate to other similar rules in TAC which should be "exhausted" before implementation of the new rule.

STAFF RESPONSE: Staff does not agree. These referenced rules will be coordinated, amended and or repealed as the Department deems necessary and appropriate.

§2.102(b), Definitions

COMMENT SUMMARY: Commenter (1) suggests that the list of definitions is too limited and provides several suggested definitions. Commenter suggests that the membership of the Enforcement Committee should be tripartite with membership comprised of 1/3 administration members, 1/3 housing members and 1/3 Community Affairs members and that any substitutions should be approved by the Executive Director, not only designated by the committee member. As it relates to terms and definitions, it was suggested by Commenter (1) that certain terms be revised for consistency.

STAFF RESPONSE: Staff does not agree that the suggested additional definitions are needed within the list of definitions. The Executive Director retains the role of approving persons to the Committee that will serve in the appropriate capacity. Staff will make the changes needed for consistency in term usage but makes no other changes to the rule.

§2.103, General

COMMENT SUMMARY: Commenter (1) suggests adding the term "written" prior to "notice" in this section relating to the prompting of a compliance violation.

STAFF RESPONSE: Staff agrees and the change is reflected in the rule as adopted.

§2.104, Enforcement Mechanisms

COMMENT SUMMARY: Commenter (1) suggests that for clarity all enforcement mechanisms should be referenced in Subchapter A.

STAFF RESPONSE: Staff does not agree; the rule is crafted in reasonable and logical order and mechanisms which vary by program type are covered in different subchapters. No change is made in response to this comment.

§2.201, Full or Partial Cost Reimbursement

COMMENT SUMMARY: Commenter (1) suggests that this section be revised in multiple sections to be more consistent with §2.202.

STAFF RESPONSE: Staff agrees and finds these edits reasonable. Changes have been made in response to comment.

§2.202, Sanctions and Contract Close Out

COMMENT SUMMARY: Commenter (1) suggests edits that create consistency with Section 5.206. Commenter also suggests that the word “possible” be stricken from the section in which sanctions may be applied to possible fraud, waste, and abuse.

STAFF RESPONSE: Staff disagrees with the change relative to 5.206 because this section will no longer be applicable. The striking of the term “possible” is not appropriate because ethics rules indicate that even possible fraud is problematic. No change is made in response to comment.

§2.202(c)(1) and (c)(6), Sanctions and Contract Close Out

COMMENT SUMMARY: Commenter (1) suggests changes relating to the due process clause of the CSBG Act; clarification on the Single Audit language; and reducing the time in which the Department will gather files in the case of termination.

STAFF RESPONSE: Staff agrees and changes have been made in response to comment.

§2.302 Penalty table for Multifamily Violations

COMMENT SUMMARY: Commenter (2) suggested that the noncompliance event “Development is not available to the general public because of leasing issues” be revised to indicated that instead of leasing issues, the language state “because of fair housing violations.”

STAFF RESPONSE: Staff does not agree with this comment because there are other types of leasing issues other than fair housing violations. The item is intended to capture any type of instance so no change is made is response to comment.

§2.302 Penalty Table for Community Affairs Violations

COMMENT SUMMARY: Commenter (1) suggests that the assessment of penalties for Community Affairs’ programs are severely unbalanced and biased. Commenter recommends removing the penalty table for Community Affairs Programs because: (1) the Department’s penalty structure across various programs is inconsistent; (2) the Department has not disclosed, as requested, the methodology used to determine the penalties; and (3) it is unnecessary to itemize every violation because noncompliance of Program Agreement provisions as reflected in §2.101(c) and §2.102(4) encompasses federal and state laws and contractual obligations, and §2.103(a) already requires compliance with all applicable Legal Requirements of a Responsible Party.

STAFF RESPONSE: Staff does not agree with removal of the penalty table. In response to each comment above: 1) staff does not believe that the fee structure is inconsistent but rather is specifically designed to address fees relating to their relative program impact across programs that are in fact quite different; 2) the methodology applied is that the Department took into consideration the limit of no more than $1,000 per day which was then also evaluated based upon the severity of the violation; and 3) the itemization of possible violations help the Board, the Committee and staff have clarity in their evaluation of violations, and provides the transparency of putting the subrecipients on notice of such considerations. However, the Department agrees that the rule should be consistent and has added fair housing penalties.

§2.302(c), Administrative Penalty Process

COMMENT SUMMARY: Commenter (1) suggests that a repeat violation should be reduced to writing and should have a timeline to limit difficulty in determining if a violation is a repeat violation.

STAFF RESPONSE: Staff does not agree because the determination of whether a violation is a repeat violation is made prior to referral to the Enforcement committee. No change is made in response to comment.

§2.302(e), Administrative Penalty Process

COMMENT SUMMARY: Commenter (1) suggests changes that Executive Director Involvement occurs during the period of the informal meeting and a preliminary period of agreement. Commenter also suggests that later steps including referral to the Committee for debarment be reported to the Executive Director as well as other actions the Committee may deem appropriate.

STAFF RESPONSE: Staff does not agrees that the Executive Director be involved prior to attempts for staff resolution and does not recommend changes to items (2) through (4) of this rule section. Staff agrees with the other changes in sections (6) and (7) and the rule has been changed in response to comment.

§2.302, Administrative Penalty Table

COMMENT SUMMARY: Commenter (1) provides an evolution of their penalty table in comparison to that of Single and Multifamily penalties and suggests an unbalanced and unfair applicability of penalties. Several changes were suggested for violations of procurement requirements, timely submittal of the audit certification form, lack of providing requested documentation, failure to timely respond to report, noncompliance with record retention, providing assistance to income or SAVE eligible applicants, completing required program documents, noncompliance with a Chapter 5 process, other noncompliance with a contract requirement, and noncompliance with a material installation standards manual.

STAFF RESPONSE: Staff agrees with the penalty fee changes for greater consistency for: violations of procurement requirements, timely submittal of the audit certification form, lack of providing requested documentation, failure to timely respond to report, noncompliance with record retention, and providing assistance to income or SAVE eligible applicants and changes have been made in response to comment. The following items do not apply across single and multifamily items and are not recommended for change: completing required program documents, noncompliance with a Chapter 5 process, other noncompliance with a contract requirement, and noncompliance with a material installation standards manual.

§2.401, Subchapter D, General

COMMENT SUMMARY: Commenter (2) suggests in section (a)(2) revising the cite in the statement to add a (1) and that the word "Applications" be stricken. Commenter (1) suggests clarifying wording in (a)(1); adjusting a "shall" to a "may" relating to debarment authority in (c); proposing a clarification in (f); and clarifies word tense in (g).

STAFF RESPONSE: Staff agrees with the changes in (a)(1), (c) and (g) and the rule has been changed accordingly. Staff does not concur with the change in (f) as it does not appear to provide clarity.

§2.401(e), Subchapter D, General

COMMENT SUMMARY: Commenter (2) suggested that changes to items (3) and (5) be made and a new item (7).

STAFF RESPONSE: Staff does not agree with the commenter's suggestions. The commenter suggested that an owner should be referred for debarment only if they are not providing any services. The rule suggests a referral for debarment if the specific services required are not being provided. For example, if a property is required to provide onsite daycare and they repeatedly fail to do so, staff recommends consideration for debarment. The suggested change would exclude this situation for debarment consideration if the property was at least proving a movie night as opposed to the required onsite daycare. Additionally the commenter suggested that debarment should only be considered if the failure to update a utility allowance resulted in an overcharge of rent. The requirement to update utility allowances is a fundamental requirement of the program which ensures that rents are restricted. If an owner repeatedly fails to update their utility allowance and only does so in response to an onsite review conducted by the department, staff considers that grounds for debarment consideration. Lastly the commenter suggested a new item (7) be added that would provide for debarment in the event of a refusal to honor a Right of First Refusal if required by a Land Use Restriction Agreement. The rule already suggests debarment consideration for transfer of ownership without regard for the right of first refusal required by the LURA. No changes have been made in response to comment.

§2.401(f)(5), Subchapter D, General

COMMENT SUMMARY: Commenter (2) suggested that changes to item (f) (5) be made clarifying that "repeatedly participating in procurement violations" should only be applicable if procurement rules apply to the violation.

STAFF RESPONSE: Staff concurs and the rule has been changed in response to comment.

§2.401(f)(7), Subchapter D, General

COMMENT SUMMARY: Commenter (2) suggested that all of section 7, relating to violations of the Uniform Relocation Act (URA) requirements, be deleted.

STAFF RESPONSE: Staff does not agree with this deletion. URA violations are serious violations that have the potential to have financial burden on the Department. No changes have been made in response to comment.

§2.401(f)(11), Subchapter D, General

COMMENT SUMMARY: Commenter (2) suggested that in Section 11, which relates to violations regarding Conflicts of Interest, limit the violation to actual activities of Conflict of Interest and striking the term "or giving the appearance of."

STAFF RESPONSE: Staff does not agree with this comment. "Giving the appearance of" is part of ethics standards and needs to be affirmed as a possible instance of a sanction or debarment. No change is made in response to comment.

§2.401(g), Subchapter D, General

COMMENT SUMMARY: Commenter (1) also notes that they do not believe the instances in §2.401(g) correlate to Texas Government Code 2306.042(b) and that the structure in the penalty table does not relate accordingly to these eight items, for instance one of the eight has a $500 fine, while 5 of the others have a $1,000 fine, and notably two of the eight are not even on the penalty table. Commenter (1) recommends that the Department not move forward with the rule in the condition proposed.

STAFF RESPONSE: Section 2306.042 Texas Government Code concerns administrative penalties, however this section relates to debarment. No change is made in response to comment.

§2.401(h), Subchapter D, General

COMMENT SUMMARY: Commenter (2) suggested that in the introductory language of section (h), revisions be made that expand the applicable parties subject to possible debarment from only those "Responsible Parties" to "any party," indicate the party is required to cure the violation within 90 days, and also removes consultants or vendors from such instances of debarment unless it is contractual between the party and the vendor/consultant.

STAFF RESPONSE: Staff agrees with the referenced changed relating to the applicable party and to the 90 days cure period and changes have been made. Staff does not agree with the exclusion of vendors and consultants. The Department will not become involved in the contractual relationships and concerns between two outside parties.

Subchapter A General

§2.101. Policy and Purpose.

(a) In accordance with authority conferred on the Department by Texas Government Code, Chapter 2105 and 2306 and under applicable provisions of federal law the Department has a range of measures it is able to take to address identified instances of noncompliance. In some instances these measures may also require compliance with or adherence to additional federal or state requirements.

(b) It is the overarching intent and guiding principle of these rules that full compliance is required, and the enforcement mechanisms provided for herein are intended to be used in a manner which:

(1) Promotes full compliance;

(2) Uses compliance assistance methods and, where needed, enforcement mechanisms, to obtain compliance and to deter noncompliance;

(3) Takes appropriate enforcement action against those who fail to take the necessary and appropriate measures to comply; and

(4) Provides for the exclusion or removal from Department programs, of persons who have demonstrated that they are either unable or unwilling to comply.

(c) Any person or entity that enters into a commitment or contract with the Department directly or with a subrecipient of Department financial assistance, setting forth the terms and conditions under which housing tax credits, loans, grants, or any other source of funds or financial assistance from the Department will be made available (collectively the "Program Agreements") is required to comply with all provisions of their respective Program Agreements. Requirements in Program Agreements include requirements to comply with applicable federal or state laws. The failure to comply with any provision of a Program Agreement is, in addition to a breach of such Program Agreement, a violation of this rule.

(d) This rule sets forth the mechanisms that the Department may use to bring about compliant administration of Department funded programs, state or federal, and to ensure that persons who have established, through egregious and/or repetitive noncompliance behavior that they are either unwilling to behave in a compliance manner or are unable to do so.

(e) Refer to 10 TAC Chapter 10, Subchapter F, related to Compliance Monitoring and/or 10 TAC, Chapter 5, Subchapter L, related to Compliance Monitoring for detailed information about the monitoring process and remedies available to Persons who disagree with the Department's assessment of their compliance status.

§2.102. Definitions.

The words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(a) Consultant--One who provides services or advice for a fee and not as an employee.

(b) Enforcement Committee (Committee)--A committee of employees of the Department appointed by the Executive Director. The members of that Committee shall be no fewer than five (5) and no more than nine (9). The Executive Director may designate certain members as ex officio and non-voting. Legal Services and Compliance will each designate persons to attend meetings and advise the Committee, but not be members of the Committee. A Legal Services designee will also serve as Secretary to the Committee. Voting Committee members may designate a substitute who shall be permitted to attend and vote in their absence.

(c) Legal Requirements--all requirements of state, federal, or local statute, rule, regulation, ordinance, order, court order, official interpretation, policy issuance, OMB Circulars, representations to secure awards, or any similar memorialization of requirement including a requirement of a purely contractual nature, no matter how designated, applicable to a matter.

(d) Program Agreements include:

(1) agreements between the Department and a person setting forth Legal Requirements and

(2) agreements between a person subject to a Program Agreement and a third party to carry out one or more of those Legal Requirements as the agent, consultant, partner, contractor, subcontractor, or otherwise for a person described in Subsection 1, above.

(e) Responsible Party--any Person subject to a Program Agreement.

(f) Vendor--A person who is procured by a subrecipient to provide goods or services in any way relating to a Department program or activity.

§2.103. General.

(a) A Responsible Party must comply with all applicable Legal Requirements.

(b) A failure by the Department to identify, address, or take action with respect to any one or more instances of noncompliance does not constitute a waiver, ratification, or approval of, consent to, or agreement with such noncompliance. It is the responsibility of a Responsible Party to be familiar with the applicable requirements.

(c) Record keeping. The Compliance Division will keep records in accordance with the Department's record retention schedule and any other state or Federal requirements of all instances of identified noncompliance, whether the noncompliance was correctable or not, and, if correctable, whether the noncompliance was corrected within the time afforded for corrective action.

(d) As provided for in Texas Government Code, §2306.6719, parties subject to certain compliance requirements must be afforded written notice and a reasonable period to correct identified instances of noncompliance that are susceptible to being corrected. It is the responsibility of each division to provide any required cure, corrective action, or notice period(s) prior to referral of any matter to the ~~Enforcement~~ Committee under this chapter. Matters should not be referred to the Committee until such cure, corrective action, or notice periods have been completed or expired.

§2.104. Enforcement Mechanisms.

(a) The enforcement mechanisms referenced in this chapter are not the exclusive mechanisms whereby compliance may be obtained in any particular circumstance. In addition to Department action, enforcement mechanisms related to Department programs may include, where applicable, those required or employed by other entities or agencies. With regard to the low income housing tax credit program, if an identified instance of noncompliance is required by the Internal Revenue Service ("IRS") to be reported to the IRS, it will be reported to the IRS by the Compliance Division on Form 8823.

(b) Enforcement mechanisms available to the Department include but are not limited to:

(1) Enforcement of contractual provisions, including but not limited to, rights of suspension or termination and placement on a cost reimbursement status, as described in Subchapter B of this Chapter, relating to Enforcement Regarding Community Affairs Contract <u>subrecipients</u>~~Administrators~~;

(2) Assessment of Administrative Penalties, as described in Subchapter C of this Chapter, relating to Administrative Penalties; or,

(3) Debarment, as described in Subchapter D of this Chapter, relating to Debarment.

Subchapter B Enforcement Regarding Community Affairs Contract <u>subrecipients</u>~~Administrators~~

§2.201 ~~Full or partial~~ <u>Modified</u> cost reimbursement.

(a) <u>Modified cost reimbursement may be in the form of Full or Partial cost reimbursement.</u>

<u>(1)</u> Full cost reimbursement requires that the Department, acting through or <u>by</u>~~under~~ oversight of the Compliance Division, review any item and supporting documentation and backup before approving it for payment.

<u>(2)</u>~~(b)~~ Partial cost reimbursement enables the Department, acting through or <u>by</u>~~under~~ oversight of the Compliance Division, to establish a tailored protocol to review only a portion of requests for reimbursement and, based on that review, to allow for advances subject to reasonable and appropriate limitations.

<u>(b)</u>~~(c)~~ The Department through its Compliance Division may place on ~~full or partial cost~~ <u>Modified Cost</u> ~~r~~<u>Reimbursement</u> any entity administering a Department program allowing for funds to be advanced prior to documentation of expenditure where there has been identified a

significant pattern of compliance violations indicating a material failure to adopt and adhere to policies and procedures to ensure compliant activity.

(c) ~~(d)~~ An entity placed on ~~full or partial~~ Modified ~~c~~Cost ~~r~~Reimbursement must, within ninety (90) days of written notice by the Department, unless extended as provided for herein, either be restored to advance status or have proceedings for termination of their contract and/or eligible entity status and/or debarment commenced. Restoration to advance status will require the entity to develop a comprehensive plan, which, if the entity is an eligible entity under the CSBG Act, will constitute a Quality Improvement Plan as provided for in the CSBG Act, to address its issues. The plan must be reviewed and acceptable to the Department after a review by the Compliance Division and the Community Affairs Division. Extensions of up to an additional ninety (90) days may be approved by the Executive Director for good cause including but not limited to additional time to comply with procurement requirements or additional time for the Department to review submittals.

§2.202 Sanctions and Contract Closeout.

(a) Subrecipients that enter into a contract with the Department to administer programs are required to follow all Legal Requirements governing these programs.

(b) If a ~~S~~subrecipient fails to comply with program and contract requirements, rules, or regulations and in the event monitoring or other reliable sources reveal material deficiencies in performance, or if the ~~S~~subrecipient fails to correct any deficiency within the time allowed by federal or state law, the Department may apply one or more of the sanctions described in paragraphs (1) - (5) of this subsection:

(1) Deny the ~~S~~subrecipient's requests for advances and place it on a Modified Cost Reimbursement method of payment until proof of compliance with the rules and regulations are received by the Department;

(A) Subrecipients placed on a Modified Cost Reimbursement method of payment must comply with the reporting requirements outlined in §5.211 of this title (relating to ~~S~~subrecipient Reporting Requirements); §5.311 of this title (relating to Reports); §5.406 of this title (relating to ~~S~~subrecipient Reporting Requirements); §5.506 of this title (relating to Subrecipient Reporting Requirements); §5.1006 of this title (relating to Performance and Expenditure Benchmarks); and §5.2007 of this title (relating to Reporting), as applicable;

(B) Subrecipients on a Modified Cost Reimbursement method must provide all supporting documentation to the Department no later than seven (7) days after the reporting due date;

(C) If ~~S~~subrecipient has not submitted documentation required for cost reimbursement review in accordance with reporting deadlines, ~~S~~subrecipient may be required to enter a monthly report containing zero amounts and submit documentation required for the review as part of the next's month reporting;

(D) Subrecipients reporting a monthly report containing zero amounts throughout the program year shall submit all required support documentation to the Department for review by the last regular monthly report (before the final report); and/or

(E) The Department will review and assess supporting documentation submitted by ~~S~~subrecipient no later than the seventh (7th) day of the following month.

(2) Withhold all payments from the ~~S~~subrecipient (both reimbursements and advances) until acceptable confirmation of compliance with the rules and regulations are received by the Department, reduce the allocation of funds (with the exception of Community Services Block Grant (“CSBG”)) to Eligible Entities as described in §5.206 of this chapter (relating to Termination and Reduction of Funding) and as limited for LIHEAP funds as outlined in Texas Government Code, Chapter 2105 or impose sanctions as deemed appropriate by the Department's Executive Director, at any time, if the Department identifies possible instances of fraud, waste, abuse, fiscal mismanagement, or other serious deficiencies in the ~~S~~subrecipient's performance;

(3) Suspend performance of the contract or reduce funds until proof of compliance with the rules and regulations are received by the Department or a decision is made by the Department to initiate proceedings for contract termination;

(4) If possible, elect not to provide future grant funds to the ~~S~~subrecipient until appropriate actions are taken to ensure compliance; or

(5) Terminate the contract. Adhering to the requirements governing each specific program administered by the Department, as needed, the Department may determine to proceed with the termination of a contract, in whole or in part, at any time the Department establishes there is good cause for termination. Such cause may include, but is not limited to, fraud, waste, abuse, fiscal mismanagement, or other serious deficiencies in the ~~S~~subrecipient's performance. For CSBG contract termination procedures, please refer to §5.206 of this title.

(c) Contract Close-out. When the Department moves to terminate a contract and such termination takes effect, the procedures described in paragraphs (1) - (12) of this subsection will be implemented.

(1) The Department will issue a termination letter to the ~~S~~subrecipient no less than thirty (30) days prior to terminating the contract. If the entity is an E~~e~~ligible E~~e~~ntity under the CSBG Act the Department, after the rights and due processes of the CSBG Act have been followed

will simultaneously initiate proceedings to terminate the Eeligible Eentity status and the effectiveness of the contractual termination will be stayed automatically pending the outcome of those proceedings. The Department may determine to take one of the following actions: suspend funds immediately or allow a temporary transfer to another provider; establish a Modified Cost Reimbursement plan for closeout proceedings, or provide instructions to the to prepare a proposed budget and written plan of action that supports the closeout of the contract. The plan must identify the name and current job titles of staff that will perform the close-out and an estimated dollar amount to be incurred. The plan must identify the CPA firm which will perform the Single Audit. The Department will issue an official termination date to allow all parties to calculate deadlines which are based on such date.

(2) If the Department determines that a Modified Cost Reimbursement is an appropriate method of providing funds to accomplish closeout, the ~~S~~subrecipient will submit backup documentation for all current expenditures associated with the closeout. The required documentation will include, but not be limited to, the chart of accounts, detailed general ledger, revenue and expenditure statements, time sheets, payment vouchers and/or receipts, and bank reconciliations.

(3) No later than thirty (30) days after the contract is terminated, the ~~S~~subrecipient will take a physical inventory of client files, including case management files, and will submit to the Department an inventory of equipment with a unit acquisition cost of $5,000 or greater or having a useful life of more than one year.

(4) The terminated ~~S~~subrecipient will have thirty (30) days from the date of the physical inventory to copy all current client files. Client files must be boxed by county of origin. Current and active case management files also must be copied, inventoried, and boxed by county of origin.

(5) Within thirty (30) days following the ~~S~~subrecipient's due date for copying and boxing client files, Department staff will retrieve copied client files.

(6) The terminated ~~S~~subrecipient will prepare and submit no later than ~~sixty (60)~~ thirty (30) days from the date the Department retrieves copied client files~~the contract is terminated~~, a final report containing a full accounting of all funds expended under the contract.

(7) A final monthly expenditure report and a final monthly performance report for all remaining expenditures incurred during the close-out period must be received by the Department no later than sixty (60) days from the date the Department determines that the closeout of the program and the period of transition are complete.

(8) The ~~S~~subrecipient will submit to the Department no later than sixty (60) days after the termination of the contract, an inventory of the non-expendable personal property acquired in whole or in part with funds received under the contract.

(9) The Department may transfer title to equipment having a unit acquisition cost (the net invoice unit price of an item of equipment) of $5,000 or greater or having a useful life of more than one year, to the Department or to any other entity receiving funds under the program in question. The Department will make arrangements to remove equipment covered by this paragraph within ninety (90) days following termination of the contract.

(10) Upon selection of a new service provider, the Department will transfer to the new provider client files and, as appropriate, equipment.

(11) As required by any OMB circular or other circulars and standards as applicable to the contract, as amended from time to time, a current year Single Audit must be performed for all agencies that have exceeded the federal expenditure threshold under OMB Circular A-133 or the State expenditure threshold under Uniform Grant Management Standards. The Department will allow a proportionate share of program funds to pay for accrued audit costs, when an audit is required, for a Single Audit that covers the date up to the closeout of the contract. The terminated ~~S~~subrecipient must have a binding contract with a CPA firm on or before the termination date of the contract. The actual costs of the Single Audit and accrued audit costs including support documentation must be submitted to the Department no later than sixty (60) days from the date the Department determines the close-out is complete.

(12) Subrecipients shall submit within sixty (60) days after the date of the close-out process all financial, performance, and other applicable reports to the Department. The Department may approve extensions when requested by the ~~S~~subrecipient. However, unless the Department authorizes an extension, the ~~S~~subrecipient must abide by the sixty (60) day contractual requirement of submitting all referenced reports and documentation to the Department.

Subchapter C Administrative Penalties

§2.301 General

The Compliance ~~Monitoring~~ Division will recommend to the ~~Enforcement~~ Committee the initiation of proceedings to assess administrative penalties where the Responsible Party or Parties have violated Chapter 2306 or a rule or order adopted under Chapter 2306 and failed, despite written notice, to take appropriate and timely corrective action or seek and obtain for good cause an extension of the time to take corrective action. In addition, the Compliance Division may recommend to the ~~Enforcement~~ Committee the initiation of proceedings to assess administrative penalties where the Responsible Party or Parties has an established pattern of repeated substantive and material violations even if corrected within the applicable corrective action periods.

§2.302 Administrative Penalty Process

(a) The Executive Director will appoint an Enforcement Committee, as defined in §2.102.

(b) The Compliance Division will recommend the initiation of administrative penalty proceedings to the ~~Enforcement~~ Committee by referral of a compliance monitoring matter to the secretary of the Committee.

(c) The secretary of the ~~Enforcement~~ Committee shall promptly contact the Responsible Party describing the violations involved. If the secretary is able to facilitate closure of the matter without further action by the Committee, the secretary will report back to the Compliance Division. Should the secretary and Responsible Party fail to come to closure, the matter will be presented to the ~~Enforcement~~ Committee for possible action.

(d) The ~~Enforcement~~ Committee will first offer to hold an informal meeting with the Responsible Party to attempt to reach an agreed resolution. If any such meeting is held:

(1) Statements made in the meeting shall not be used as evidence in any proceedings if agreed resolution is not reached. This does not preclude establishing such matters through the introduction of proper evidence.

(2) The Responsible Party may, but is not required to be, represented by legal counsel of their choosing at their own cost and expense.

(3) The Responsible Party may bring to the meeting third parties, employees, and agents with knowledge of the issues; and,

(4) In order to facilitate candid dialogue, informal meetings will not be open to the public; however, the Committee may include such other persons or witnesses as the Committee deems necessary for a complete and full development of relevant information and evidence.

(e) An informal meeting may result in:

(1) An agreement to dismiss the matter with no further action, which will then be reported to the Executive Director;

(2) A Compliance Assistance Notice issued by the Committee, available for Responsible Parties appearing for the first time before the committee for matters which the Committee determines do not necessitate the assessment of an administrative penalty, but for which the Committee wishes to place the Responsible Party on specific notice with regard to possible future violations;

(3) An agreement to resolve the matter through corrective action without penalty. In this circumstance, the agreement shall be reported to the Executive Director;

(4) An agreement to resolve the matter through corrective action with the assessment of an administrative penalty which may be probates in whole or in part, and may, where

appropriate, include additional action to promote compliance such as agreements to obtain training. In this circumstance, a proposed agreed order and draft report will be prepared and presented to Board for approval;

(5) A recommendation by the Committee to the Executive Director regarding the issuance of a report to the Board and issuance of a Notice of Violation to the Responsible Party seeking the assessment of administrative penalties;

(6) A determination that the Responsible Party should be referred for debarment, in which case the Responsible Party will be offered another opportunity to appear before the Committee, shall be reported to the Executive Director; or,

(7) Other action as the Committee deems appropriate, shall be reported to the Executive Director.

(f) Upon receipt of a recommendation from the Committee regarding the issuance of a report and assessment of an administrative penalty, the Executive Director shall determine whether a violation has occurred. If needed, the Executive Director may request additional information and/or return the recommendation to the Committee for further development. If the Executive Director determines that a violation has occurred, the Executive Director will issue a report to the Board in accordance with §2306.043 of the Texas Government Code.

(g) Not later than fourteen (14) days after issuance of the report to the Board, the Executive Director will issue a Notice of Violation to the Responsible Party. The Notice of Violation issued by the Executive Director will include:

(1) a summary of the alleged violation(s) together with reference to the particular sections of the statutes and rules alleged to have been violated;

(2) a statement informing the Responsible Party of the right to a hearing before the State Office of Administrative Hearings ("SOAH"), if applicable, on the occurrence of the violation(s), the amount of penalty, or both;

(3) any other matters deemed relevant and

(4) the amount of the recommended penalty. In determining the amount of a recommended administrative penalty, the Executive Director shall take into consideration whether the Responsible Party has timely taken appropriate actions within their control, the amount of penalty necessary to deter future violations, and, in the instance of a proceeding to assess administrative penalties against a Responsible Party administering CSBG, CEAP, ESG or HHSP, whether the assessment of such penalty will interfere with the uninterrupted delivery of services under such program(s). He or she shall further take into account whether the Department's purposes may be achieved or enhanced by the use of full or partial probation of penalties subject to adherence to specific requirements and whether the violation(s) in

question involve disallowed costs or other matters giving rise to financial exposure to the Department.

(g) The amount of recommended penalty will be determined with reference to a penalty schedule shown in figure 2.302.

(h) Not later than twenty (20) days after the Responsible Party receives the Notice of Violation, the Responsible Party may accept the determination and recommended penalty or request a hearing.

(i) If the Responsible Party requests a hearing or does not respond to the Notice of Violation, the Executive Director, with the approval of the Board, shall cause the hearing to be docketed before a SOAH administrative law judge in accordance with Title 10, Part 1, Chapter 1, §1.13 (relating to Adjudicative Hearing Procedures).

§2.302 Penalty table for Multifamily Rental Violations.

Noncompliance Event	**First time violation Administrative Penalty**	**Repeat Violation**
Violations of the Uniform Physical Condition Standards	Up to $500 for level 3 deficiencies, up to $250 for level 2 deficiencies, up to $125 for level 1 deficiencies	Up to $1,000 for level 3 deficiencies, up to $500 for level 2 deficiencies, up to $250 for level 1 deficiencies
Noncompliance related to Affirmative Marketing requirements described in §10.617 of this title	Up to $500	Up to $1000
Development is not available to the general public because of leasing issues	Up to $750 per day per violation	Up to $1,000 per day per violation
Owner did not allow on-site monitoring or failed to notify residents resulting in inspection cancelation	Up to $1,000 per day	Up to $1,000 per day
Failure to timely enter into Land Use Restriction Agreement (LURA)	Up to $1,000 per day	Up to $1,000 per day
Project failed to meet minimum set aside	Up to $1,000 per day	Up to $1,000 per day

Noncompliance Event	First time violation Administrative Penalty	Repeat Violation
No evidence of, or failure to certify to material participation of a non-profit or HUB, if required by LURA	Up to $10 per day per violation	Up to $20 per day per violation
Development failed to meet additional state required rent and occupancy restrictions	Up to $250 per day per violation	Up to $500 per day per violation
Noncompliance with social service requirements	Up to $500 per violation	Up to $750 per violation
Development failed to provide housing to the elderly as promised at application	Up to $5 per day per violation	Up to $10 per day per violation
Failure to provide special needs housing as required by LURA	Up to $1,000	Up to $1,000
Changes in Eligible Basis or Applicable percentage in violation of the IRS 8823 Audit Guide or other IRS guidance	Up to $1,000 per day per violation	Up to $1,000 per day per violation
Failure to submit all or parts of the Annual Owner's Compliance Report	Up to $1,000	Up to $1,000
Failure to timely submit quarterly reports as required by §10.607	Up to $100 for first violation	Up to an additional $500 for each subsequent quarter the report is not submitted
Noncompliance with utility allowance requirements described in §10.614 and/or Treasury Regulation §1.42-10	Up to $50 per unit per day	Up to $100 per unit per day
Noncompliance with lease requirements described in §10.613	Up to $500	Up to $1000
Development has failed to establish and maintain a reserve account in accordance with §10.404 of this title	Up to $1,000	Up to $1,000
Failure to provide a notary public as promised at application	Up to $500	Up to $750
Violation of the Unit Vacancy Rule	Up to $250 per violation	Up to $500 per violation
Failure to provide pre-onsite documentation	Up to $250	Up to $500
Failure to provide amenity as required by LURA	Up to $750 per violation	Up to $1000 per violation
Failure to pay asset management, compliance monitoring or other required fee	Up to $250 for the first day plus $10 per day for each subsequent day the violation continues	Up to $500 for the first day plus $50 per day for each subsequent day the violation continues
Change in ownership without department approval (other than removal of a general partner in accordance with §10.406 of this chapter)	Up to $1000 for the first day plus $100 per day for each subsequent day the violation continues	Up to $1000 for the first day plus $200 per day for each subsequent day the violation continues

Noncompliance Event	First time violation Administrative Penalty	Repeat Violation
Failure to timely provide fair housing disclosure notice	Up to $100 per violation	Up to $200 per violation
Noncompliance with tenant selection requirements described in §10.610 of this title	Up to $500 per violation	Up to $1,000 per violation
Program Unit not leased to Low-Income household	Up to $1,000 per violation	Up to $1,000 per violation
Program unit occupied by nonqualified full-time students	Up to $1,000 per violation	Up to $1,000 per violation
Low-Income units used on a transient basis	Up to $500 per violation	Up to $1,000 per violation
Violation of the Available Unit Rule	Up to $500 per violation	Up to $1,000 per violation
Gross rent exceeds the highest rent allowed under the LURA or other deed restriction	Up to $50 per unit per day	Up to $150 per unit per day
Failure to provide Tenant Income Certification and documentation	Up to $250 per violation	Up to $250 violation
Unit not available for rent	Up to $1,000 per unit per violation	Up to $1,000 per unit per violation
Failure to collect data required by §10.608(b)(1) and/or §10.608(b)(2)	Up to $50 per violation	Up to $100 Per violation
Development evicted or terminated the tenancy of a low-income tenant for other than good cause	Up to $1,000 per violation	Up to $1,000 per violation
Household income increased above 80 percent at recertification and Owner failed to properly determine rent	Up to $500 per violation	Up to $1,000 per violation
Any other violation of Texas Government Code Chapter 2306 or rule or order adopted under chapter 2306	Up to $1,000 per violation per day	Up to $1,000 per violation per day
Failure to meet accessibility requirements	Up to $1,000 per violation	Up to $1,000 per violation

§2.302 Penalty table for Single Family Program Violations.

Noncompliance Event	First time violation Administrative Penalty Up To	Repeat Violation
Noncompliance related to Affirmative Marketing requirements	Up to $500	Up to $1000
Fair housing violations	Up to $100 per violation	Up to $200 per violation
Repeated violations of interim loan terms or timeline	Up to $500	Up to $1000
Records retention violations	Up to $100 per violation	Up to $200 per violation

Noncompliance Event	First time violation Administrative Penalty Up To	Repeat Violation
Failure to attend required training as required by program rule, policy or agreement	Up to $100 per violation	Up to $200 per violation
Providing assistance to households that are not income eligible	Up to $500	Up to $1000
Violations of construction standards	Up to $500	Up to $1000
Violations of property condition standards	Up to $500	Up to $1000
Violation of Conflict of Interest Policies	Up to $500	Up to $1000
Violation of program policies regarding use of funds for sectarian or religious activity	Up to $500	Up to $1000
Failure to comply with Limited English Proficiency ("LEP") policies in accordance with program rule, policy or agreement	Up to $500	Up to $1000
Failure to comply with labor standards requirements in accordance with program rule, policy or agreement	Up to $500	Up to $1000
Failure to comply with procurement policies as required by program rule, policy or agreement	Up to $500	Up to $1000
Failure to comply with Section 3 requirements in accordance with program rule, policy or agreement	Up to $500	Up to $1000
Failure to comply with displacement policies as required by program rule, policy or agreement	Up to $500	Up to $1000
Failure to provide Tenant Income Certification and documentation	Up to $250 per violation	Up to $250 violation
Failure to collect data required by program rules, policies or agreements	Up to $50 per violation	Up to $100 Per violation
Failure to provide reports required program rules, policies or agreements, such as single audit certifications	Up to $250 per violation	Up to $1,000 per violation
Failure to provide required documentation or corrections to documentation	Up to $50 per day	Up to $150 per day
Failure to comply with defective mortgage loan policies per program rules, policies or agreements	Up to $50 per violation	Up to $100 Per violation
Development evicted or terminated the tenancy of a low-income tenant for other than good cause	Up to $500 per violation	Up to $1,000 per violation

Noncompliance Event	First time violation Administrative Penalty Up To	Repeat Violation
For tenant-based rental programs, Household income increased above 80 percent at recertification and Owner failed to properly determine rent	Up to $500 per violation	Up to $1,000 per violation
For tenant-based rental programs, gross rent exceeds the highest rent by program rule, policy or agreement	Up to $50 per unit per day	Up to $150 per unit per day
Failure to return or repay funds to the Department as required by rule, policy or agreements (such as contract termination, assessed penalties, disallowed costs, overpayment, Deobligation, or recapture)	Up to $50 per day	Up to $150 per day
Any other violation of Texas Government Code Chapter 2306 or rule or order adopted under chapter 2306	Up to $1,000 per violation per day	Up to $1,000 per violation per day
Failure to meet accessibility requirements	Up to $1,000 per violation	Up to $1,000 per violation
Noncompliance with applicable OMB or state financial management requirements	Up to $500	Up to $1000

§2.302 Penalty table for Community Affairs Program Violations.

Noncompliance Event	First time violation Administrative Penalty Up To	Repeat Violation
Lack of financial duties or material inventory segregation of duties	Up to $500	Up to $1,000
No Cost Allocation / Not Cost Allocating properly	Up to $500 for each instance	Up to $1,000 for each instance
Violation of Texas Public Information Act	Up to $1,000 for each instance + up to $100 for each day the entity failed to comply	Up to $1,000 for each instance + up to $200 for each day the entity failed to comply
Lack of Insurance or Fidelity Bond Coverage	Up to $1,000+ up to $100 a day for each day not in compliance	Up to $1,000 + up to $200 a day for each day not in compliance
Failure to submit Inventory Report within 45 days (end of contract period)	Up to $500	Up to $1000
Unallowable/Unreasonable expenditure	Up to $1,000 for each instance	Up to $1,000 for each instance

Noncompliance Event	First time violation Administrative Penalty Up To	Repeat Violation
Violation of Procurement Requirements	Up to $500~~1,000~~ for each service or product not procured	Up to $1,000 for each service or product not procured
Lack of Subcontractor contract	Up to $250 for each instance	Up to $500 for each instance
Lack of prior approval for purchase(s)	Up to $500 for each instance	Up to $1,000 for each instance
Instance of Fraud, Waste and/or Abuse	Up to $1,000	Up to $1,000
Comingling of funds, Misapplication of funds.	Up to $1,000	Up to $1,000
Failure to timely submit Audit Certification Form	Up to $250	Up to $1,000 per violation ~~$500 + up to $200 for each month not in compliance~~
Failure to timely submit Single Audit	Up to $1,000	Up to $1,000 + up to $100 for each day not in compliance
Lack of providing requested documentation/item(s) for monitoring	Up to $50~~0~~ per day for each item or documentation not provided	Up to $150~~$500~~ per day for each item or documentation not provided
Failure to timely respond to Report/ provide required correspondence	Up to $1,00~~0~~ for first violation	Up to $1,000 per day per violation ~~+ up to $100 for each day not in compliance~~
Failure to report/record program income	Up to $500 for each instance	Up to $1,000 for each instance
Noncompliance with record retention requirements	Up to $100~~$500~~ for each instance	Up to $1,000 for each instance
Providing assistance to income or SAVE ineligible applicants	Up to $500 for each instance	Up to $1,000 for each instance
Service provided to clients not according to poverty population makeup	Up to $500	Up to $1,000
Failure to meet Board of Director Requirements	Up to $1,000 + up to $100 for each day the entity failed to comply	Up to $1,000 + up to $250 for each day the entity failed to comply
Failure to comply with Department minimum applicant/client denials and appeals	Up to $250 for each instance	Up to $500 for each instance
Failure to Prioritize applicants	Up to $250 for each instance	Up to $500 for each instance
Lack of providing Assurance 16 activities	Up to $250 for each instance	Up to $500 for each instance

Noncompliance Event	First time violation Administrative Penalty Up To	Repeat Violation
Failure to complete or to properly complete required program documents.	Up to $250 for each instance	Up to $750 for each instance
Failure to complete or properly complete a process required by the 10 TAC, Part 1, Chapter 5.	Up to $250 for each instance	Up to $750 for each instance
Payment to Vendor without a Vendor Agreement	Up to $500 for each instance	Up to $1,000 for each instance
Failure to perform Outreach activities	Up to $500	Up to $1,000
Weatherized unit expenditure over maximum cost per unit w/o prior approval	Up to $500 for each instance	Up to $1,000 for each instance
Failure to input HHSP client data into the Homeless Management Information System	Up to $500 for each instance	Up to $1,000 for each instance
Other noncompliance with a contract requirement	Up to $1000	Up to $1000
Failure to comply with case management requirements	Up to $500	Up to $750
Noncompliance with Material Installation Standards Manual	Up to $500	Up to $750
Noncompliance with applicable OMB or state financial management requirements	Up to $500	Up to $1000
Noncompliance with Texas Prompt Payment Act	Up to $500	Up to $750
Noncompliance with Historical Commission requirements	Up to $500	Up to $750
Fair housing violations	Up to $100 per violation	Up to $200 per violation
Failure to comply with Limited English Proficiency ("LEP") policies in accordance with program rule, policy or agreement	Up to $500	Up to $1000
Failure to meet accessibility requirements	Up to $1,000 per violation	Up to $1,000 per violation

Subchapter D Debarment From Participation in Programs Administered by the Department

§2.401 General

(a) The ~~Department's Enforcement~~ Committee may debar a Responsible Party, a Consultant and/or a Vendor who has exhibited past failure to comply with any condition imposed by the Department in the administration of its programs. A Responsible Party, Consultant or Vendor is subject to ~~disbarment~~ debarment for, but not limited to the following:

(1) The Responsible Party has been placed on ~~full or partial~~ Modified ~~c~~Cost ~~r~~Reimbursement and failed to provide the Compliance Division with an acceptable plan to implement and adhere to procedures to ensure compliant operation of the program; or,

(2) The Responsible Party, Consultant or Vendor meets any of the ineligibility criteria referenced in §10.202(1) of the Department's Uniform Multifamily Rules, Title 10, Part 1, Chapter 10, Subchapter C, related to Ineligible Applicants ~~and Applications~~.

(3) Providing fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation or omission with regard to any documentation, certification or other representation made to the Department.

(b) Debarment of an E~~e~~ligible E~~e~~ntity under the CSBG Act, for CSBG funds, shall not take effect until and unless proceedings to terminate E~~e~~ligible E~~e~~ntity status have concluded and no right of appeal or review remains.

(c) The Department may ~~shall~~ debar any Responsible Party who has:

(1) Materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including a material or repeated violation of a land use restriction agreement (LURA) regarding a development supported with a housing tax credit allocation; or,

(2) Is debarred from participation in any program administered by the United States Government.

(d) Material violations of a LURA. In general LURAs entered into between Responsible parties and the Department require owners to maintain property in a manner that is suitable for occupancy and in accordance with State and Federal regulations. To determine compliance with this requirement, in accordance with Treasury Regulations, the Department uses the Uniform Physical Condition Standards protocol. A person will be considered to have materially violated a Land Use Restriction Agreement if they control a Development that has, on more than one occasion scored 50 or less on a UPCS inspection, transfers a Development without regard for a Right of First Refusal requirement, refused to allow a monitoring visit, or refuses to reduce rents to less than the highest allowed under the LURA.

(e) Repeated Violations of a LURA that shall be considered grounds for Debarment. A person shall be recommended for debarment if they control a Development that during two sequential monitoring visits are found to be out of compliance with the following events of noncompliance:

(1) No evidence of, or failure to certify to, material participation of a non-profit or HUB, if required by the Land Use Restriction Agreement;

(2) Development failed to meet additional state required rent and occupancy restrictions;

(3) Development failed to provide supportive services required by LURA;

(4) Development failed to provide housing to the elderly as promised at application;

(5) Utility allowance not properly calculated cited for failure to update or failure to request permission to switch methodologies or miscalculation causes overcharge of rents; or

(6) Owner failed to execute required lease provisions, including language required by §10.613 of this title (relating to Lease Requirements) or exclude prohibited language.

(f) Material or repeated violations of conditions imposed in connection with the administration of Programs administered by the Department. Single Family subrecipients~~Administrators~~, Contractors, multifamily applicants, and related parties shall be referred to the ~~Enforcement~~ Committee for consideration for sanctions or debarment for material or repeated violations including but not limited to:

(1) Excessive loan defaults in the first 12 months of the loan agreement;

(2) Taking "choice limiting" actions prior to receiving HUD environmental clearance (24 CFR §58.22);

(3) Disallowed costs that are not repaid;

(4) Substandard construction and repeated failure to conduct required inspections;

(5) Repeatedly participating in procurement violations if procurement rules apply;

(6) Davis Bacon Act Violations including but not limited to:

(A) Failure to pay restitution (underpayment of wages). *29 CFR §5.31.*

(B) Failure to pay liquidated damages (overtime violations). *29 CFR §5.8.*

(C) Repeated failure to pay full prevailing wage, including fringe benefits, for all hours worked. *29 CFR §5.31.*

(7) Uniform Relocation Act and §104(d) Violations including but not limited to:

(A) Repeated failure to provide the General Information Notice to tenants prior to application. *49 CFR §24.203, 24 CFR §92.353 and HUD Handbook 1378.*

(B) Repeated failure to provide all required information in the General Information Notice. *49 CFR §24.203, 24 CFR §92.353 and HUD Handbook 1378.*

(C)Repeated failure to provide the Notice of Eligibility and/or Notice of Non-displacement on or before the Initiation of Negotiations date. *49 CFR §24.203 and 24 CFR §92.353, Displacement.*

(D) Repeated failure to provide all required information in the Notice of Eligibility and/or Notice of Non-displacement. *49 CFR §24.203 and 24 CFR §92.353.*

(E) Repeated failure to provide 90 Day Notices to all "displaced" tenants and/or repeated failure to provide 30 Day Notices to all "non-displaced" tenants. *49 CFR §24.203 and 24 CFR §92.353.*

(F) Repeated failure to perform and document "decent, safe and sanitary" inspections of replacement housing. *49 CFR §24.203 and 24 CFR §92.353.*

(G) Failure to properly provide Uniform Relocation Act or 104(d) assistance. *49 CFR §24.203, 24 CFR §92.353 and Section 104(d) of the Housing & Community Development Act of 1974 – 24 CFR 42.*

(8) Repeated failure to serve income eligible households;

(9) Repeated failure to provide eligible match. *24 CFR §92.220 and 24 CFR §576.201*

(10) Repeated failure to report program income. *24 CFR §570.500, 24 CFR 576.407(c) and OMB A 110 Relocated to 2 CFR Part 215 (if applicable), Texas Administrative Code Title 10, Part 1, Ch. 20, Rule §20.9*

(11) Participating in activities leading to or giving the appearance of "Conflict of Interest". *OMB A-110 Relocated to 2 CFR Part 215 (if applicable), 24 CFRs §84.42, §92.356 (if applicable) Texas Administrative Code Title 10, Part 1, Ch. 20, Rule §20.9*

(12) Repeated material financial system deficiencies. 24 CFR Parts §84.21, *§84.43, §85.20, §85.22, §85.36, §92.205, §92.206, §92.350, §92.505, §92.508 (if applicable), OMB A-110 Relocated to 2 CFR Part 215 (if applicable), OMB A-87 Relocated to 2 CFR Part 225 (if applicable), OMB A-122 Relocated to 2 CFR Part 230 (if applicable), Texas Administrative Code Title 10, Part 1, Ch. 20, Rule §20.9 and Uniform Grant Management Standards (if applicable)*

(g) Material or repeated violations of conditions imposed in connection with the administration of Community Affairs Programs administered by the Department. Community Affairs subrecipients ~~Administrators~~, Contractors and related parties shall be referred to the ~~Enforcement~~ Committee for consideration for debarment for material or repeated violations including but not limited to:

(1) Instance of Fraud, Waste and/or Abuse;

(2) Comingling of funds, Misapplication of funds;

(3) Failure to timely submit a required Single Audit or other programmatic audit;

(4) Failure to provide~~Lack of providing~~ requested documentation/item(s) for monitoring;

(5) Failure to timely respond to Report/ provide required correspondence;

(6) Failure to reimburse excess cash on hand;

(7) Failure to reimburse disallowed expenditures and/or

(8) Failure to meet Board of Director Requirements.

(h) Before any ~~Responsible~~ Party is recommended for debarment that Party~~they~~ shall be given written notice of the matter, setting forth the facts and circumstances justifying debarment. That ~~The Responsible~~ Party shall then be offered the opportunity to attend an Informal Conference with the ~~Enforcement~~ Committee to discuss resolution of the matter and if they have not already been provided a ninety day corrective action period.

(i) An Informal Conference may result in:

(1) An agreement to dismiss the matter with no further action, which will then be reported to the Executive Director;

(2) An agreement to resolve the matter through corrective action without debarment which will then be reported to the Executive Director;

(3) An Agreed debarment which will then be reported to the Executive Director and presented to the Board for approval. A CSBG eligible entity that enters into an Agreed debarment must also voluntarily relinquish their eligible entity status;

(4) A recommendation by the Committee to the Executive Director for debarment; or

(5) Other action as the Committee deems appropriate.

(j) The ~~Enforcement~~ Committee's recommendation to the Executive Director regarding debarment shall include a recommended period of debarment. Recommended periods of debarment will be based on material factors such as repeated occurrences, seriousness of underlying issues, and presence or absence of corrective action, including corrective action to install new responsible persons and ensure they are qualified and properly trained. Recommended periods of debarment if based upon HUD debarment, shall be for the period of the remaining HUD debarment; or, if based upon criminal conviction, shall be up to ten (10) years or until fulfillment of all conditions of incarceration and/or probation, whichever is greater.

(k) The Executive Director shall accept, reject, or modify the debarment recommendation by the ~~Enforcement~~ Committee and shall provide written notice to the Responsible Party of his determination, and an explanation of his determination if different than the ~~Enforcement~~ Committee's recommendation, including the period of debarment, if any. Not later than the twentieth (20th) day after the date the Responsible Party receives the notice, the Responsible Party may appeal the debarment determination in writing to the Board.

(l) The debarment recommendation will be brought to the next Board meeting for which the matter can be properly posted. The Board reserves discretion to impose longer or shorter debarment periods than those recommended by staff based on its finding that such longer or shorter periods are appropriate when considering all factors and/or for the purposes of equity or other good cause. An action on a proposed debarment of an eligible entity under the CSBG Act will not become final until and unless proceeding to terminate eligible entity status have occurred, resulting in such termination and all rights of appeal or review have run or eligible entity status has been voluntarily relinquished.

(m) Any person who has been debarred is prohibited from participation in programs administered by the Department for the term of their debarment unless by its terms the order of debarment permits continuing activity in one or more specified programs. The Board will not consider modifying the terms of the debarment after the issuance of a final order of debarment.

The Board approved the final order adopting the repeal on October 9, 2014.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; §2306.0504, which authorizes the Department to debar persons; and §§2306.041 - 2306.050, which authorize the Department to assess administrative penalties.

Attachment B. Preamble and Adoption of the Repeal of 10 TAC, Chapter 1, §1.14 related to Administrative Penalties

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 1, §1.14, concerning Administrative Penalties. This rule is adopted for repeal in connection with the adoption of new 10 TAC Chapter 2, Enforcement, which is published concurrently in this issue of the *Texas Register*.

REASONED JUSTIFICATION FOR THE REPEAL OF THE RULE. The repeal of Chapter 1, §1.14, concerning Administrative Penalties, provides for the removal of one of three separate rules that have related to Administrative Penalties, Sanctions and Project Close Out, and Chapter 60 Administrative Penalties, which jointly allow for the concurrent consolidation of those subject matters into one uniform rule in Chapter 2, which will relate to overall Department administration and is being adopted in this same posting of the *Texas Register*.

SUMMARY OF PUBLIC COMMENTS AND STAFF RECOMMENDATIONS. No public comments were received relating to the repeal of this rule.

The Board approved the final order adopting the repeal on October 9, 2014.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; §2306.0504, which authorizes the Department to debar persons; and §§2306.041 - 2306.050, which authorize the Department to assess administrative penalties.

Attachment C. Preamble and Adoption of the Repeal of 10 TAC, Chapter 5, §5.17 related to Sanctions and Contract Close Out

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 5, §5.17, concerning Sanctions and Contract Close Out. This rule is adopted for repeal in connection with the adoption of new 10 TAC Chapter 2, Enforcement, which is published concurrently in this issue of the *Texas Register.*

REASONED JUSTIFICATION FOR THE REPEAL OF THE RULE. The repeal of Chapter 5, §5.17, concerning Sanctions and Contract Close Out, provides for the removal of one of three separate rules that have related to Administrative Penalties, Sanctions and Project Close Out, and Chapter 60 Administrative Penalties, which jointly allow for the concurrent consolidation of those subject matters into one uniform rule in Chapter 2, which will relate to overall Department administration and is being adopted in this same posting of the *Texas Register*.

SUMMARY OF PUBLIC COMMENTS AND STAFF RECOMMENDATIONS. No public comments were received relating to the repeal of this rule.

The Board approved the final order adopting the repeal on October 9, 2014.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; §2306.0504, which authorizes the Department to debar persons; and §§2306.041 - 2306.050, which authorize the Department to assess administrative penalties.

Attachment D. The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 60, §§60.307 - 60.309, concerning Administrative Penalties. This rule is being repealed in connection with the adoption of new 10 TAC Chapter 2, Enforcement, which is published concurrently in this issue of the *Texas Register.*

REASONED JUSTIFICATION FOR THE REPEAL OF THE RULE. The repeal of Chapter 60, §§60.307 - 60.309, concerning Administrative Penalties, provides for the removal of one of three separate rules that have related to Administrative Penalties, Sanctions and Project Close Out, and Chapter 60 Administrative Penalties, which jointly allow for the concurrent consolidation of those subject matters into one uniform rule in Chapter 2, which will relate to overall Department administration and is being adopted in this same posting of the *Texas Register*.

SUMMARY OF PUBLIC COMMENTS AND STAFF RECOMMENDATIONS. No public comments were received relating to the repeal of this rule.

The Board approved the final order adopting the repeal on October 9, 2014.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; §2306.0504, which authorizes the Department to debar persons; and §§2306.041 - 2306.050, which authorize the Department to assess administrative penalties.

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BOARD ACTION REQUEST

COMPLIANCE DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action on proposed amendments to 10 TAC §1.5 concerning Previous Participation Reviews and directing its publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, on November 28, 2013, significant amendments to the Department's Previous Participation Rule were adopted eliminating the material noncompliance methodology and designating the Executive Award Review Advisory Committee ("EARAC") to receive reports and evaluate an applicant's compliance history;

WHEREAS, subsequent revisions to the Rule were adopted in June 2014;

WHEREAS, EARAC has been operating under this new rule for ten months and has identified certain noncompliance events that do not bear on an applicant's ability to perform in a compliant manner in the future;

WHEREAS, it has been determined that there is a procedural issue with the current rule regarding the appeal process; and

WHEREAS, the administration of this Rule throughout 2014 has resulted in the identification by staff and by program recipients of factors that, if changed, can make the process more transparent, effective and administratively efficient;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them are hereby authorized, empowered and directed, for and on behalf of the Department, to publish proposed amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures concerning Previous Participation, in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The new Previous Participation rule was adopted November 28, 2013. The rule, in order to conform to amendments to Tex. Gov't Code Chapter 2306, was amended to eliminate the material noncompliance methodology that the Department had used for approximately 10 years. It designated EARAC to receive reports from the Asset Management, Financial Services, and Compliance Divisions regarding an applicants' compliance history and consider those matters in making award recommendations. These proposed amendments focus mainly on possible changes to the reports provided to EARAC from the

Compliance Division, seeking to focus items of concern to EARAC and dispel unwarranted fears regarding the operation of EARAC.

Due to statutory requirements, the reports provided by the Compliance Division do not contain any issues of noncompliance for which the corrective action period has not yet ended. Neither do those reports contain any issues of noncompliance that were corrected (and documented as corrected) during the corrective action period. All other noncompliance is reported to EARAC. After reviewing reports for 10 months, EARAC has on multiple occasions been presented with information regarding certain events of noncompliance and each time has found that those events of noncompliance were not indicative that an owner would be likely to have difficulty in maintaining compliance on future transactions.

Those events included situations where there have been 5 or fewer Uniform Physical Condition Standards ("UPCS") deficiencies that were corrected at the time of the previous participation review, but had not been corrected during the corrective action period. For example, suppose a property was inspected and 45 individual deficiencies were noted (*e.g*. rotting trim, erosion, missing smoke detectors, etc.). During the 90 day corrective action period repairs were made and a response was submitted. However, two work orders were inadvertently left out of the corrective action submission or a couple of items were missed when doing the repairs. EARAC has been presented with this or a similar fact pattern several times, and each time it found the noncompliance inconsequential in relation to the award being contemplated. Therefore, staff is recommending an amendment to the rule to eliminate future reporting and consideration of this type of noncompliance.

By far, the most common event of noncompliance that EARAC has been presented with thus far is related to the requirement to present households with a Fair Housing Disclosure Notice prior to move in. The proposed amendments to this rule suggest that under certain circumstances this noncompliance should also be disregarded when evaluating an applicant's compliance history. Staff is recommending that noncompliance with the Fair Housing Disclosure Notice not be taken into consideration if all the following criteria are met: 1) the owner responded during the corrective action, 2) the date of noncompliance is within the first (6) months of calendar year 2013 and 3) the noncompliance cannot be corrected at the time of the Previous Participation Review.

The rule also provides for a method and frequency for how previous participation is reviewed. Depending on the program in question, its method of funding delivery, its frequency of requesting funds and amendments, and the type of administrators receiving the funds, varying aspects of the rule were more challenging for subrecipients and more onerous and inefficient for staff. After several months of utilizing the current rule, it has become evident that for staff and program recipients changes to the rule would provide for a more transparent, effective, and administratively efficient and less burdensome process.

Lastly, staff is recommending amendments to the process to be used in the event that EARAC does not make a favorable recommendation. The current rule provides an appeal to the Executive Director. However, TEX GOV'T CODE §2306.1112 requires award recommendations to the Board be made by EARAC.

Other minor "clean-up" amendments to the rule are also proposed.

Attachment 1. Preamble, amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.5 Previous Participation

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.5, concerning Previous Participation. The proposed amendments eliminate discrete instances of noncompliance that will not be taken into consideration when reviewing an applicant's compliance history. Those events include situations where five or fewer Uniform Physical Condition Standards ("UPCS") deficiencies are now corrected but were not corrected during the corrective action period and noncompliance with the requirement to provide the Fair Housing Disclosure notice if the date of noncompliance is within the first 6 months of calendar year 2013, the owner responded during the corrective action period and the issue cannot be corrected. In addition, the amendment eliminates the ability to appeal to the Executive Director and makes other changes that promote more effective administration of the review process.

The rule also provides for a method and frequency by which previous participation is reviewed for formula funded programs.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amendment does not have any foreseeable changes related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated, as a result of the amendment, will be improved efficiency in reviewing an applicant's compliance history. There will not be any additional economic cost to any individuals required to comply with the amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 24, 2014, through November 24, 2014, to receive input on the amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Patricia Murphy, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-3359. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. November 24, 2014.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendments affect no other code, article, or statute.

§1.5.Previous Participation.

(a) The governing board ("Board") of the Texas Department of Housing and Community Affairs (the "Department") designates the Executive Award and Review Advisory Committee ("EARAC"), established pursuant to Texas Government Code, §2306.1112, to receive reports regarding the compliance history of an applicant seeking approval to own an existing affordable housing Development assisted by the Department and applicants or proposed awardees (including any affiliates as defined by §10.3 of this title (relating to Definitions) of any such applicant) -seeking financial assistance or awards from the Department ~~and any affiliate as defined by §10.3 of this title (relating to Definitions) of any such applicant~~ and provide to the Board the assessment contemplated in Texas Government Code, §2306.057 in order that this Board may consider the compliance history and make and document its award decisions with full knowledge of these matters. For the purposes of previous participation reviews, applicants and affiliates of an applicant do not include:

(1) Individual elected officials affiliated with an application or proposed awardee from a city, county, or local government unless they are a signatory on the contract with the Department;

(2) Individual members of a 501(c)(3) nonprofit Board unless they are the Executive Director, Chair of the Audit Committee, Board Chair, or person who executes the contract on behalf of the applicant. However, if it is determined that any member of the Board of the nonprofit is on the Department's or a federal agency's debarred list, the request for assistance will be terminated. If within the five (5) business day period referenced in subsection (f) of this section, the individual with reportable history of noncompliance resigns from the Board of the nonprofit, the noncompliance will not be taken into consideration.

(b) The executive director of the Department shall designate the membership of EARAC, and the makeup of EARAC shall include, at a minimum, those members required by Texas Government Code, §2306.1112.

(c) For any application for financial assistance or awards, entities must complete the Department's Uniform Previous Participation Review Form. EARAC will not consider or recommend approval to the Board if the entity fails to complete the form or respond to staff inquires regarding apparent errors or omissions. In addition to any application-specific considerations, including but not limited to threshold evaluation, selection scoring criteria, and underwriting, EARAC shall receive ~~the applicant's previous participation disclosure and~~ the following reports regarding the applicant and each affiliate of the applicant or proposed awardee from the division(s) responsible for monitoring for compliance or administering such matters:

(1) A report of any instance(s) of noncompliance that remain uncorrected and for which the applicable period for corrective action has expired with the exception of instances of noncompliance related to the Fair Housing Disclosure Notice that meet the following criteria:

(A) The date of noncompliance was -within the first (6) months of calendar year 2013;

(B) The noncompliance was not correctable at the time of the Previous Participation Review; and

(C) The owner responded during the corrective action period.-Provided, however, that if an applicant has a significant, pervasive, and ongoing failure to make a good faith attempt at compliance, the Department may consider that as a basis for debarment.

(2) A report of any instance(s) of noncompliance that have been corrected within the last three (3) years~~,~~ but ~~that were~~ not corrected within the ~~applicable~~ initial period for corrective action, including any extensions granted by the Department for good cause, with the exception of:

(A) Uniform Physical Condition Standards violations, provided that a response was submitted during the corrective action period, and the initial response cured substantially all of the deficiencies. For purposes of this paragraph, "substantially all" means that no more than five (5) UPCS deficiencies remained uncorrected at the end of the corrective action period; and

(B) Matters that EARAC has considered for the same type of award during a prior previous participation review and resulted in an affirmative recommendation to the Board with no conditions.; and

(3) If the applicant or any affiliate of the applicant is subject to the requirement of an annual single audit:

(A) A report of any required single audit or single audit certification form that is currently past due; and

(B) If such single audit has been submitted and the most recent single audit report contained findings, a copy of that single audit.

(4) It is the policy of the Board to encourage owners and managers to implement effective property management plans that assure the ongoing compliance of housing developments that are subject to Department monitoring regardless of the initial condition of the property upon transfer to the new owner. Nothing in this rule shall be construed as approving or condoning the existence of ongoing violations, even if subsequently corrected, for the purposes of initiating debarment or assessing administrative penalties, in accordance with the Enforcement Rule, as amended.

(d) From the division(s) responsible for the receipt and application of payments on loans held by the Department and the receipt of fees associated with multifamily bond developments or housing tax credit developments or administering such matters, EARAC shall receive the following reports regarding the applicant and each affiliate of the applicant:

(1) A report of any payment of principal or interest to the Department that is past due beyond any grace period provided for in the applicable loan documents;

(2) A report of any failure to provide evidence of or maintain any required insurance on any collateral for any loan held by the Department;

(3) A report of any failure to pay property taxes or provide evidence of the payment of property taxes on any collateral for any loan held by the Department unless either provision has been made for such payment or the Department has been provided satisfactory evidence of a tax exemption; and

(4) A report of any ~~past due~~ fees that were invoiced over 60 days prior to the date of the report and for which payment has not yet been received. ~~.~~

(e) Where a report is to be provided, pursuant to subsection (c) or (d) of this section, the Director of the Asset Management Division shall prepare a report documenting any known current or ongoing concerns regarding the applicant or any affiliate of the applicant to financially or operationally manage one or more affordable rental properties assisted by the Department in a manner to keep the development sanitary, decent, and safe, which may include but not be limited to:

(1) The establishment and maintenance of appropriate reserves;
(2) Identification of the development's capacity to meet financial obligations consistent with the minimum ratios to meet underwriting feasibility for the long term;
(3) Requests for material modifications or amendments;
(4) Any financing known to be in a workout status; and
(5) Delays in issuance of IRS Form(s) 8609 which are within the control of the owner.

(f) If an issue is identified during a review, prior to EARAC notification, the applicant or proposed awardee will be provided a five (5) business day period to submit evidence in response to the issue(s) identified. Extensions can be granted for good cause if they are requested during the five (5) day period and still provides for sufficient time for EARAC to meet and review the response prior to the date of the contemplated Board action. Failure to respond during the five business day period may result in delay in submission of recommendations to the Board or a recommendation of denial.

(g~~f~~) EARAC shall review the reports provided, along with the response provided by the applicant or proposed awardee, and determine whether and the extent to which matters set forth in the report bear on the applicant's or affiliate's ability to perform, in a compliant manner, with regard to funding and allocation decisions by the Board. While EARAC may review and analyze the information provided, EARAC does not function as an appeal panel and does not affirm or overturn findings in division reports. However, EARAC may return the matter to the respective division, as time permits, for further review, information, and development.

(h) If EARAC determines that the matters set forth in the report do not bear on the applicant’s or proposed awardee’s ability or willingness to perform in a compliant manner on the activity being considered, provided that all other applicable criteria are met, EARAC will disclose to the Board that a report was made but that approval is recommended.

(i) If EARAC determines that the matters set forth in the report bear on the applicant’s or proposed awardee’s ability or willingness to perform in a compliant manner on the activity being considered, EARAC may only recommend approval provided that the identification of issue(s) identified under subsection (c), (d) or (e) of this section is disclosed to the Board and EARAC determines that a recommendation of approval is warranted because:

(A) The award will not present undue increased program risk or financial risk to the Department or the state; and
(B) The applicant or proposed awardee has taken reasonable measures within it power to remedy the issue and/or the cause for the noncompliance.

(j) If EARAC determines that the matters set forth in the report bear on the applicant's or proposed awardee's ability or willingness -to perform the activity being considered in a compliant manner but is not able to determine that all of the criteria listed in subsections (A) and (B) of subsection (i) of this section have been met, EARAC must recommend denial.

(k) For all applications or awarding of funds, EARAC will take such actions deemed reasonable and necessary to make full, accurate, informed recommendations to the Board regarding funding and allocation decisions, and may recommend conditions placed on awards in relation to issues identified during the Previous Participation Review or the underwriting report.

~~(g) If an issue is identified during a review, prior to EARAC notification, the applicant will be provided a five (5) business day period to submit evidence to resolve and comment upon the issue(s) identified.~~

(l~~h~~) Requests for funding and allocation assistance that involve disqualification or termination required by operation of law, such as an applicant who has been disbarred, will not be brought before EARAC, and such matters will be handled or terminated at the program level, subject to any applicable appeals process.

~~(i) For each application EARAC shall either:~~

~~(1) Recommend approval;~~

~~(2) Recommend denial, accompanied by an assessment of all reports received and setting out the factual basis for the denial recommendation;~~

~~(3) Recommend approval but disclose that one or more issues under subsection (c), (d) or (e) of this section, have been reported, but after consideration of relevant material facts, and circumstances it has been determined that denial is not warranted because:~~

~~(A) It is in the best interests of the state to proceed with the award;~~

~~(B) The award will not present undue increased program risk or financial risk to the Department or the state;~~

~~(C) The applicant is not acting in bad faith; and~~

~~(D) The applicant has taken reasonable measures within it power to remedy the issue; or~~

~~(4) Take such other action as deemed reasonable and necessary to make full, accurate, and informative recommendations to the Board regarding funding and allocation decisions, including recommendations with conditions.~~

(m~~j~~) EARAC is designated to review and shall follow the same procedure prior to approval of an entity as a reservation system participant and for assessing the compliance history of a proposed transferee (other than an affiliate of the current owner) when they seek approval to acquire an ownership interest in an affordable rental property assisted by the Department.

(n~~k~~) An applicant, proposed awardee or any affiliate of an applicant who is not recommended for assistance based upon EARAC's review of their compliance history will be notified in writing. Such entity will have three (3) business days to propose conditions that could mitigate the issues identified during the Previous Participation Review and address EARAC's concerns. If an entity chooses to do this, EARAC will reconsider and may recommend approval with conditions or may affirm their original decision. If EARAC does not recommend approval, an entity may appeal EARAC's determination in accordance with ~~§1.7 and~~ §1.8 of this chapter (relating to ~~Staff Appeals Process and~~ Board Appeals Process).

(o) Formula Funded Awards. In general, the Department administers the Community Services Block Grant Program ("CSBG"), the Low Income Home Energy Assistance Program ("LIHEAP"), and the Weatherization Assistance Program ("WAP") through an established network of subrecipient providers. For these subrecipients a previous participation review for this group of awards will be conducted once per calendar year. The required previous participation review form referenced in subsection (c) of this section must be submitted to the Compliance Division no earlier than June 15th and no later than July 1st of each year. Any conditions recommended by EARAC will be incorporated into the next contract(s) entered into between the Department and the subrecipient for the activity being considered. In the event that EARAC does not recommend CSBG funding to a CSBG eligible entity the Department will simultaneously initiate proceedings under the due process requirements of CSBG to terminate the eligible entity status and may take other actions regarding funds available under current contracts.

1h

BOARD ACTION REQUEST

TEXAS HOMEOWNERSHIP DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action adopting Resolution No. 15-002 authorizing programmatic changes to the To Be Announced ("TBA") Single Family Taxable Mortgage Program ("TMP-79").

RECOMMENDED ACTION

See attached resolution.

BACKGROUND

The Department is statutorily charged with providing assistance to first time homebuyers of low to moderate income. In that regard the Department has specific state and federal authority to access an array of tools including bond issuance, loan origination issuance, and ability to access tax exempt bond cap for conversion to Mortgage Credit Certificates ("MCCs"). Over the years these tools have been utilized in a variety of programs to ensure that the Department was offering products that were the most responsive to the needs of Texans in ensuring that stable home ownership activities were promoted in a manner that would support broad-based economic and business development at the local level. Having a work force that is invested in its local community through home ownership is a powerful tool.

Over the years the Department has responded to Texans' needs under ever changing market conditions. When the Department issues single family bond indebtedness it utilizes a strategy known as an "open", or "master" indenture which is then amended for each individual issuance. The assets issued under a master indenture provide security for bond holders. As these indentures grow in size and strength they help the Department to maintain strong bond ratings (which favorably impacts pricing and also reduces certain types of exposure). They also result in very stable and predictable long term cash flows, including fee income which helps to support the Department's operations rather than having it seek general revenue or other funding sources.

The market conditions for issuing bonds to finance single family home loans have not been favorable in recent years, and to provide ongoing assistance to low income homeowners, the Department has turned to use of a private sector mortgage banking model which utilizes a warehouse lender to finance origination of loans which are in turn securitized. This program is what the market calls a "TBA" product, to be announced, because its central feature is issuance of commitments in lots or groupings, in which the terms of origination and purchases are announced at a specific date and the ultimate purchaser commits to buy loans originated on those general terms at that specified date.

One of the hallmark characteristics of TBA products is that they are one of a whole menu of loan options that mortgage loan originators can select and offer to their clientele. Those originators seek to find products that are most advantageous to their clientele, provide for ease of administration, and generate attractive compensation. In order for the Department to engage in meeting its statutory charge using such products, the Department must ensure that its offerings are responsive to originator's criteria.

Working with its TBA provider, First Southwest, the Department has developed several suggestions for program improvements for our TBA products which will help to make them responsive to ever-changing market needs, yielding mortgages that will be better received and as a result better serve low and moderate income Texas households. In addition, the proposed changes are geared to allow the program to continue to support Department operations at an acceptable level and to optimize product characteristics that do not compete with the private sector.

The Department's current TBA Program, Taxable Mortgage Program ("TMP-79") was released in October 2012. Through the end of August 2014, 3,046 households were able to be assisted with loans totaling $407 million. When the program was initially released, it was envisioned that it would be temporary in nature serving only until the bond market corrected itself. To date, this market change has not occurred and it is still too early to tell when the bond market may provide an economic advantage over the TBA market. As the program approaches its two year anniversary, the Department is evaluating the program to look at ways it can be enhanced and "brought up to date" so that it can continue to be attractive to first time homebuyers and allow ease of administration for our participating lender network.

Although not funded through the sale of tax exempt Mortgage Revenue Bond ("MRB") proceeds and not subject to certain Internal Revenue Code requirements, Department staff has maintained many requirements associated with a bond generated mortgage so that if the bond market returned, the Department could minimize the potential for confusion on households as their participating lenders transition back to a MRB funded program. As a result, the first time homebuyer, income/purchase price limit requirements and IRS bond income calculations were maintained. In other words, most of the program requirements have continued to mirror those of a MRB funded program.

Origination points in relation to down payment assistance ("DPA") is one of the areas that has been historically consistent but is rapidly evolving in the marketplace. The program currently allows participating lenders to charge two (2) origination points to a borrower to originate a mortgage loan under the program and lenders are paid a Servicing Release Premium ("SRP") of .75% when the loan is purchased by our program Servicer – US Bank. Mortgage loans originated under TMP-79 also provide funding (5% of the mortgage amount) for DPA. The assistance is made available in the form of a non-amortizing, 0% interest, 2nd lien. Therefore, borrowers net 3% to apply towards their down payment requirement. Federal Housing Administration ("FHA") loans, the most popular loan type, require a minimum of 3.5% down payment plus funds for closing costs. As a result, some borrowers have difficulty bridging the 0.5% gap with their own funds if using the Department's program and bringing their own closing costs to the closing table. Staff is proposing to maintain the same level of DPA but seeking to provide a greater potential range of net assistance to apply toward a homebuyer's down payment.

To provide the Department with flexibility to meet demands in the market and serve a wider variety of borrower's financial needs, staff is recommending the following:

- Authority to provide the Executive Director the ability to offer competitive rates in the market with various net assistance options from 3% to the full 5%, and for the Executive Director to have authority to delegate to staff, with or without conditions, to carry out such matters. Just as the interest rate for an unassisted (no DPA) loan is lower than the rate on an assisted loan, the rate for a net 5% assistance loan would be slightly higher than the rate for a loan with the current net 3% assistance.

- Authority to provide the Executive Director with the flexibility to offer a range of point options for loan origination ranging from 0% to 2% and for the Executive Director to have authority to delegate to staff, with or without conditions, to carry out such matters. The Department would be able to offer borrowers options that combine fewer points up front with higher net assistance but receive slightly higher mortgage interest rates (.50 bps in interest rate is currently anticipated to be the spread for a 0 origination points net 5% assistance option as compared to the Department's current only option of 2 origination points net 3% assistance option). Total lender compensation remains the same (2.75%) since the SRP is increased as the upfront points are reduced. This is achievable since the MBSs sold into the market place bring higher pricing for higher interest rates but the same pricing regardless of the structure of assistance or origination. The combinations of origination points and net assistance offered will be managed by the Department's production staff to address the demands of the market and provide options that might not otherwise be available in order to serve households that might not otherwise be able to find the best options from their particular financial situation.

- To further enhance ease of administration for our participating lender network, staff is recommending a change in the method of income calculation from our current use of the IRS MRB income qualification process to credit qualifying income as reflected on the standard mortgage application (form 1003), the process that more closely mirrors the mortgage industry standard. Credit qualifying income is reoccurring income that is widely used in the industry to determine if a borrower can repay their mortgage loan. Since lender underwriters must certify a borrower's compliance with TDHCA's program requirements, it is much easier and less onerous for them to utilize credit qualifying (1003) income. Although we are proposing a change to the method of income calculation, Department staff is proposing to maintain its existing HUD approved program income and purchase price limit requirements.

Staff is seeking Board authority to continue to manage its TBA products in a manner which is constantly evolving to address current needs, thus helping to ensure that these products are meeting the criteria of the market while remaining true to the statutory charge and providing options like repayable down payment assistance not otherwise available in the private sector. Staff will continue to evaluate opportunities and seek authority for additional flexibility to the program structure as appropriate and as the market continues to evolve.

RESOLUTION NO. 15-002

RESOLUTION APPROVING AMENDMENTS TO PROGRAM DOCUMENTS FOR TAXABLE MORTGAGE PURCHASE PROGRAM; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS RELATING TO THE FOREGOING; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the "Act"), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department (a) to purchase notes and other obligations evidencing loans or interests in loans for individuals and families of low and very low income and families of moderate income and (b) to sell, at public or private sale, with or without public bidding, a mortgage or other obligation held by the Department; and

WHEREAS, pursuant to Resolution No. 13-003 adopted September 6, 2012, the Governing Board approved: (1) a taxable mortgage purchase program (the "Program") to fund all or a portion of the Department's single family loan production, (2) the Master Mortgage Origination Agreement (the "Master Mortgage Origination Agreement") for the Department's single family mortgage purchase programs, (3) the Servicing Agreement between the Department and U.S. Bank National Association (the "Servicer"), and (4) Program Guidelines setting forth the general terms of the Program (the "Program Guidelines" and collectively with the Master Mortgage Origination Agreement and the Servicing Agreement, the "Program Documents"); and

WHEREAS, pursuant to Resolution No. 13-038 adopted on June 13, 2013, the Governing Board approved (1) the First Amendment to Master Mortgage Origination Agreement (the "First Amendment to Master Mortgage Origination Agreement") for the Department's single family mortgage purchase programs and (2) the First Amendment to Servicing Agreement between the Department and the Servicer (the "First Amendment to Servicing Agreement") to conform to the requirements of HUD Mortgagee Letter 2013-14 relating to requirements for secondary financing provided by a state government; and

WHEREAS, pursuant to Resolution No. 14-008 adopted on December 12, 2013, the Governing Board authorized modification of the Program Documents to the extent necessary to comply with rules of the Consumer Financial Protection Bureau and the Department of Housing and Urban Development and proposed federal regulations under the Dodd-Frank Act with respect to qualified mortgages and the limit on points and fees that can be charged for such mortgages; and

WHEREAS, pursuant to Resolution No. 14-020 adopted on April 10, 2014, the Governing Board approved the Second Amendment to Servicing Agreement (the "Second Amendment to Servicing Agreement") amending certain fees paid to the Servicer under the Program; and

WHEREAS, pursuant to Resolution No. 14-034 adopted on June 5, 2014, the Governing Board approved the Third Amendment to Servicing Agreement (the "Third Amendment to Servicing Agreement") amending the amount of funding fees for mortgage loans purchased under the Program; and

WHEREAS, the Governing Board desires to amend the Program Documents in order to modify the origination fee and servicing release premium paid in connection with mortgage loans and make other changes under the Program to address current market conditions; and

WHEREAS, the Governing Board desires to approve amendment of the Program Guidelines in substantially the form attached hereto (the "Amended Program Guidelines"); and

WHEREAS, the Governing Board also desires to authorize the execution and delivery of a Fourth Amendment to Servicing Agreement between the Department and the Servicer, in substantially the form attached hereto (the "Fourth Amendment to Servicing Agreement"), and a Second Amendment to Master Mortgage Origination Agreement among the Department, the Servicer and the mortgage lenders, in substantially the form attached hereto (the "Second Amendment to Master Mortgage Origination Agreement");

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval of Amended Program Guidelines. The form and substance of the Amended Program Guidelines are hereby approved.

Section 1.2 Approval of Fourth Amendment to Servicing Agreement. The form and substance of the Fourth Amendment to Servicing Agreement are hereby approved and the Authorized Representatives of the Department named in this Resolution each are hereby authorized to execute the Fourth Amendment to Servicing Agreement and to deliver the Fourth Amendment to Servicing Agreement to the Servicer.

Section 1.3 Approval, Execution and Delivery of Second Amendment to Master Mortgage Origination Agreement. The form and substance of the Second Amendment to Master Mortgage Origination Agreement are hereby approved and the Authorized Representatives each are hereby authorized to execute the Second Amendment to Master Mortgage Origination Agreement and to deliver the Second Amendment to Master Mortgage Origination Agreement to the Servicer and the mortgage lenders.

Section 1.4 Execution and Delivery of Other Documents. The Authorized Representatives each are hereby authorized to execute and deliver all agreements, certificates, contracts, documents, instruments, releases, financing statements, letters, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.5 Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.6 Exhibits Incorporated Herein. All of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

Exhibit A	-	Amended Program Guidelines
Exhibit B	-	Fourth Amendment to Servicing Agreement
Exhibit C	-	Second Amendment to Master Mortgage Origination Agreement

Section 1.7 Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, the Deputy Executive Director

of Multifamily Finance and Fair Housing of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Director of Multifamily Finance of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

(EXECUTION PAGE FOLLOWS)

PASSED AND APPROVED this 9th day of October, 2014.

____
Chair, Governing Board

ATTEST:

____
Secretary to the Governing Board

(SEAL)

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BOARD ACTION REQUEST

BOND FINANCE DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action adopting Resolution No. 15-003 authorizing application to the Texas Bond Review Board for reservation of private activity bond authority from the existing single family set aside.

RECOMMENDED ACTION

See attached resolution

BACKGROUND

Federal law limits the amount of tax-exempt financing for certain private activities including single family housing bonds or mortgage credit certificate ("MCC") programs by allocating a limited amount of volume cap to each state. The Texas Bond Review Board ("BRB") administers the use of that volume cap for the State of Texas. Each year, some of these funds are unutilized and carried forward. Staff is requesting authorization to file an application to the BRB to reserve bond authority in an amount not-to-exceed $399,586,213 from existing carry-forward single family private activity bond authority. The requested volume cap will be combined with $400 million of 2014 private activity bond authority approved at the July 31, 2014, Board Meeting and be available for use in MCC Program 83 or for a future bond issuance.

For each new TDHCA MCC program (or single family bond issuance), the Governing Board of the Department starts the process by approving a resolution and filing an application for volume cap with the Texas Bond Review Board. Staff is not requesting final approval of a MCC program for 2015. Staff will return to the Board at a later date with a final structure and program documents for the Board's review and consideration.

RESOLUTION NO. 15-003

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR RESERVATION WITH THE TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended from time to time (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, Section 103 and Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"), provide that the interest on obligations issued by or on behalf of a state or a political subdivision thereof the proceeds of which are to be used to finance owner-occupied residences will be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 143 of the Code; and

WHEREAS, Section 146(a) of the Code requires that certain "private activity bonds" (as defined in Section 141(a) of the Code) must come within the issuing authority's private activity bond limit for the applicable calendar year in order to be treated as obligations the interest on which is excludable from the gross income of the holders thereof for federal income tax purposes; and

WHEREAS, the private activity bond "State ceiling" (as defined in Section 146(d) of the Code) applicable to the State is subject to allocation, in the manner authorized by Section 146(e) of the Code, pursuant to Chapter 1372, Texas Government Code, as amended (the "Allocation Act"); and

WHEREAS, the Allocation Act requires the Department, in order to reserve a portion of the State ceiling for qualified mortgage bonds (the "Reservation") and satisfy the requirements of Section 146(a) of the Code, to file an application for reservation (the "Application for Reservation") with the Texas Bond Review Board (the "Bond Review Board"), stating the maximum amount of the bonds requiring an allocation, the purpose of the bonds and the section of the Code applicable to the bonds; and

WHEREAS, the Allocation Act and the rules promulgated thereunder by the Bond Review Board (the "Allocation Rules") require that the Application for Reservation be accompanied by a certified copy of the resolution of the issuer authorizing the filing of the Application for Reservation; and

WHEREAS, the Governing Board has determined to authorize the filing of an Application for Reservation in the maximum amount of $399,586,213 with respect to qualified mortgage bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

ARTICLE 1

APPLICATION FOR RESERVATION

Section 1.1 Application for Reservation. The Governing Board hereby authorizes Bracewell & Giuliani LLP, as Bond Counsel to the Department, to file on its behalf with the Bond Review Board an Application for Reservation in the maximum aggregate amount of $399,586,213 with respect to qualified mortgage bonds, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of the Reservation. The Governing Board further authorizes the filing of a carry-forward designation request with respect to such Reservation.

Section 1.2 Authorization of Certain Actions. The Governing Board authorizes the Executive Director, the staff of the Department, as designated by the Executive Director, and Bond Counsel to take such actions on its behalf as may be necessary to carry out the actions authorized in Section 1.1.

Section 1.3 Mortgage Credit Certificate Authority. The Department reserves the right, upon receipt of a Reservation, to convert all or any part of its authority to issue qualified mortgage bonds to mortgage credit certificates.

Section 1.4 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, the Deputy Executive Director of Multifamily Finance and Fair Housing of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Director of Multifamily Finance of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Execution page follows

PASSED AND APPROVED this 9th day of October, 2014.

____
Chair, Governing Board

ATTEST:

____
Secretary to the Governing Board

(SEAL)

1j

BOARD ACTION REQUEST

HOME PROGRAM DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action to authorize the issuance of an Amendment to the 2014 HOME Single Family Programs Reservation System Notice of Funding Availability ("NOFA") and publication of the amended NOFA in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs ("TDHCA" or "the Department") published the 2014 HOME Single Family Programs Reservation System in the *Texas Register* on August 15, 2014, making available approximately $8,630,407 for HOME Program single family activities beginning on September 9, 2014;

WHEREAS, the Department experienced a system validation error in its reservation system that accepted fund reservation requests significantly in excess of the sub-regional funding limits established by the regional allocation formula ("RAF") process, as reflected in the NOFA;

WHEREAS, the Department desires to amend the 2014 HOME Single Family Programs Reservation System NOFA in an effort to serve households impacted by the system error; and

WHEREAS, the Department has HOME funds available in an amount that is comparable to the amount of accepted reservation requests received on September 9, 2014, as recommended by staff in excess of the sub-regional and regional limits, and these funds can fund the excess reservations;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to publish an amended 2014 HOME Single Family Programs Reservation NOFA in the *Texas Register,* reflecting the changes presented to this meeting.

BACKGROUND

The U. S. Department of Housing and Urban Development's ("HUD") State of Texas 2014 allocation to TDHCA for the HOME Program is $24,483,424. TDHCA has programmed the funds for various uses in accordance with the HUD- approved 2014 Consolidated Plan One-Year Action Plan ("OYAP"). Staff released a HOME Single Family Programs Reservation System NOFA that includes $8,630,407 of the 2014 HOME allocation including mandatory set asides. This proposed amendment adds $4,000,000 to the NOFA, for a total of $12,630,407 available to single family HOME Program Reservation System Administrators for Homeowner Rehabilitation Assistance ("HRA"), Homebuyer Assistance ("HBA"), and Tenant-Based Rental Assistance ("TBRA") activities. Approval for participation in the Reservation System is not a guarantee of funding availability.

Of the $12,630,407 that will be released under the amended NOFA, approximately $5,406,236 is subject to the Regional Allocation Formula ("RAF"); $2,000,000 will be set-aside for the Contract for Deed Conversion Program; and $1,224,171 will be set aside under the Persons with Disabilities set-aside. The set-aside funds are not subject to the RAF. Funds subject to the RAF will be available in each Uniform State Service Region and sub-region, then by Region. Funds not requested in each Region will collapse together with $4,000,000 of Program Income and deobligated Funds and made available statewide for any non set-aside activity for HRA, HBA, and TBRA activities.

On September 9, 2014, at 10:00 am CDT, the first of a three-phase method of releasing funds was implemented. The HOME reservation system did not implement a critical funding validation check necessary to prevent HOME Administrators from being able to enter a request for more funding than was available under the NOFA. TDHCA staff has worked diligently since then to address and resolve the issues. As part of the resolution, staff determined that releasing Program Income and Deobligated Funds into the Reservation System in an amount comparable to the amount of reservation requests received on September 9, 2014 that exceeded the sub-regional limits is a prudent measure. Staff is also proposing a staggered fund release on December 17, 2014 designed to alleviate some of the system traffic that also contributed to system difficulties on September 9, 2014. Staff is recommending adding $4,000,000 of available HOME Program Income and deobligated funds to the NOFA, and to revise subsections (a)-(f) of Section (3) of the NOFA as follows:

3) HOME funds subject to the RAF are reserved for HRA, HBA, and TBRA non set-aside HOME Activities. HOME funds subject to the RAF totaling $5,406,236 specified under section 2(b) of this NOFA will be available under each Uniform State Service Region and by sub-region (Rural and Urban) beginning on **Tuesday, September 9, 2014, at 10:00 am CDT** until **Tuesday, October 14, 2014 at 9:00 am CDT.**

a) On **Wednesday, October 15, 2014, at 10:00 am CDT** any funds which have not been requested under section 2(b) of this NOFA will collapse within each region and will be available by region until **Tuesday, December 16, 2014, at 9:00 am CST**.

b) On Wednesday, **December 17, 2014, from 10:00 am until 11:00 am CST** any funds which have not been requested under section 2(b) of this NOFA will collapsed together with an additional $4,000,000 of HOME Program Income and Deobligated Funds and will be made available first for households with reservation submissions received September 9, 2014, under Section 2(b) of this NOFA that were date and time recorded as accepted by the TDHCA HOME Contract Reservation System but exceeding the RAF sub-region funding limits.

c) On Wednesday, **December 17, 2014, at 1:00 pm CST** any funds which have not been requested under section 3(b) of this NOFA will be made available in all eligible areas statewide for any non set-aside activity under this NOFA as follows:

   i) HRA – 75% of remaining funds
   ii) HBA – 5% of remaining funds
   iii) TBRA – 20% of remaining funds

d) On **Tuesday, March 3, 2015, at 9:00 am CST**, the Department will collapse any remaining funds together and be made available statewide for HRA, HBA, and TBRA, until all funds are depleted or the NOFA is closed, whichever comes first.

e) An alternative timeline and method of releasing funds may be implemented, at the Department's sole discretion.

f) Updated balances for the Reservation System may be accessed online at www.tdhca.state.tx.us/home-division/home-reservation-summary.htm Reservations of funds may be submitted at any time during the term of a RSP Agreement, as long as funds are available in the Reservation System. Participation in the Reservation System is not a guarantee of funding availability.

The availability and use of these funds are subject to state and federal regulations including, but not limited to Texas Administrative Code in Title 10 Part 1, Chapter 1, Administration, Chapter 20, Single Family Umbrella Rule, and Chapter 23, the Single Family HOME Program, as amended ("HOME Program Rule"), and the federal regulation governing the HOME Program at 24 CFR Part 92, as amended ("HOME Final Rule").

The 2014 HOME Single Family Programs Reservation System NOFA was developed in accordance with the Single Family Umbrella and HOME Program Rules. Administrators will access the funds available under this NOFA either through existing agreements or by applying under an open application cycle. The RAF tables are not included in the NOFA; however, the tables will be available on the Department's website as stated in the NOFA.

This amendment will be published on the Department's website and in the *Texas Register* as a Miscellaneous Document Friday, October 24, 2014.

1k

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action to approve a Housing Tax Credit Amendment for The Reserves at South Plains in Lubbock (#13247)

RECOMMENDED ACTION

WHEREAS, The Reserves at South Plains received an award of 9% Housing Tax Credits in 2013 to construct 108 multifamily units in Lubbock;

WHEREAS, the Development Owner is requesting approval for a reduction of the site acreage from 8.85 acres to 7.561 to satisfy a requirement of the City of Lubbock to dedicate a portion of the site for public use and easements, and this reduced acreage affects the residential density by more than 5%;

WHEREAS, pursuant to 10 TAC §10.405(a)(4)(F), a modification of the residential density of the Development, by more than 5%, requires Board approval; and

WHEREAS, the requested changes do not negatively affect the Development or impact the viability of the transaction or affect the amount of tax credits awarded;

NOW, therefore, it is hereby

RESOLVED, that the amendment of the Housing Tax Credit application for The Reserves at South Plains is approved as presented to this meeting and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

On July 11, 2014, the Development Owner requested an amendment to the previously approved HTC application for The Reserves at South Plains. The Development Owner requested approval for a 14.59% (1.289 acres) reduction to the original site plan that occurred when the easements identified in the original survey were officially dedicated to the City of Lubbock on December 5, 2013. The City required the dedication of the easements in order allow public access to Avenue U and to widen 98th Street. Both streets are located adjacent to the Development.

This did not affect the location or design of the residential buildings on the site and thus has no additional impact on the financial feasibility of the Development as underwritten. In accordance with 10 TAC §10.405(a)(4)(G), this amendment request could be administratively approved by the Executive Director since the required decrease in site acreage is due to changes required by local government. However, this reduction also affects residential density by increasing the density by more than 5%, and, therefore, Board approval is required. The reduced acreage results in a 17.05% increase in density from 12.203 units per acre identified at underwriting to 14.284 units per acre after the dedication to the City.

Staff recommends approval of the amendment request.

July 11, 2014

Lee Ann Chance
TDHCA
PO Box 13941
Austin, TX

RE: Amendment Request for 13247 Reserves at South Plains

Dear Ms. Chance:

Please find this request for an amendment to 13247 Reserves at South Plains in Lubbock. We are requesting a reduction in site acreage due to a street dedication to the City of Lubbock. There are no changes to the development site plan of any buildings. Please note that there are no changes in costs at this time.

Change to Site Acreage
At application, the site was 8.85 acres, with the survey and engineered site plan clearly indicating that there were street easements on the site along 98th Street and Avenue U. Please see those original items from the application. At application, the building plan was configured to comply with the easements.

In December 2013, those easement areas were officially dedicated to the City of Lubbock for the purpose of widening 98th Street and Avenue U for public use. Please see the attached deed between the land seller at application and the City of Lubbock. As a result of the street dedication, the site is now 7.561 acres. Please see the attached final survey. Though there is an official reduction in acreage, the site is exactly the same as application since the street dedication area was not being used for the development.

We understand that this change may be approved administratively. The check for the amendment fee will be delivered to TDHCA on July 11, 2014.

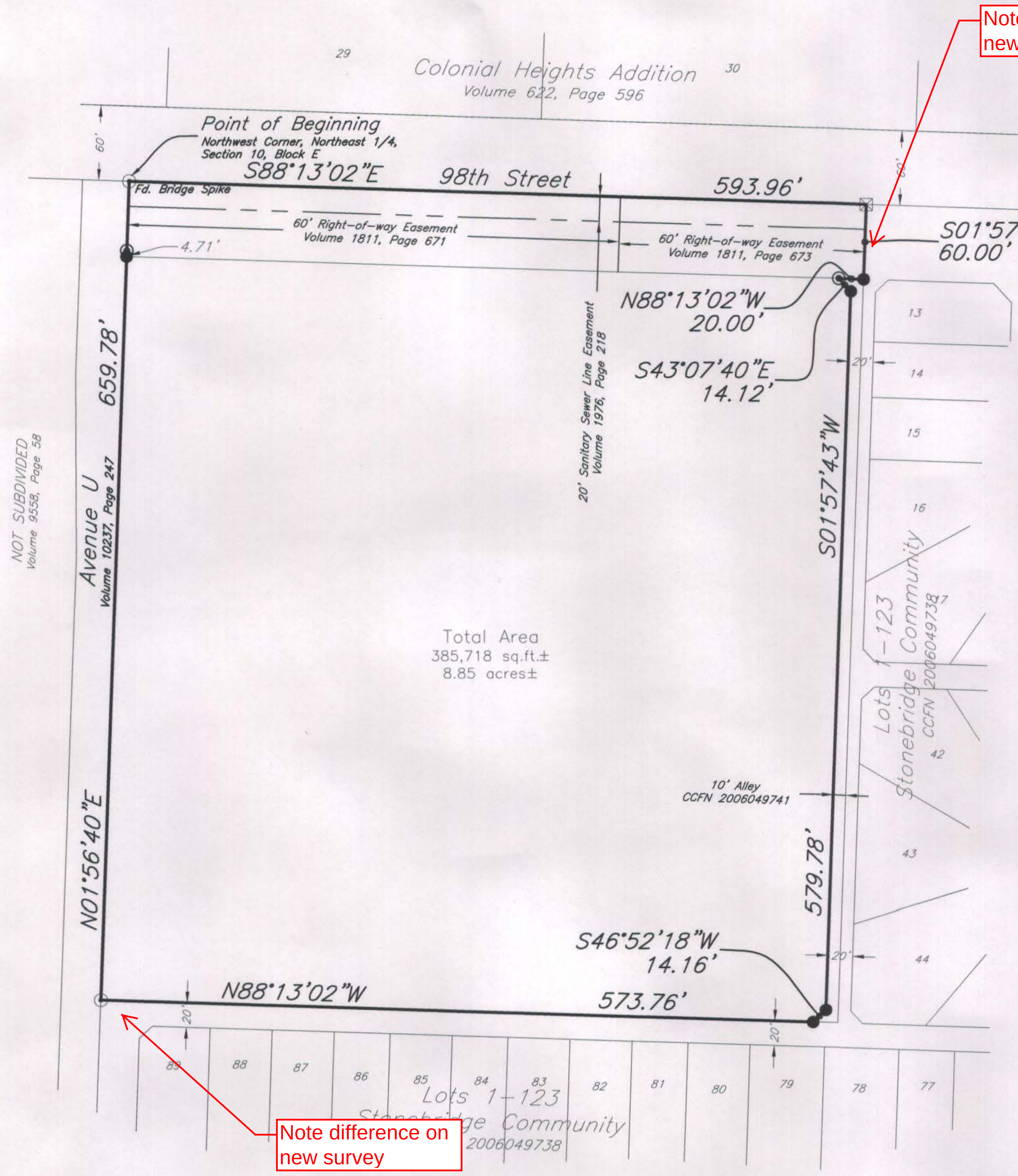
Thank you for your attention to this request. Please contact us with any questions.

Regards,

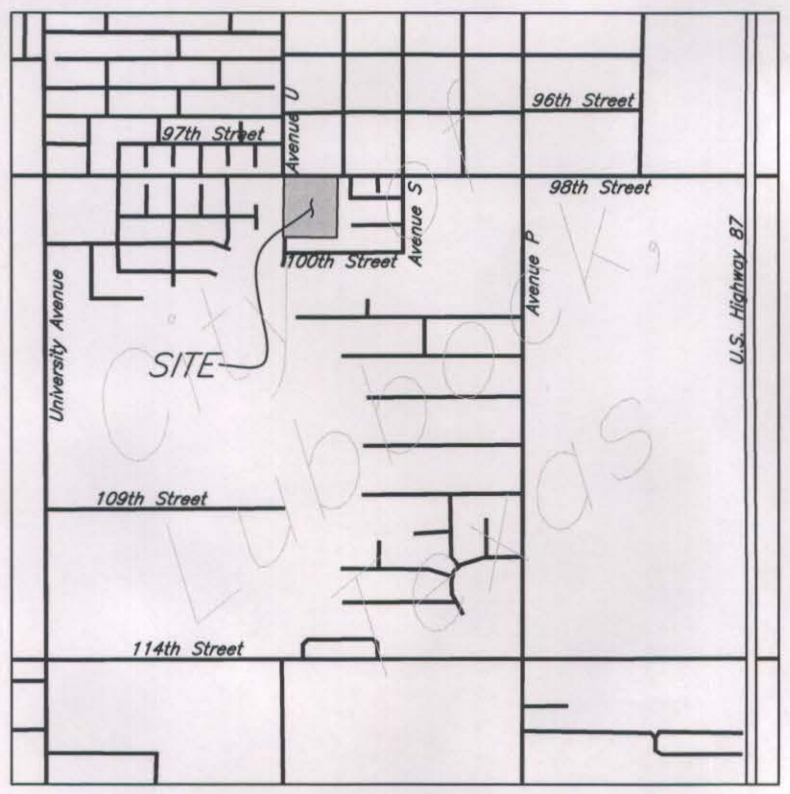
Alyssa Carpenter

Original Application

Note difference on new survey

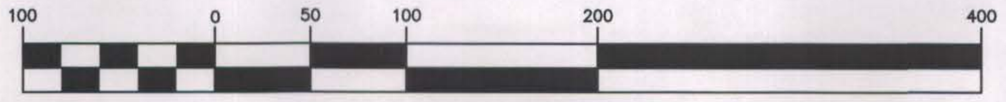


Note difference on new survey



Vicinity Map
Not to Scale

GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.

Metes and Bounds Description on an 8.85 acre (385,718 sq. ft.) tract of land out of the Northeast Quarter of Section 10, Block E, Lubbock County, Texas and being more particularly described as follows:

Beginning at a bridge spike found in the North line of said Section 10, and in the centerline of 98th Street, (Right-of-Way Easement recorded in Volume 1811, Page 671 and Page 673, Deed Records of Lubbock County, Texas), for the Northwest corner of said Northeast Quarter of Section 10 and for the Northwest and beginning corner of this tract;

Thence S88°13'02"E, along the said centerline of 98th Street and the North line of said Section 10, a distance of 594.00 feet to a railroad spike found for the Northwest plat limits corner of Lots 1 through 123, Stonebridge Community, an Addition to the City of Lubbock, Lubbock County, Texas as recorded in County Clerk File Number 2006049738, Lubbock County, Texas and for the Northeast corner of this tract;

Thence S01°57'43"W, along the West plat limits of said Stonebridge Community, a distance of 60.00 feet to a 1/2" iron rod and cap (AMD ENG) set in the South Right-of-Way line of said 98th Street, for the Northeast corner of a 10 feet alley dedication, as recorded in County Clerk File Number 2006049741, Lubbock County, Texas and for a corner of this tract;

Thence N88°13'02"W, along the South Right-of-Way line of said 98th Street, and the North line of said 10 feet alley dedication, a distance of 20.00 feet to a 1/2" iron rod and cap (SMITH) found for the Northwest corner of said 10 feet alley dedication and for a corner of this tract;

Thence S43°07'40"E, continuing along the Westerly line of said 10 feet alley dedication, a distance of 14.12 feet to a 1/2" iron rod and cap (AMD ENG) set for a corner of said 10 feet alley dedication and for a corner of this tract;

Thence S01°57'43"W, continuing along the West line of said 10 feet alley dedication, a distance of 579.78 feet to a 1/2" iron rod and cap (AMD ENG) set for a corner of said 10 feet alley dedication and for a corner of this tract;

Thence S46°52'18"W, continuing along the Westerly line of said 10 feet alley dedication, a distance of 14.16 feet to a 1/2" iron rod and cap (AMD ENG) set in the plat limits of said Stonebridge Community, for the Southwest corner of said 10 feet alley dedication and for a corner of this tract;

Thence N88°13'02"W, along the plat limits of said Stonebridge Community, a distance of 573.76 feet to a 1/2" iron rod found in the East line of Avenue U, as recorded in Volume 10237, Page 247, Official Public Records of Lubbock County, Texas, for the South-Northwest corner of said Stonebridge Community and for the Southwest corner of this tract;

Thence N01°56'40"E, along the East line of said Avenue U, at a distance of 599.78 feet pass a 1/2" iron rod and cap (AMD ENG) set in the South Right-of-Way line of said 98th Street, at a distance of 604.49 feet pass a 1/2" iron rod and cap (HRA) found, continuing for a total distance of 659.78 feet to the point of beginning.

Containing 8.85 Acres (385,718 sq. ft.)

Surveyors Report:

This plat was prepared for the exclusive use of the individual and/or institutions named on this survey. It is non-transferable to additional institutions or individuals without expressed recertification by AMD Engineering, LLC.

This plat is the property of AMD Engineering, LLC. Reproduction of this plat for any purpose is expressly forbidden without the written consent of an authorized agent of AMD Engineering, LLC.

This survey is subject to any facts which may be disclosed by a full and accurate title search.

Record documents other than those shown may affect this tract.

Visible evidence of conditions affecting this tract is as shown on this plat.

Monuments indicated as found by this survey are not "physical monuments of record dignity" unless so noted.

Found monuments are accepted by this surveyor as controlling evidence due to substantial agreement with record documents.

Heavy lines indicate plat limits.

Basis of Bearings: Texas State Plane Grid North Central Zone (NAD83) based on OPUS GPS Observations.

LEGEND

- FOUND IRON ROD W/CAP....CM
- FOUND IRON ROD, UNLESS OTHERWISE NOTED....CM
- SET 1/2" REBAR W/CAP (AMD ENG.)
- FOUND RAILROAD SPIKE....CM

I, Charles Lynn Sawyer, Registered Professional Land Surveyor, do hereby certify that this plat and description was prepared from an actual survey of the property and that the information hereon represents the findings of this survey to the best of my knowledge and belief.

Charles Lynn Sawyer
Registered Professional Land Surveyor #5809
Survey Date: February 13, 2013

CIVIL ENGINEERING
LAND SURVEYING
AMD Engineering, LLC
2807 74th Street, Suite 8
Lubbock, TX 79423
Phone: 806-771-5976
Fax: 806-771-7625
Accuracy - Efficiency - Integrity

PLAT OF SURVEY

OF AN 8.85 ACRE TRACT OUT OF THE NORTHEAST QUARTER OF SECTION 10, BLOCK E, LUBBOCK COUNTY, TEXAS

PREPARED FOR:
JONES GILLAM RENZ ARCHITECTS, INC.

DRAWN BY: ELL
CHECKED BY: CLS
JOB No. 13007

NOTES AND LEGEND:

- EXISTING CONCRETE
- PROPOSED CONCRETE PAVING
- PROPOSED MUNICIPAL ASPHALT PAVING BY DEVELOPER

13 - PARKING COUNT INCLUDING ACCESSIBLE SPACES

- PROPOSED DIRECTION OF FLOW

PLAT AREA: 385,718 SQ. FT. (8.85 ACRES)

LANDSCAPING REQUIREMENTS:

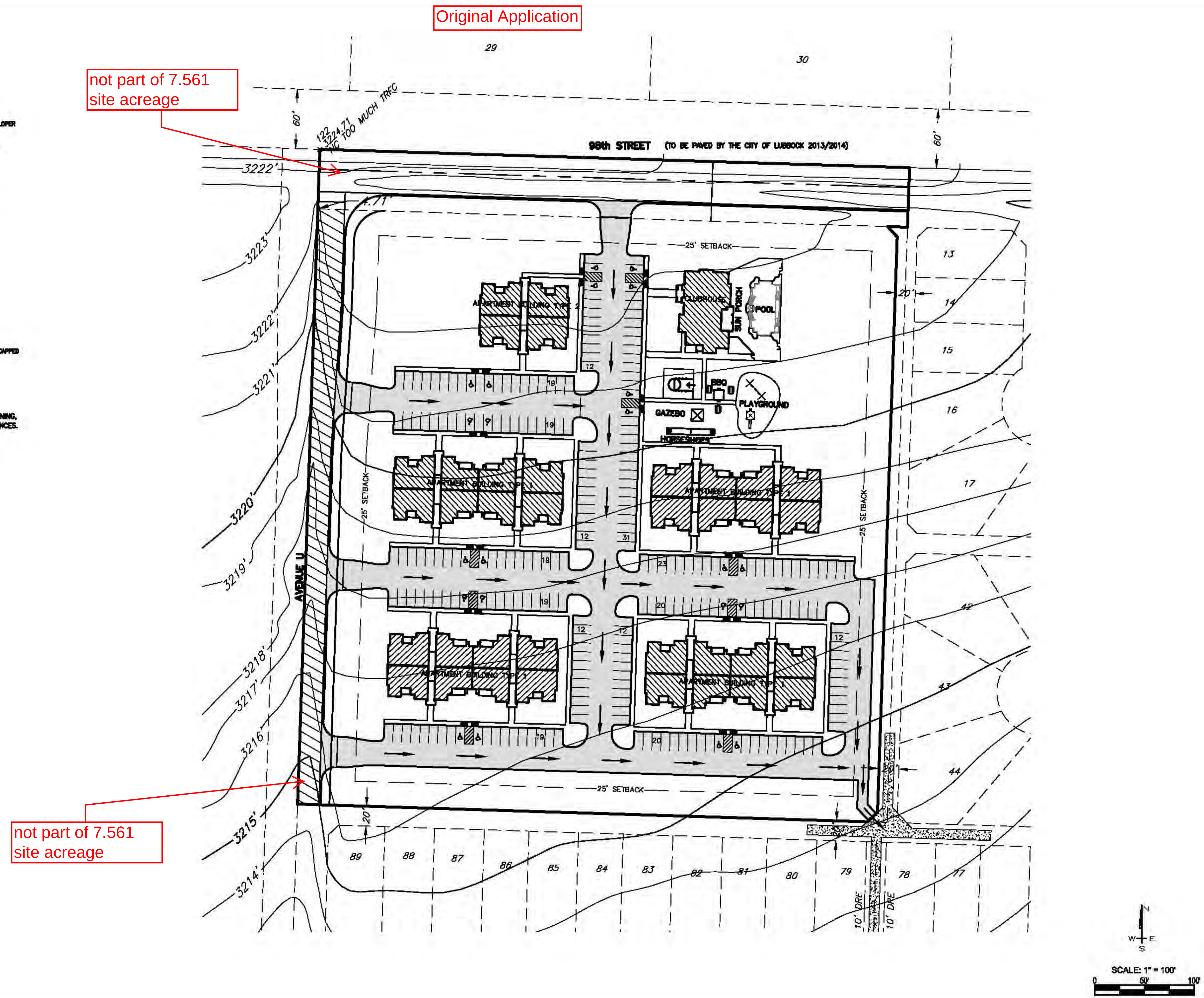
- 15% OF LOT AREA
- 57,858 SQ. FT. LANDSCAPING REQUIRED
- 146,402 SQ. FT. LANDSCAPING PROVIDED

PARKING REQUIREMENTS:

- 48–2 BEDROOM UNITS @ 2 SPACES – 96
- 60–3 BEDROOM UNITS @ 2.5 SPACES – 150
- PARKING REQUIRED = 246 SPACES
- PARKING PROVIDED = 249 SPACES (INCLUDES 22 HANDICAPPED ACCESSIBLE SPACES)

NOTE: NO DRAINAGE DETENTION REQUIRED

THE SITE PLAN MATERIALLY ADHERES TO ALL ZONING, SITE DEVELOPMENT, AND BUILDING CODE ORDINANCES.



AMD Engineering, LLC
2807 74th Street, Suite 8
Lubbock, TX 79423

CIVIL ENGINEERING
LAND SURVEYING
Phone: 806-771-5976
Fax: 806-771-7625
TBPE Reg. #F-8197

SITE PLAN

THE RESERVE AT SOUTH PLAINS

A PROPOSED DEVELOPMENT IN LUBBOCK, TX

No.	DATE	REVISIONS

DRAWN BY: SRH
CHECKED BY: CRD
JOB No. 13007

FIGURE 3

CITY OF LUBBOCK
PLANNING DEPARTMENT
P.O. BOX 2000
LUBBOCK, TEXAS 79457

Deed for Street Dedication

P & D 2013048134
8 PGS

After Recording Return to: ~~Tigris Development, LLC 5215 79th Street, Lubbock, Texas 79424~~

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DEDICATORY CERTIFICATE

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

This is to certify that **TIGRIS DEVELOPMENT, LLC,** a Texas limited liability company, is the owner of a tract of land located in Lubbock, Lubbock County, Texas which is more particularly described as follows to-wit:

See Exhibit "A", consisting of 1 page, being attached hereto and fully incorporated herein for all purposes (hereinafter the "Property").

The undersigned wishes to plat the Property, designating streets, alleys, easements (surface and/or underground), and other public properties shown in accordance with the attached plat prepared by J.M. Cieszinski, Registered Professional Land Surveyor No. 4460, on the 10th day of September, 2013 (said plat being miscellaneously revised on October 30, 2013 and revised on November 12, 2013 and December 1, 2013 respectively), and approved by the Planning Commission of the City of Lubbock, Texas, on the 13 day of November, 2013, and desires to have said Property platted and duly filed for record as required by law.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the special benefits to the remainder of the Property, the undersigned does hereby **DEDICATE** all the streets, alleys, easements (surface and/or underground), and other public properties shown and designated upon said plat to the **PUBLIC** for **PUBLIC USE FOREVER**; and by these presents does impress the name of **"TRACT A, STONEBRIDGE GARDENS, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS"** upon said Property for the correct reference and description thereto by tract as indicated upon the attached plat, and the undersigned does hereby adopt the name hereinabove stated and impress the same upon said land, incorporating the plat as a part of this dedication.

LUBBOCK NATIONAL BANK, holder of a lien of record against the Property herein being dedicated joins in this dedication for the sole purpose of showing its assent thereto and that it has no objection to the platting of said Property or any of the Property in accordance with the attached plat, and it hereby subordinates its lien upon those portions of the Property which are embraced within the bounds of the streets, alleys, easements (surface and/or underground), and other public ways shown on said plat and dedicated for public use in accordance with this Dedicatory Certificate.

WITNESS the execution hereof this 5th day of December, 2013.

Tigris Development, LLC, a Texas limited liability company

By: Tyler W. Craft
Tyler W. Craft, Manager

WITNESS the execution hereof 5th day of December, 2013.

LUBBOCK NATIONAL BANK

By: ______________________
Printed Name: Chase Campbell
Title: Assistant Vice President

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

BEFORE ME, the undersigned, being a Notary Public in and for the State of Texas, on this day personally appeared Tyler W. Craft, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of Tigris Development, LLC, a Texas limited liability company, and that he executed the instrument on behalf of the limited liability company for the purposes and consideration expressed and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of December, 2013.

PAULA ESTHER VASQUEZ
Notary Public, State of Texas
My Commission Expires
January 26, 2016

Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on the 5 day of December, 2013, by Chase Campbell of **LUBBOCK NATIONAL BANK**, on behalf of and as the act of said entity for the purposes and consideration expressed.

ROSA MARIA ERCULIANI
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
2-20-2014

Notary Public, State of Texas

Exhibit "A"

ABACUS ENGINEERING SURVEYING

2737 81ST STREET LUBBOCK, TEXAS 79423
(806) 745-7670

"Count on it"

FIELD NOTES on the Plat Limits of Tract A, Stonebridge Gardens, an Addition to the City of Lubbock, Lubbock County, Texas, and out of the Northeast Quarter (NE/4) of Section 10, Block E, Lubbock County, Texas, being further described as follows.

BEGINNING at a found rod with yellow cap in the center of 98th Street for the Northwest corner of the NE/4 of Section 10, Block E, and the Northwest corner of this tract,

THENCE S 88°14'06" E(Texas North Central Zone Bearing Basis), with the North line of Section 10, a distance of 593.93 feet to a found nail for the Northeast corner of this tract;

THENCE S 01°57'14" W, 60.00 feet to a found rod with orange cap (AMD) in the South line of 98th Street;

THENCE N 88°14'06" W, 20 01 feet to a found rod with red cap (Smith);

THENCE S 42°56'36" E, 14.13 feet to a found rod with blue cap (Stevens);

THENCE S 01°57'10" W, with the West line of an alley, 579 74 feet to a found rod with blue cap (Stevens);

THENCE S 46°50'37" W, 14.16 feet to a found rod with blue cap (Stevens),

THENCE N 88°13'41" W, with the North line of an alley, 573.74 feet to a found rod with blue cap (Stevens);

THENCE N 01°56'21" E, with the West line of the NE/4 of Section 10, a distance of 659.71 feet to the PLACE of BEGINNING containing 8.854 Acres.

These Notes represent a survey made on the ground
October 30, 2013
J. M Cieszinski RPLS # 4460

STATE OF TEXAS
REGISTERED
J.M. CIESZINSKI
4460
PROFESSIONAL
LAND SURVEYOR

Issue Date : 10/31/2013

TAX CERTIFICATE

Lubbock Central Appraisal District

2109 Ave Q
PO Box 10568
Lubbock, TX 79408-3568
Ph: 806-762-5000 Ext 6 Fax:

This certificate includes tax years up to 2013

Entities to which this certificate applies:

GLB - Lubbock County
SCP - Lubbock Cooper ISD
CLB - City Of Lubbock
HSP - Lubb Cnty Hospital
WHP - Hi Plains Water

Property Information

Property ID : AC46010-90493-20510-000
Quick-Ref ID : R144851

LUBBOCK 79423

BLK E SEC 10 AB 493 TR B5 & N660'OF TR B8 AC: 8.042

Value Information

Land HS	:	$0.00
Land NHS	:	$25,734.00
Imp HS	:	$0.00
Imp NHS	:	$0.00
Ag Mkt	:	$0.00
Ag Use	:	$0.00
Tim Mkt	:	$0.00
Tim Use	:	$0.00
HS Cap Adj	:	$0.00
Assessed	:	$25,734.00

Owner Information

Owner ID : O0174880

DEVELOPMENT, TIGRIS LLC
5215 79TH ST
LUBBOCK, TX 79424

Ownership: 100.00%

This Document is to certify that after a careful check of the Tax Records of this Office, the following Current or Delinquent Taxes, Penalties, and Interest are due on the Property for the Taxing Entities described above:

Entity	Year	Tax	Discount	P&I	Atty Fee	TOTAL
CLB	2013	129.81	0.00	0.00	0.00	129.81
GLB	2013	88.86	0.00	0.00	0.00	88.86
HSP	2013	30.48	0.00	0.00	0.00	30.48
SCP	2013	380.86	0.00	0.00	0.00	380.86
WHP	2013	2.08	0.00	0.00	0.00	2.08

Total for current bills if paid by 10/31/2013 : $632.09
Total due on all bills 10/31/2013 : $632.09
2013 taxes paid for entity CLB $0.00
2013 taxes paid for entity GLB $0.00
2013 taxes paid for entity HSP $0.00
2013 taxes paid for entity SCP $0.00
2013 taxes paid for entity WHP $0.00
2013 Total Taxes Paid : $0.00

If applicable, the above-described property is receiving special valuation based on its use. Additional rollback taxes that may become due based on the provisions of the special valuation are not indicated in this document.

This certificate does not clear abuse of granted exemptions as defined in Section 11.43, Paragraph (i) of the Texas Property Tax Code.

Sue Piland

Signature of Authorized Officer of the Tax Office

LUBBOCK CENTRAL APPRAISAL DISTRICT

Date of Issue	:	10/31/2013
Requestor	:	WESTERN TITLE CO
Ref. Number	:	
Fee Paid	:	
Payer	:	

© 2003 Tyler Technologies, Inc.

TAX RECEIPT

Lubbock Central Appraisal District
2109 Ave Q
PO Box 10568
Lubbock, TX 79408-3568
Ph 806-762-5000 Ext 6 Fax

Receipt Number **2013-094242-LCAD**

Payor: DEVELOPMENT, TIGRIS LLC (O0174880)
5215 79TH ST
LUBBOCK, TX 79424

Owner: DEVELOPMENT, TIGRIS LLC (O0174880)
5215 79TH ST
LUBBOCK, TX 79424

Quick Ref ID	R144851	Property	AC46010-90493-20510-000
Owner	DEVELOPMENT, TIGRIS LLC (O0174880) - 100%	Legal Description.	BLK E SEC 10 AB 493 TR B5 & N660'OF TR B8 AC· 8 042
Owner Address	5215 79TH ST LUBBOCK, TX 79424	Situs Address.	LUBBOCK 79423

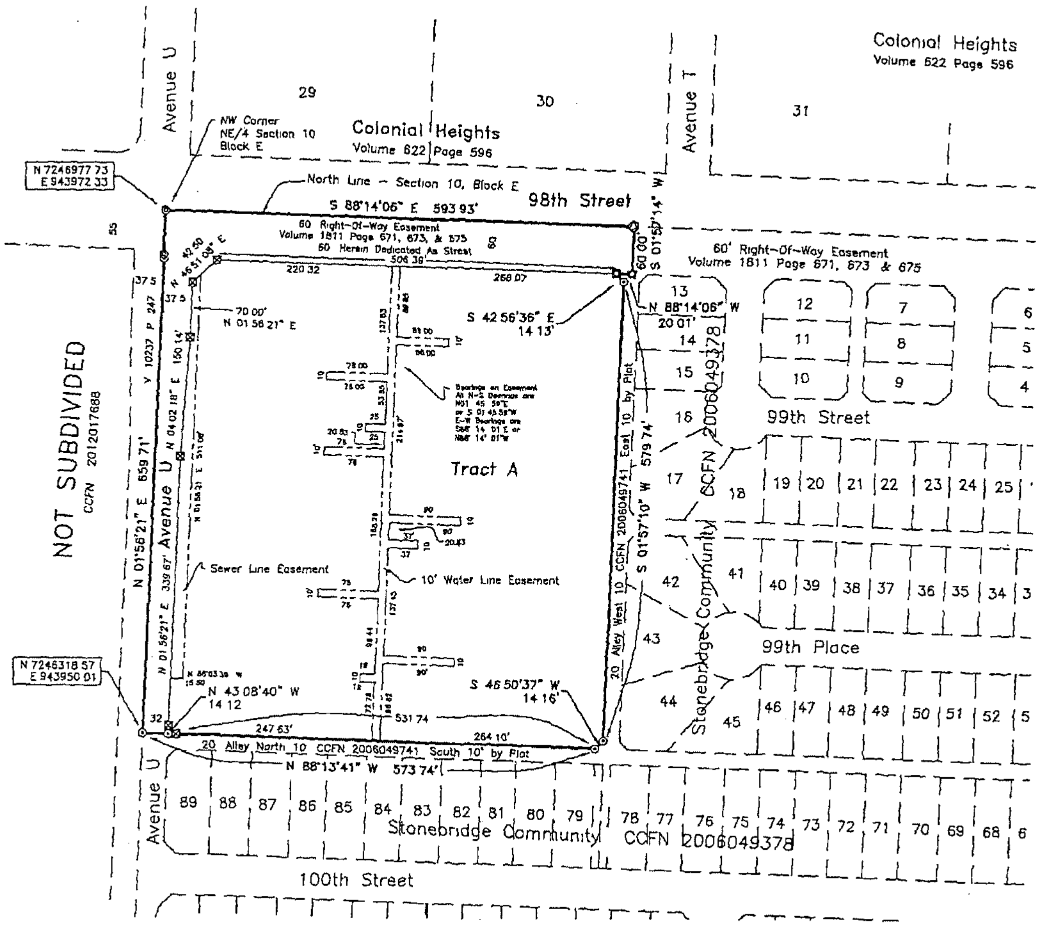
Tax Year/Taxing Unit	Taxable Value	Tax Rate	Levy	Tax Paid	Amount Paid
2013					
City Of Lubbock	25,734	0 504410	129 81	129 81	129 81
Lubbock County	25,734	0 345310	88 86	88 86	88 86
Lubb Cnty Hospital	25,734	0 118440	30.48	30.48	30 48
Lubbock Cooper ISD	25,734	1 480000	380.86	380 86	380 86
Hi Plains Water	25,734	0 008100	2.08	2 08	2 08
2013 Totals			632 09	632 09	632 09

Total Payment Amount	**632.09**
Check (Ref # 1215) Tendered	632.09
Total Tendered	**632.09**
Remaining Balance Due, including other fees, as of 11/5/2013	**0.00**

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction

Date Paid 11/05/2013
Effective Date 10/31/2013
Station/Till. TSF/Theresa S's Till
Cashier. TheresaS

12 PAGE 149-B



FINAL PLAT
TRACT A, STONEBRIDGE GARDENS,
an Addition to the City of Lubbock, Lubbock County, Texas

SCALE 1"=100'
HEAVY LINES INDICATE PLAT LIMITS
ALL STREETS ALLEYS, AND EASEMENTS WITHIN PLAT LIMITS ARE HEREIN DEDICATED
ALL EASEMENTS DEDICATED HEREBY SHALL ENTITLE THE CITY OR THE UTILITY COMPANY USING SUCH EASEMENTS TO THE RIGHT TO REMOVE REPAIR, OR REPLACE ANY LINES PIPES CONDUITS OR POLES WITHIN SUCH EASEMENTS AS MAY BE DETERMINED BY THE CITY OR THE UTILITY COMPANY WITHOUT THE CITY OR THE UTILITY COMPANY BEING RESPONSIBLE OR LIABLE FOR THE REPLACEMENT OF IMPROVEMENTS PAVING OR SURFACING OF THE EASEMENT NECESSITATED BY SUCH REMOVAL, REPAIR, OR REPLACEMENT EASEMENTS DESIGNATED OR INTENDED FOR VEHICULAR PASSAGE (UTILITY AND EMERGENCY) OR PEDESTRIAN ACCESS SHALL NOT BE FENCED OR OTHERWISE OBSTRUCTED
ALL ELECTRICAL SERVICE SHALL BE IN ACCORDANCE WITH THE UNDERGROUND UTILITIES POLICY STATEMENT BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF LUBBOCK TEXAS
ANY RELOCATION OR REVISION OF EXISTING FACILITIES SHALL BE AT THE DEVELOPER'S EXPENSE. COMPENSATION SHALL BE MADE PRIOR TO RECORDING OF ANY PORTION OF THIS PLAT
ALL EXISTING OR PROPOSED UTILITY SERVICES TO AND ON TRACTS INDICATED BY THIS PLAT SHALL BE CONTAINED IN THE PUBLIC RIGHT-OF-WAY AND PUBLIC OR PRIVATE UTILITY EASEMENTS UTILITY SERVICE INSTALLATION REQUESTED AT A FUTURE DATE AND NOT WITHIN AN EASEMENT INDICATED BY THIS PLAT SHALL BE WITHIN A PROPER UTILITY EASEMENT GRANTED BY THE OWNER OF SAID PROPERTY BY SEPARATE RECORDED INSTRUMENT PRIOR TO THE PROVISION OF SUCH SERVICE SUCH EASEMENTS SHALL BE AT THE DEVELOPER'S EXPENSE.
NO BUILDING PERMIT SHALL BE ISSUED ON ANY SURVEY CERTIFICATE THAT IS NOT IN ACCORDANCE WITH AN APPROVED FINAL PLAT UNLESS AN EXCEPTION IS PROVIDED BY PLANNING COMMISSION POLICY OR BT THE LUBBOCK CODE OF ORDINANCES
MINIMUM FINISH FLOOR SHALL CONFORM TO THE REQUIREMENTS OF THE LUBBOCK DRAINAGE CRITERIA MANUAL AS ADOPTED BY RESOLUTION NO 10022, AN SECTION 28 09 131 SECTION 28 14 004 AND SECTION SECTION 30 03073 OF THE LUBBOCK CODE OF ORDINANCES
BLANKET GARBAGE SERVICE EASEMENT HEREIN GRANTED FOR SERVICE WITHIN THE PLAT LIMITS
BLANKET UNDERGROUND UTILITY TRANSFORMER PAD AND SWITCHING ENCLOSURE EASEMENT AS REQUIRED FOR SERVICE WITHIN THE PLAT LIMITS IS HEREIN GRANTED TO LUBBOCK POWER AND LIGHT COMPANY
BLANKET UNDERGROUND UTILITY EASEMENT FOR SERVICE WITHIN THE PLAT LIMITS HEREIN GRANTED TO AT&T AND ATMOS ENERGY

Legend

- Fd Rod w/ Red Cap (Smith)
- Fd Rod w/ Orange Cap (AMD)
- Fd Nail
- Fd Rod w/ Yellow Cap
- Set Rod w/ Steel Cap (Abacus)
- Fd Rod w/ Blue Cap (Stevens)

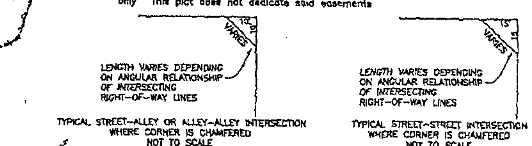
CONTAINS 8 854 ACRES WITHIN THE PLAT LIMITS

LPL – LUBBOCK POWER, LIGHT AND WATER CO
AT&T – AT&T TELEPHONE COMPANY
UUE – UNDERGROUND UTILITY EASEMENT
PVT – PRIVATE
TPE – TRANSFORMER PAD EASEMENT 4 X 6 (NOT DRAWN TO SCALE)
SWBT – SOUTHWESTERN BELL TELEPHONE CO
WLE – WATER LINE EASEMENT
DRE – DRAINAGE EASEMENT
USE – UNDERGROUND STREET LIGHT CABLE EASEMENT
ACE – 5 ACCESS EASEMENT AND 2 EAVE OVERHANG EASEMENT
PAE – PEDESTRIAN ACCESS EASEMENT
SEE – SWITCH ENCLOSURE EASEMENT, 8 X 8 (NOT DRAWN TO SCALE)
CCFN – LUBBOCK COUNTY CLERK FILE NUMBER

A METES AND BOUNDS DESCRIPTION OF THIS TRACT WAS PREPARED FOR RECORDATION WITH THE DEDICATION DEED OF THIS TRACT

Bearings and Coordinates are based on the Texas North Central Zone Coordinate System NAD 83, CORS 96 EPOCH 2002 0000

Any easements or rights-of-way shown as 'to be dedicated by separate instrument' are shown on this plat for information purposes only This plat does not dedicate said easements



APPROVED this 2nd Day of December 2013, by the PLANNING AND ZONING COMMISSION of the CITY of LUBBOCK

APPROVED ______________________ CHAIRMAN

ATTEST ______________________ SECRETARY

KNOW ALL MEN BY THESE PRESENTS

That I, JONATHAN MARK CIESZINSKI, Registered Professional Land Surveyor do hereby certify that I prepared this plat from an actual and accurate survey of the land and the corner monuments shown thereon were properly placed under my personal supervision in accordance with the Subdivision Regulations of the City of Lubbock, Texas

Jonathan Mark Cieszinski
REGISTERED PROFESSIONAL LAND SURVEYOR, # 4460 LUBBOCK, TEXAS
September 10 2013
Miscellaneous Revisions October 30 2013
Revised November 12 2013 (Blanket UUE language)
Revised December 1 2013 (Easement Revisions)

ABACUS ENGINEERING SURVEYING
2737 81st Street
LUBBOCK, TEXAS
806-745-7670
Count on It
TEXAS SURVEYING FIRM NO 101153-00
TEXAS ENGINEERING FIRM NO 4388

city of lubbock TEXAS

December 9, 2013

File No. 1877.00

County Clerk
Lubbock County Court House
904 Broadway
Room 207
Lubbock, Texas 79401

Dear Sir or Madam:

This is to certify that a plat titled **Stonebridge Gardens Addition, Tract A**, prepared by Jonathan Mark Cieszinski of Abacus Engineering Surveying on December 1, 2013 was approved by the Planning and Zoning Commission on December 9, 2013.

Sincerely,

Andrew Paxton
Director of Planning

Acreage of recorded plat: 8.854 acres

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Kelly Pinion, County Clerk
Lubbock County TEXAS
December 09, 2013 02:08:34 PM
FEE. $80.00

2013048134

Property Description

New Survey and Site Acreage

Tract A, Stonebridge Gardens, an Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat, and/or dedication deed thereof recorded December 9, 2013 under County Clerk File No. 2013048134, Official Public Records , Lubbock County, Texas

ALTA/ACSM SURVEY

Tract A, Stonebridge Gardens, an Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat, and/or dedication deed thereof recorded December 9, 2013 under County Clerk File No. 2013048134, Official Public Records , Lubbock County, Texas

2011 98th Street, Lubbock, TX 79423

Certification

To: OPG South Plains Partners, LLC, Red Stone – Fund 35 JPMorgan Limited Partnership, FNBC Leasing Corporation. RSEP HOLDING, LLC, its successors and/or assigns, RED STONE EQUITY MANAGER, LLC, First American Title Insurance Company AND JPMorgan Chase Bank, N.A., a national banking association and its successors and/or assigns:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the "2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6b, 7a, 7b, 7c, 8, 9, 11a, 13, 16, 17, 18, 19, and 20a of Table A thereof. The field work was completed on October 24, 2013.

STATE OF TEXAS REGISTERED J.M. CIESZINSKI 4460 PROFESSIONAL LAND SURVEYOR

Jonathan M. Cieszinski

Jonathan M. Cieszinski,
Texas RPLS No. 4460
December 26, 2013
Revised January 14, 2014 (Additions to Certification)

Key Map: NO SCALE

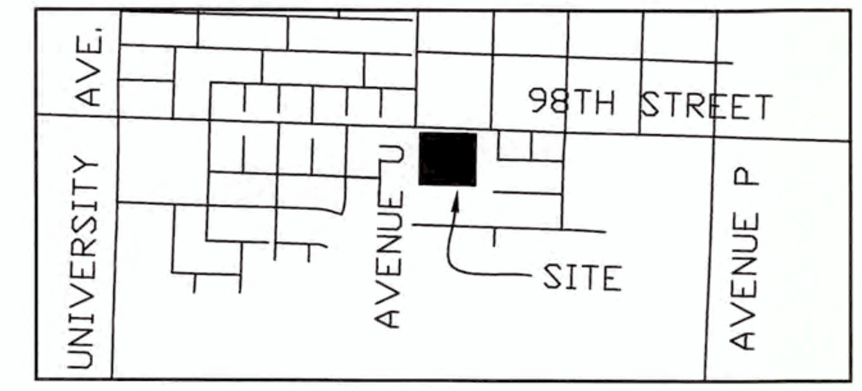


Table A Items

1. Monuments. All Corners of this parcel were found or saet iron monuments as shown on the plat and described in the Legend.

2. No address was observed on the site. The address shown 2011 98th Street was provided by the City of Lubbock Building Inspection Department.

3. This tract is not shown to lie within the limits of the 100–Year Flood Plain as shown on FEMA Map # 48303C0315F, effective date 1/02/2013. Zone X.

4. This site contains 7.561 Acres.

6. Zoning. This property is zoned A–2. "High Density Apartment" There is a condition pertaining to the height of the buildings that states that the developer needs to coordinate with City staff to ensure compliance. Setbacks shown are based on Zoning.

7. (a.)(b.) and (c.) Exterior Dimensions, Square Footage and Building Heights of all buildings. There are no buildings on this site.

8. Substantial Features. There no visible improvements on this property are paving improvements, power poles and other utility related appurtenances adjoining this tract as shown on the plat.

9. There are no striped parking spaces on this property.

11. (a.) Visible evidence of utilities is as shown on the plat.

13. This property is bounded on all sides by streets and/or alleys dedicated to the City of Lubbock. There are no directly adjoining land owners besides the City of Lubbock.

16. No evidence of current earthmoving work, building construction or building additions was observed.

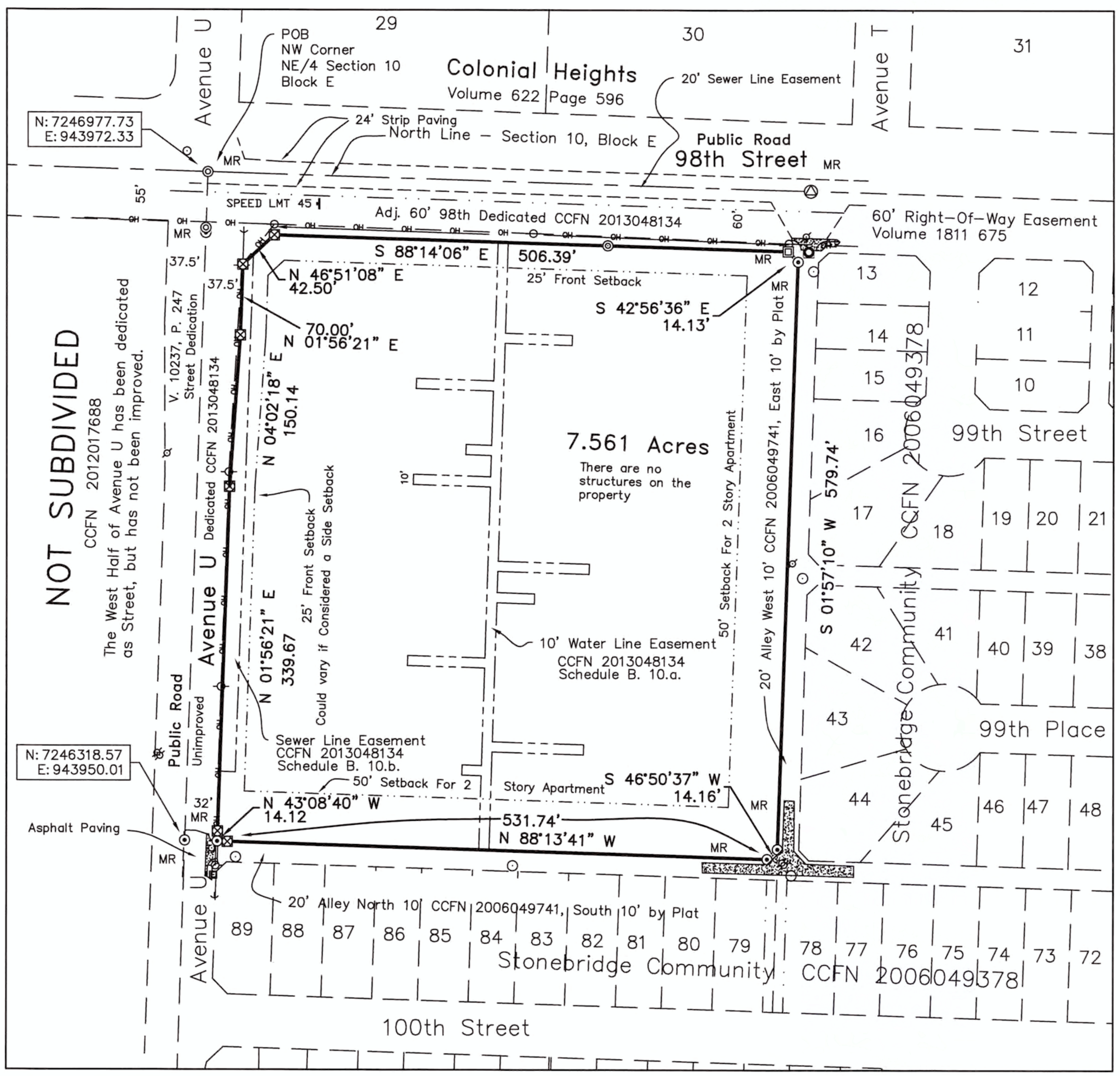
17. Changes in Right of Way. None known.

18. No evidence of the use of this property as a solid waste dump, sump or sanitary land fill was observed.

19. There are no designated Wetlands on this property.

20. This surveyor was not provided any information regarding any offsite easements benefiting this property.

Survey Drawing



Legend

Scale 1" = 100'

- Found Nail
- Fd. Rod w/ Orange Cap (AMD)
- Fd. Rod w/ Blue Cap (Stevens)
- Set Rod w/ Steel Cap
- Fd. Rod w/ Yellow Cap(Hugo Reed)
- Fd. Rod w/ Red Cap (R.L. Smith)
- Fd. 1/2" Rod
- Down Guy
- Power Pole
- Sign and Type
- Electric Box
- Water Valve
- Manhole
- CCFN Lubbock County Clerk File #
- MR Monument of Record Dignity
- Easement Line
- OH Overhead Line(s)
- Edge of Paving
- Adjoining Property Lines
- Setback Lines
- Concrete

0' 100' 200' 300'

Graphic Scale

N

Surveyed For:
West Texas Engineering

Surveyor's Notes

1. This plat is based on a survey made on the ground October 24, 2013.

2. Monuments shown as found on this plat were accepted by this surveyor as controlling evidence due to substantial agreement with record documents. All monuments found and accepted on this survey are physical monuments of record dignity.

3. No substantial discrepancies between the record documents and conditions on the ground were found on this survey.

4. All references to Volume and Pages contained with the Notes or referenced on this plat reference the records on file in the Lubbock County Court House.

5. Bearings and coordinates are based on the Texas North Central Zone Coordinate System (4202) NAD 83 CORS 96, EPOCH 2002.0000 determined by GPS and OPUS observations.

6. There were no encroachments or protrusions noted during the performance of this survey.

7. The location of utilities shown hereon are from observed evidence of above ground appurtenances only; the surveyor has not been provided with underground plans or surface ground markings to determine the location of the sub terrain uses.

8. From observed above–ground appurtenances only as shown hereon, electric, sanitary sewer, and water lines and/or service available for the select property within the public road right of way of 98th Street, Avenue U or adjoining alleys shown on survey.

9. Before digging in this area, please call for field locations requested for ground markings or underground utility lines.

10. Easement Information:

This Surveyor has relied on the Commitment for Title Insurance. issued by First American Title Insurance Company, for GF # 71902, Effective Date December 18, 2013, 7:00 A.M. for Record Title Information and easement data. There are five easements shown on Schedule B. All dedicated by Plat recorded in Lubbock County Clerk File # 2013048134. They are as listed below.

Item 10. a. 10' Wide Water Line Easement, plotted and noted hereon.

Item 10. b. Sewer Line Easement, plotted and noted hereon.

Item 10. c., d and e. Blanket garbage service easement and Blanket underground utility, transformer pad and switching enclosure easement. Blanket, noted here.

11. This property has access to two public roads. 98th Street and Avenue U. There are no curb cuts at this time as there are no curbs on either street at the site. Avenue U is unimproved at this time. 98th Street has strip paving near the center of the dedicated Right of Way.

Count on It
ABACUS ENGINEERING SURVEYING
2737 81st Street
LUBBOCK, TEXAS
806–745–7670
TEXAS SURVEYING FIRM NO. 101153–00
TEXAS ENGINEERING FIRM NO. 4368

1l

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
OCTOBER 9, 2014

Presentation, Discussion, and Possible Action Regarding Modifications to Terms of NSP1 Multifamily Loans.

RECOMMENDED ACTION

WHEREAS, Covenant Community Capital Corporation and Fort Worth Affordability, Inc. were awarded NSP1 funds to acquire and rehabilitate multifamily rental housing on September 1, 2010;

WHEREAS, the Department has previously approved amendments to the NSP contract for Covenant Community Capital Corporation (NSP Contract #77090000215) and Fort Worth Affordability, Inc. (NSP Contract #77090000218) to extend the contract end dates and allow the Development Owners to draw down funds for eligible costs;

WHEREAS, these contracts have been amended to the maximum extent possible – absent Board action – as per 10 TAC §9.4(1);

WHEREAS, the failure to formally extend the contracts further, which requires Board approval, combined with property standards and accessibility requirements that were not clearly understood by the Development Owners at the time of application and award caused the responses to Final Development Inspection deficiencies submitted by the Development Owners to be received after their contract stated end dates, however, the parties all proceeded with the understanding that the contracts continued in effect;

WHEREAS, accessibility deficiencies identified by inspection staff have recently been corrected;

WHEREAS, Covenant Community Capital Corporation and Fort Worth Affordability, Inc. met the NSP1 expenditure deadline of March 1, 2013, and are waiting to be reimbursed for eligible costs upon receipt of a Closed Final Development Inspection Letter; and

WHEREAS, staff has determined that approval of this Board Action Request would not cause a violation of the Department's rules or federal requirements and would allow the Department to release retainage and close out the contract in order to satisfy HUD requirements.

NOW, therefore, it is hereby

RESOLVED, the Board grants the Executive Director or his authorized designee authority to execute an amendment for these contracts that would extend the contract end date, thereby allowing the Development Owners to draw down remaining funds under their contracts while continuing to work with inspection staff toward receiving a Closed Final Inspection Letter.

BACKGROUND

Fort Worth Affordability, Inc. ("FWAI") received its Final Development Inspection on February 27, 2013, and a Final Development Inspection Letter from inspection staff identifying nineteen deficiencies was issued on April 15, 2013. Due to some question as to the requirements of the NSP Program, FWAI failed to respond to the inspection staff with corrective documentation until December 20, 2013. In the interim, on August 2, 2013, the contract termination date came due and the contract was not formally extended in writing. However, it is clear through the actions of and correspondence between Department staff and FWAI that there was an assumption and meeting of the minds that the contract was still in effect. Inspection staff responded in a Final Inspection Follow-up Letter on January 27, 2014 noting that thirteen of the nineteen deficiencies had been corrected. Three of the six outstanding deficiencies involved Energy Star dishwashers, refrigerators, and ceiling fans. The other three deficiencies were related to accessibility standards. On April 3, 2014, FWAI responded, correcting the three deficiencies related to accessibility standards. On June 2, 2014, inspection staff responded in another Final Inspection Follow-up Letter stating that the three Energy Star-related deficiencies are all that remain. FWAI has pointed out that eleven units are equipped with Energy Star dishwashers, refrigerators, and ceiling fans. An additional two units have Energy Star refrigerators, and it is FWAI's goal to replace all non-Energy Star ceiling fans and non-CFL light bulbs in the remaining units with Energy Star ceiling fans and CFL light bulbs. Staff believes that allowing FWAI to draw down the remaining NSP funds while continuing to correct Energy Star-related deficiencies is the best course of action, with the ability for staff to take action in accordance with the Previous Participation Rule in 10 TAC §1.5 if the Energy Star-related deficiencies are not corrected in a timely manner.

Covenant Community Capital Corporation ("CCCC") received its Final Development Inspection on April 24, 2013, and a Final Development Inspection Letter from inspection staff identifying twelve deficiencies was issued on June 20, 2013. Similarly to the aforementioned FWAI, CCCC did not respond to inspection staff with corrective documentation until November 4, 2013, and the contract termination date came due on August 2, 2013 without formal written extension. Likewise, the actions of Department staff and CCCC memorialized the contract, indicating an assumption and meeting of the minds that it was still in effect. Inspection staff responded in a Final Inspection Follow-up Letter on November 21, 2013 noting that six of the twelve deficiencies had been corrected. Two of the six deficiencies involved Energy Star refrigerators and ceiling fans. The other four deficiencies were related to accessibility standards. On February 5, 2014, CCCC responded, correcting the four deficiencies related to accessibility standards. On June 2, 2014, inspection staff responded in another Final Inspection Follow-up Letter stating that the two Energy Star-related deficiencies are all that remain. CCCC has indicated that 69 units are equipped with Energy Star refrigerators and other energy efficiency upgrades (replacing HVAC systems and solar screens in dozens of units), and it is CCCC's goal to replace all non-Energy Star ceiling fans and refrigerators. Staff believes that allowing CCCC to draw down the remaining NSP funds while continuing to correct Energy Star-related deficiencies is the best course of action, with the ability for staff to take action in accordance with the Previous Participation Rule at 10 TAC §1.5 if the Energy Start-related deficiencies are not corrected in a timely manner.

1m

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer

RECOMMENDED ACTION

WHEREAS, a Housing Tax Credit application for Avenue Station was submitted to the Department on April 14, 2014;

WHEREAS, the Certification of Reservation from the Texas Bond Review Board expires on February 2, 2015;

WHEREAS, the proposed issuer of the bonds for the Development is the City of Houston Housing Finance Corporation; and

WHEREAS, the Executive Award and Review Advisory Committee ("EARAC") recommends the issuance of the Determination Notice and no compliance history or previous participation issues in accordance with 10 TAC §1.5 were identified or considered by EARAC;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of $354,253 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Avenue Station is hereby approved in the form presented to this meeting.

BACKGROUND

General Information: Avenue Station, located in Houston, Harris County, involves the new construction of a mixed income development; which will serve multiple rent and income levels and consists of 68 total units. Of the 68 total residential units, 7 units will be rent and income restricted at 30% of AMFI, 21 units will be rent and income restricted at 50% AMI, 27 units will be rent and income restricted at 60% AMI, and the remaining 13 units will be market rate with no rent or income restrictions. The development will serve the general population and is located in an area that has no zoning ordinance. In addition to the tax credit and bond financing, the application proposes to secure a grant from a local Houston based Nonprofit, Houston Endowment, Inc., and Hurricane Ike Disaster Recovery funds made available to the City of Houston Housing and Community Development Department through the Texas General Land Office and the U.S. Department of Housing and Urban Development.

Organizational Structure and Compliance: The Borrower is Avenue Station, LP. The General Partner is Avenue Station GP, LLC, of which the sole member is Avenue CDC which includes the following individuals: Mary Lawler, Timothy Higley, Robert Fiederlein, Caesar Calderon, Deborah Tesar, Marie Arcos, Jessica Farrar, Jimmy Castillo, Earl Chase, Tami Merrick, David Jones, Raquel Roberts, Janet Meyer, Mark Parthie, Cassandra Silvernail, Viola Solomon and Lizette Fernandez.

The EARAC met on October 1, 2014, and considered the previous participation review documentation relating to the organizational structure as noted above in accordance with the Previous Participation Reviews found in 10 TAC §1.5. After considering information provided in association with the Avenue Station application as previously mentioned the EARAC recommended approval of the award.

There was no dissenting vote cast relating to the review, and EARAC determined that the compliance issues do not warrant denial or conditions.

Census Demographics: The development is to be located at 2010 North Main Street in Houston. Demographics for the census tract (2123.00) include AMFI of $30,246; the total population is 5,381; the percent of population that is minority is 94.65%; the percent of the population that is below the poverty line is 47.97%; the number of owner-occupied units is 625 and the number of renter units is 958. (Census information is from FFIEC Geocoding for 2014.)

Public Comment: The Department has not received any letters of support or opposition for this Development.

R1

BOARD REPORT ITEM

COMPLIANCE DIVISION

OCTOBER 9, 2014

Results from Compliance Division Customer Service Survey and update on Compliance Activities

BACKGROUND

At the February 20, 2014, Board meeting the Compliance Division presented the first report on the results of Customer Service Surveys. This is the quarterly update.

Results of the customer service surveys

Since the last Board Report, six survey responses were received from Community Affairs subrecipients who were recently monitored. Respondents are providing more specific feedback.

One respondent suggested posting all monitoring letters online. Since this would impact many and has been suggested thus far by only one commenter the Department is not taking any action on this idea at this time, but we will take the idea under consideration.

Another respondent commented "*An oversight committee of sub-recipients to serve in an advisory capacity to make recommendations to the Department would be helpful.*" The Department is considering the possibility of forming a Community Affairs workgroup similar to the Disability Advisory Workgroup or the Rural Workgroup.

One respondent pointed out that their monitoring visit was scheduled during a mandatory training held in Austin. To avoid these kinds of scheduling conflicts in the future, the program area will be creating a division events calendar that will be shared with the monitoring staff.

One of the subrecipients suggested requiring submission of materials to be reviewed in the office instead of onsite. Staff has been gradually moving towards this model for monitoring.

Some of the respondents indicated that they would like updates during the monitoring visit about any potential findings (instead of just at the exit interview). Management is considering this suggestion but has hesitations about expectations on staff to review corrective action in the field which could interrupt their assigned monitoring work.

Other comments received included:

Ms. Falcon acted very professional and made some good recommendations.

Both Rosie and Walter were very professional and courteous. They both answered any questions and gave good advice and suggestions.

The Compliance Division is fine. The Training Division could improve on communicating guidance to subrecipients.

I think updates on rule changes or new rules that would affect us would bee [sic] helpful. We get so many notices from the department it is difficult to know always which ones are for CAAs.

Provide additional compliance training; reminder/awareness emails on common issues/challenge.

Work collaboratively with the CAP agencies. At the end of the day we all want to do what is best for the client and every rule in the TAC should be related to activities that benefit our low-income clients.

Since the last Board Report, seventy surveys have been returned from multifamily rental developments. Overall, the surveys indicate that things are going fairly smoothly, monitors are on time, communicating findings, working professionally, responding to questions, etc. A couple of the surveys reported isolated incidents of concern that management followed up with. Some specific comments received include:

Ms. Shearfield was very knowledgeable and very courteous to our senior residents. She was very detailed on explaining the deficiencies and the steps to correct them.

Ms. Shearfield and I communicated before her arrival due to questions we had. She was so professional, made me feel at ease since this was my first inspection alone. I feel if there is ever a problem she will be more than happy to direct us to the proper department. She was a jewel in representing TDHCA and we thank you.

Virginia was very helpful in explaining things to me since this was my first File Audit.

We are very happy with the Compliance and Section 8 divisions of TDHCA.

The inspector was very courteous and offered additional help to us even if it is not inspection related I thought that was very generous because I do have questions from time to time not related to inspections.

John Nunley not only took the time to educate, he did it with patience and accurate knowledge.

Compliance division does a great job.

Keep up the good work and being there when we need them.

Nine surveys were retuned regarding the contract monitoring reviews. Those surveys continue to indicate that things are going smoothly. Some specific comments received include:

She was on vacation and still answering emails.

Sometime it really does help to be allowed to talk to humans instead of being sent to a Q&A process that often results in responses that ref. you to other documents or do not really answer the question(s). The monitors listened to our questions, asked clarifying questions and then really answered the questions without just citing CFR... We appreciated their time and their clear communication.

Other Compliance Matters

Stephanie Naquin was promoted to Director of Multifamily Compliance in July. Stephanie has been with the Department since June 2007. She is a recognized expert in multifamily compliance issues, particularly utility allowances and income and rent limit issues. The Physical Inspection and Compliance Monitoring sections of the Division now report directly to her.

JR Mendoza, Manager of Community Affairs Monitoring, passed the Quality Control Inspector Certification in September. This is a relatively new certification required by the Department of Energy to perform certain functions under the Weatherization Assistance Program. This exam has a passing rate of less than 50%. JR scored an 83 on the exam, the highest grade of any test taker so far.

There has been a considerable amount of turnover in the Compliance Division this calendar year, particularly in the Compliance Monitoring area. Four employees left for other jobs in the industry that pay more and/or do not require travel. Management is sensitive to these issues and continues to evaluate ways to retain and attract qualified staff.

The Compliance Division hosted a workgroup in Fort Worth on September 15, 2014. These workgroups were reconvened to address issues related to the Uniform Physical Condition Standards; however, it was requested that the topics covered be broadened to cover all compliance issues. At the September workgroup staff covered proposed changes to the compliance monitoring rules and options for review. The next workgroup will be held in December and staff is planning to hold the workgroup online instead of in person.

R2

BOARD REPORT ITEM

FAIR HOUSING TEAM

OCTOBER 9, 2014

The Fair Housing Team has been very active since the last Board report on July 31, 2014. Below is a summary of each of the major fair housing related projects in production.

Fair Housing Tracking Database

The fair housing tracking database is complete. Included in the Board materials (Exhibit A) is a full report generated by from the Fair Housing Tracking Database. Each effort to affirmatively further fair housing ("AFFH") is reflected as an "Action Step" and each Action Step relates to one or more of the Impediments identified in the 2013 Phase 2 Analysis of Impediments to Fair Housing Choice for the State of Texas. The report reflects many efforts that were implemented and incorporated in the Department's rules and processes prior to the creation of the Fair Housing Team but that remain in effect. Other Action Steps are new efforts that reflect the current work of the Fair Housing Team. This report will continue to evolve and grow as the Department moves forward and new efforts are planned and implemented. However, this initial report is intended to show the breadth of fair housing activities and policies across the Department. This database will be critical in ensuring that the Department meets its obligation to maintain records of its efforts to AFFH. However, staff also expects the database to be a useful tool in identifying areas where additional measures to AFFH could be implemented.

Affirmative Marketing Data Tool

The draft Affirmative Marketing Rule currently out for public comment contemplates an Affirmative Marketing Tool promulgated by the Department to assist Owners and Management Agents in identifying populations "least likely to apply". The rule as drafted would require Owners of new or unoccupied developments, or developments with 40 units or less to compare demographic data of the census tract to demographic data of the MSA or County to determine which populations are underrepresented in the census tract but that are well represented in the wider MSA or County. Similarly, existing developments with more than 40 units are required to compare the demographic data of their development's tenant pool with the demographic data of the MSA or County to determine whether certain populations are underrepresented or "least likely to apply". Underrepresentation is evidenced by percentages that represent a 20% difference between wider market areas and developments or census tracts. This definition was developed to be consistent with HUD's definition of minority concentration in its Affirmative Fair Housing Planning Guide and the demographic studies completed under the Phase 2 AI. The Department has worked with the Program Planning Policy & Metrics Division to create a tool that interfaces with the Department's CMTS system to compile property demographics from household information entries and compare them to Census Tract, County, and MSA census tracts where applicable. The result is an Access database and user interface that allows a user to select a census tract or property site and pull a report that will list any populations underserved by the development that should be included in a development's affirmative marketing plan. The report identifies census tracts or neighborhoods with the highest concentration of the underserved population based on census data. This element of the tool is designed to assist owners and property managers in indentifying the neighborhoods where special outreach may be particularly useful in reaching the identified underserved populations. Screen shots and sample reports provided by the tool are included in the Board materials (Exhibit B). Staff looks forward to completing its QA checks across the system and refining its instructions to allow for release and external testing.

Invitation for Bid for Crime Statistics Data

Staff received only one bid, entered by Location, Inc., during its Invitation for Bid for Crime Statistics Data. The data is being requested to assist the Department in creating development siting limitations associated with the level and proximity of crime in particular areas. As currently drafted in the Undesirable Neighborhood Characteristics section of Subchapter B in the Uniform Multifamily Rules, the Department has contemplated a crime index threshold that will be based on the licensed data to be provided. However, the bidder has brought additional terms to the Department for consideration in the form of a Master Licensing Agreement and Scope of Work. Legal Counsel on behalf of the Department and Location, Inc. are currently reviewing the terms of the proposed relationship. If a relationship for the licensed data as proposed in this IFB is not possible at this time and the vendor agreement is not executed as a result, the Department will review other possibilities for drafting a crime threshold or otherwise reasonably addressing concerns related to development siting in higher crime areas.

Fair Housing Information and Resources Website Updates

The Fair Housing Team has completed its re-development of the fair housing section of our TDHCA website. The site will include a wide range of fair housing information and a draft has been shared with the Texas Department of Agriculture, Texas Workforce Commission, Deaprtment of State Health Services, and General Land Office through the Fair Housing Team's monthly workgroup meetings. A draft copy of the Fair Housing 101 landing page and left-side user menu are included in the Board Materials (Exhibit C). The new website section, after completing final review, will be announced via the Fair Housing listserv and during upcoming TDHCA events.

Tenant Rights and Resources Guide for TDHCA Monitored Rental Properties

The Fair Housing Team worked with the Compliance Division to integrate a tenant's programmatic rights brochure with TDHCA's Fair Housing Disclosure Notice and a property's notice of amenities and services. The draft guide has been created to assist the Department in providing fair housing rights information and directly addressing Impediment 3 of the State of Texas's AI. Comments are currently being received on the draft, which is included in the Board Materials (Exhibit D).

Exhibit A

Following is an introduction page and TDHCA Fair Housing Report pulled by AI Impediments as prepared in the 2013 Analysis of Impediments.

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS

Building Homes. Strengthening Communities.

Summary Report

•••

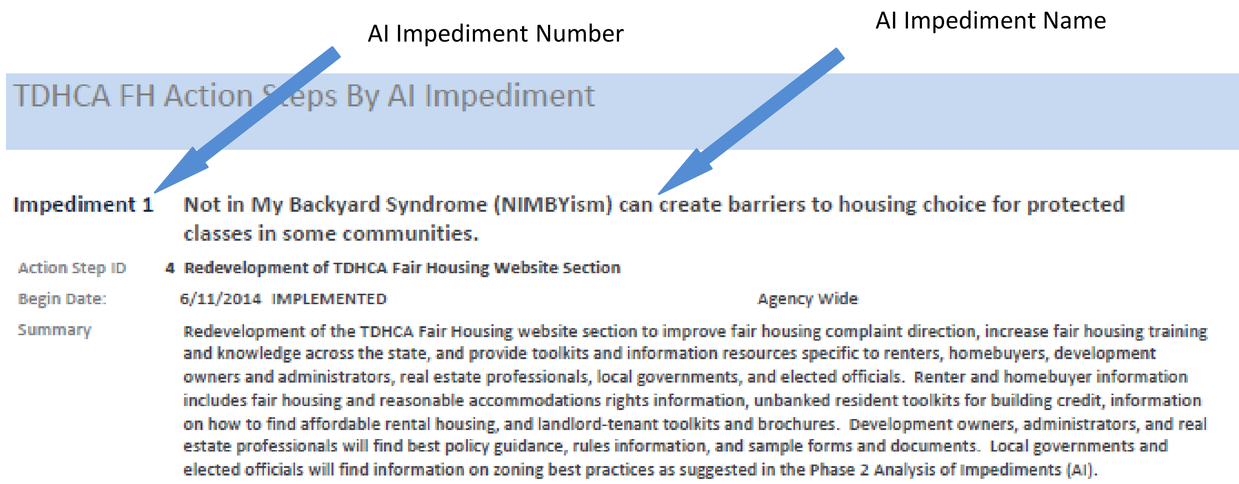
Efforts to Affirmatively Further Fair Housing (“AFFH”)

This report provides a summary of the current efforts (“action steps”) that the Department is currently planning, implementing, or that have already been incorporated into the rules or processes of the housing and/or community affairs programs that the Department administers.

Understanding this report

The report organizes each of the Action Steps under one or more of six (6) Impediments identified in the 2013 Analysis of Impediments to Fair Housing Choice for the State of Texas. In general, each of the Action Steps relates to at least one of the Impediments by reducing the barriers to Fair Housing Choice presented by that Impediment. The report is generated from a database maintained by the Department's Fair Housing Team. It is important to note that some elements of the database and report remain in the development stage and may change in future reports as enhancements are implemented. Below is a series of screen shots and instructions to assist the reader in understanding how the report is organized.

Each Impediment will begin on a page break and will be listed in bold at the top by its assigned number and corresponding description.



TDHCA FH Action Steps By AI Impediment

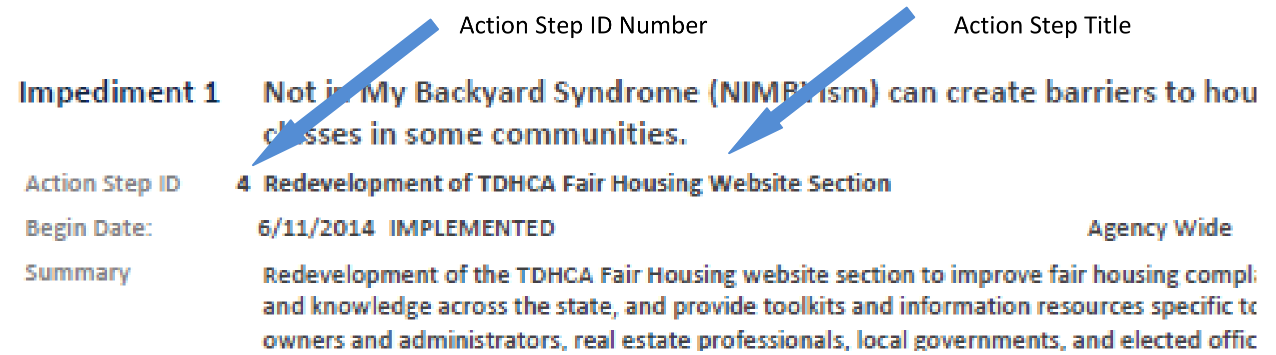
Impediment 1 **Not in My Backyard Syndrome (NIMBYism) can create barriers to housing choice for protected classes in some communities.**

Action Step ID **4 Redevelopment of TDHCA Fair Housing Website Section**

Begin Date: 6/11/2014 IMPLEMENTED Agency Wide

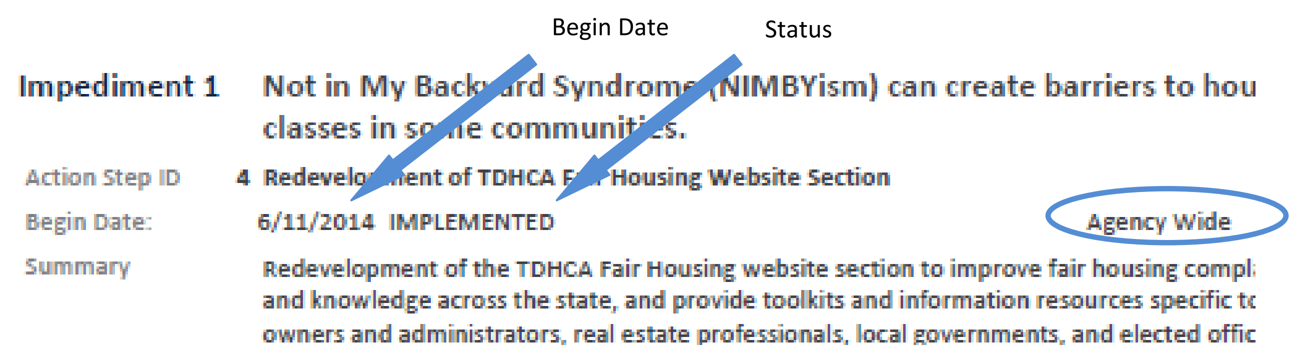
Summary Redevelopment of the TDHCA Fair Housing website section to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments (AI).

Some Action Steps will be listed under more than one Impediment because the Action Step has been created to address more than one of the identified Impediments in the AI. For example, Action Step ID 4 (Redevelopment of TDHCA Fair Housing Website Section) is listed under Impediments 1-5 because of this action step's relationship to many of the Impediments listed in the AI. These are not duplicates. New entries are noted by each unique Action Step ID number and a unique Action Step title.



Impediment 1	Not in My Backyard Syndrome (NIMBYism) can create barriers to hou classes in some communities.	
Action Step ID	4 Redevelopment of TDHCA Fair Housing Website Section	
Begin Date:	6/11/2014 IMPLEMENTED	Agency Wide
Summary	Redevelopment of the TDHCA Fair Housing website section to improve fair housing compl and knowledge across the state, and provide toolkits and information resources specific tc owners and administrators, real estate professionals, local governments, and elected offic	

The database report lists a begin date and a status for each entered Action Step. The status will reflect "Implemented" or "Completed". Items showing a status of "Implemented" that have no begin date reflect items that were begun prior to the beginning of the tracking database and Fair Housing Team and are ongoing at the Department. Items showing a status of "Implemented" that have a begin date reflect items that began after the creation of the Fair Housing Team. These items are currently in progress and have not yet been completed. Items showing a status of "Completed" began and were completed after the creation of the Fair Housing Team. For any completed status, a date of completion will be entered.



Impediment 1	Not in My Backyard Syndrome (NIMBYism) can create barriers to hou classes in some communities.	
Action Step ID	4 Redevelopment of TDHCA Fair Housing Website Section	
Begin Date:	6/11/2014 IMPLEMENTED	Agency Wide
Summary	Redevelopment of the TDHCA Fair Housing website section to improve fair housing compl and knowledge across the state, and provide toolkits and information resources specific tc owners and administrators, real estate professionals, local governments, and elected offic	

Each Action Step will then show a summary of the Action Step and a basic overhead category describing the activity. The agency is currently using Agency Wide, Multifamily, or Single Family until a program specific report function is completed. Community Affairs items have been included in the Single Family activity category at this time.

TDHCA FH Action Steps By AI Impediment

Impediment 1 Not in My Backyard Syndrome (NIMBYism) can create barriers to housing choice for protected classes in some communities.

Action Step ID 4 **Redevelopment of TDHCA Fair Housing Website Section**

Begin Date: 6/11/2014 IMPLEMENTED Agency Wide

Summary

Redevelopment of the TDHCA Fair Housing website section to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments (AI).

Action Step ID 7 **Development of QAP Scoring Incentives for Development in High Opportunity Areas**

Begin Date: IMPLEMENTED Multifamily

Summary

In 2013, TDHCA implemented a series of scoring items to faciliate the development of tax credit properties in high opportunity areas. The scoring items included an opportunity index with the highest scoring options for locating developments in census tracts with low poverty rates (<15%), high household incomes, and high elementary school performance ratings (as reported by the Texas Education Agency). A second scoring item known as "Educational Excellence" provides additional points for locating developments in areas that also have high quality middle and high schools. These items were updated in the 2014 QAP.

Action Step ID 8 **Expansion of Ineligible Adverse Site and Area Characteristics**

Begin Date: IMPLEMENTED Multifamily

Summary

In 2013, existing site ineligibility characteristics were expended. The rule now covers up to a 1,000 foot radius and ineligible features include blight, high crime, heavy industrial facilities, and other characteristics which may not be appropriate for residential development. The rule requires disclosure of such features for any multifamily applications for funding rehabilitation of an existing property or new construction. The rule results in improved neighborhood conditions for tenants.

Action Step ID 10 **HHSCC and TDHCA Partnership and Creation of Rental Assistance Video Series**

Begin Date: IMPLEMENTED Agency Wide

Summary

HHSCC and TDHCA collaborated on a short video series to educate the public on fair housing (including reasonable accommodations), homebuyer assistance, rental assistance, energy assistance, home repair, emergency assistance, and service enriched housing. The short video series will be made available from the TDHCA website and used as another method to engage and inform the public.

Action Step ID **11 University of Houston Contract for Multifamily Primer**

Begin Date: IMPLEMENTED Multifamily

Summary To better address opportunities for meaningful and substantive input regarding the development of affordable housing and to meet the needs of the public, advocacy groups, elected officials, and local governments in understanding Multifamily programs offered by the Department (particularly the Housing Tax Credit program), TDHCA contracted with the University of Houston to develop a lay person's guide to Multifamily housing and local community involvement.

Action Step ID **15 Creation of a State Agency Fair Housing Workgroup**

Begin Date: 5/6/2014 IMPLEMENTED Agency Wide

Summary A routine meeting schedule was established for TDA, TDHCA, TWC, GLO, and DSHS to assist state agencies in aligning fair housing efforts under the AI, consider ways to improve fair housing education and outreach across the state, and develop consistency in complaint direction, training, and resource provision.

Action Step ID **24 Creation of a Fair Housing ad in TAAHP publication**

Begin Date: 5/28/2014 COMPLETED - 6/5/2014 Agency Wide

Summary DPPA received an opportunity to post a TDHCA ad in an upcoming TAAHP publication. The Fair Housing Team researched statistics and created a fair housing tagline to be used to draw attention to the Department's commitment to fair housing efforts and raise public awareness about the importance of fair housing choice.

Action Step ID **28 TDHCA Speakership: TxAPA Conference - Zoning Laws and Best Practices for Fair Housing**

Begin Date: IMPLEMENTED Agency Wide

Summary TDHCA will appear as a speaker along with representatives from Coats Rose and the City of Buda at the TxAPA Conference in Frisco, TX on 10/16/14. The panel discussion will include topics such as recent legal actions related to zoning, a city representative's perspective on the HTC program and how to engage with the public, and a general discussion of zoning best practices.

Action Step ID **31 Creation of a Fair Housing Article for the Texas Municipal League**

Begin Date: 7/1/2014 COMPLETED - 9/15/2014 Multifamily

Summary In coordination with current efforts to become more engaged with the Texas Municipal League in order to support local elected official and government needs for information related to affordable housing development, TDHCA's Executive Director drafted an article for consideration in the publication of the Texas Municipal League's newsletter. The article was published on 9/15/14.

Action Step ID **32 Revisions to CMTS: Fixing and Populating Census Tract Entry**

Begin Date: 7/8/2014 IMPLEMENTED Multifamily

Summary The FH Team is leading the initiative to improve and populate census tract entry to prepare for creating a website mapping tool that will show service delivery areas and demographic populations served. This kind of tool is heavily dependent on address entry being accurate and the ability to easily pull census data. GIS Lat/Long Verification tools will also be researched for integration.

Action Step ID	**60**	**Qualified Allocation Plan provisions to ensure incentives for local community support or opposition are consistent with Fair Housing objectives**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		Provisions were added in Section 11.9(d) to advise community organizations and local governments to consider Fair Housing laws, FHAST forms, current Analysis of Impediment documents in local jurisdictions, one year action plans, and five year consolidated plans when generating opposition or support documents.	
Action Step ID	**71**	**Qualified Allocation Plan Quantifiable Community Participation provisions**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The QAP includes Quantifiable Community Participation provisions in Section 11.9(4)(C) that include highest point incentives for explicit support or neutrality from a Neighborhood Organization that during at least one of three prior Application Rounds provided a written statement that qualified as Quanitifiable Community Participation opposing any Competitive Housing Tax Credit Application and whose boundaries remain unchanged. These provisions assist TDHCA in incentivizing development in communities which have been historically opposed to affordable housing but have changed their views.	
Action Step ID	**94**	**Creation of an affordable housing presentation for HTC public forums**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		MFMU created a short video to show at the beginning of HTC public forums during the Tax Credit cycle that could be used to address common questions and concerns about affordable housing. The video premiered during the 2014 cycle and is available on the MFMU website as a tool that can be used and viewed by local government officials, communities, and developers in addressing common questions and concerns.	

Impediment 2 There is inadequate information available to local governments, stakeholders, and the public about fair housing requirements and programs to assist persons with disabilities and low income residents.

Action Step ID **4 Redevelopment of TDHCA Fair Housing Website Section**

Begin Date: 6/11/2014 IMPLEMENTED Agency Wide

Summary

Redevelopment of the TDHCA Fair Housing website section to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments (AI).

Action Step ID **6 Austin Area Meeting on the Adoption of a City Ordinance: Source of Income as a Protected Class**

Begin Date: 6/4/2014 COMPLETED - 6/4/2014 Agency Wide

Summary

Fair Housing Team networking and attendance at a City of Austin meeting discussing a proposed ordinance to include source of income as a protected class. The ordinance would extend City of Austin fair housing protections to Section 8 Housing Choice voucher holders and other subsidy program recipients.

Action Step ID **9 Review and revision of TDHCA's Language Assistance Plan**

Begin Date: 4/22/2014 IMPLEMENTED Agency Wide

Summary

HRC transitioned duties associated with the Language Assistance Plan to the Fair Housing Team. The Team is revisiting the use of third party service interpreter and translation services and planning the roll out of translated web pages, documents, and other resources related to basic fair housing and tenant rights. The LAP will be updated and revisions will be implemented on an agency-wide basis.

Action Step ID **10 HHSCC and TDHCA Partnership and Creation of Rental Assistance Video Series**

Begin Date: IMPLEMENTED Agency Wide

Summary

HHSCC and TDHCA collaborated on a short video series to educate the public on fair housing (including reasonable accommodations), homebuyer assistance, rental assistance, energy assistance, home repair, emergency assistance, and service enriched housing. The short video series will be made available from the TDHCA website and used as another method to engage and inform the public.

Action Step ID **11 University of Houston Contract for Multifamily Primer**

Begin Date: IMPLEMENTED Multifamily

Summary To better address opportunities for meaningful and substantive input regarding the development of affordable housing and to meet the needs of the public, advocacy groups, elected officials, and local governments in understanding Multifamily programs offered by the Department (particularly the Housing Tax Credit program), TDHCA contracted with the University of Houston to develop a lay person's guide to Multifamily housing and local community involvement.

Action Step ID **15 Creation of a State Agency Fair Housing Workgroup**

Begin Date: 5/6/2014 IMPLEMENTED Agency Wide

Summary A routine meeting schedule was established for TDA, TDHCA, TWC, GLO, and DSHS to assist state agencies in aligning fair housing efforts under the AI, consider ways to improve fair housing education and outreach across the state, and develop consistency in complaint direction, training, and resource provision.

Action Step ID **17 Creation of External Outreach Tools: Fair Housing Listserv**

Begin Date: 5/6/2014 COMPLETED - 7/9/2014 Agency Wide

Summary A new Fair Housing listserv was discussed and implemented along with ideas for outreach that will occur through the creation of new website sections (additional sections were implemented into the website plan such as a survey, news corner, and TX Fair Housing events and training calendar). The new listserv will assist TDHCA in reaching external fair housing advocacy and special interest groups that would not ordinarily be part of the Department's listservs.

Action Step ID **19 Creation of an Internal and External Email and Marketing Statement**

Begin Date: 5/28/2014 COMPLETED - 7/14/2014 Agency Wide

Summary FH Team and DPPA met with Executive to discuss developing a new mission statement and byline that can highlight fair housing and be used with external marketing publications and communications.

Action Step ID **20 TDHCA Fair Housing Accessibility First Construction and Compliance Training**

Begin Date: 5/29/2014 COMPLETED - 5/29/2014 Agency Wide

Summary In coordination with TAAHP and other State agencies who receive Federal funds, TDHCA coordinated the Fair Housing Accessibility First Construction and Compliance training offered by Jack Catlin of HUD approved trainer and industry expert, LCM Architects.

Action Step ID **21 TDHCA 2010 ADA Standards Training**

Begin Date: 5/30/2014 COMPLETED - 5/30/2014 Agency Wide

Summary In January 2014 following Department of Justice guidance, TDHCA adopted 2010 ADA construction standards for Section 504 compliane. TDHCA's Compliance Division conducted a 2010 ADA training and invited property management, owners, engineers, architects, and the general public.

Action Step ID	**23 Creation of TDHCA Fair Housing Marketing Guidelines**		
Begin Date:		IMPLEMENTED	Agency Wide
Summary	DPPA creation of a TDHCA Fair Housing Marketing Guidelines booklet concerning items such as: Inclusion of information on how to request reasonable accommodations on all publicly distributed event notices, acceptable terminology, fair housing logo use, and appropriate use of photographs and images in advertising.		
Action Step ID	**24 Creation of a Fair Housing ad in TAAHP publication**		
Begin Date:	5/28/2014	COMPLETED - 6/5/2014	Agency Wide
Summary	DPPA received an opportunity to post a TDHCA ad in an upcoming TAAHP publication. The Fair Housing Team researched statistics and created a fair housing tagline to be used to draw attention to the Department's commitment to fair housing efforts and raise public awareness about the importance of fair housing choice.		
Action Step ID	**26 Revision of the TDHCA Vacancy Clearinghouse Search Tool**		
Begin Date:	6/11/2014	IMPLEMENTED	Multifamily
Summary	Revisions to the TDHCA Vacancy Clearinghouse were discussed in relation to the Department's new Affirmative Marketing rule. Development Owners, Managers, and fair housing advocates requested a centralized marketing tool that could be used to better advertise affordable rental vacancies. Mock ups and a new name for the new site page will be created. Subchapter F rules related to quarterly reporting will be reviewed for changes needed to support more timely vacancy information. This effort will assist the Department in better communicating affordable rental availabilities and eligibility information to the public and connecting households to fair housing rights information and resources.		
Action Step ID	**27 Creation of an Internal Fair Housing Training Initiative**		
Begin Date:	6/16/2014	IMPLEMENTED	Agency Wide
Summary	An internal fair housing training initiative was created to provide more education and training to internal staff. The initiative will begin with poster display and blogging on the water cooler page and will culminate in brown bag sessions for internal staff and mini power point presentations at program area staff meetings.		
Action Step ID	**28 TDHCA Speakership: TxAPA Conference - Zoning Laws and Best Practices for Fair Housing**		
Begin Date:		IMPLEMENTED	Agency Wide
Summary	TDHCA will appear as a speaker along with representatives from Coats Rose and the City of Buda at the TxAPA Conference in Frisco, TX on 10/16/14. The panel discussion will include topics such as recent legal actions related to zoning, a city representative's perspective on the HTC program and how to engage with the public, and a general discussion of zoning best practices.		

Action Step ID	**32**	**Revisions to CMTS: Fixing and Populating Census Tract Entry**	
Begin Date:		7/8/2014 IMPLEMENTED	Multifamily
Summary		The FH Team is leading the initiative to improve and populate census tract entry to prepare for creating a website mapping tool that will show service delivery areas and demographic populations served. This kind of tool is heavily dependent on address entry being accurate and the ability to easily pull census data. GIS Lat/Long Verification tools will also be researched for integration.	
Action Step ID	**39**	**TDHCA and Local Operator provision of Fair Housing and Educational Materials for Section 8 Recipients**	
Begin Date:		IMPLEMENTED	Single Family
Summary		As part of its Administrative Plan and to aid in the effective implementation of its program, the Section 8 Division provides HUD Fair Housing guidance to both prospective tenants and property Owners/landlords in the form of Fair Housing information packets and tenant and landlord briefings. The Housing Resources Center provides additional information for the briefing packet that includes information on schools, employment availabilities, hospitals, and other amenities by location/area.	
Action Step ID	**43**	**Update of TDHCA's Section 8 Administrative Plan & Website Section**	
Begin Date:		5/1/2014 IMPLEMENTED	Single Family
Summary		The Section 8 Administrative Plan was reviewed and revised to better align with overall Department goals to affirmatively further fair housing. The advent of the revised plan will coincide with a new Section 8 website section on fair housing and resources for renters. The Section 8 page's fair housing information will be integrated with the Department's larger fair housing website section which is planned for release in October.	
Action Step ID	**46**	**Revision of the Fair Housing Training Component for the ESG Implementation Workshop**	
Begin Date:		8/5/2014 COMPLETED - 9/16/2014	Single Family
Summary		The ESG group, with the help of the Fair Housing Team and Legal, drafted a comprehensive Fair Housing training component to be presented during the ESG Implementation Workshop. Training components included detailed discussions of all Civil Rights laws related to ESG, ADA requirements for shelters, reasonable accommodation requirements, equal access guidance, LEP guidance, and information on affirmative outreach provisions. Additional monitoring rules may be created to assist in reviewing fair housing requirements and ESG staff is discussing making a recorded fair housing webinar available or offering a separate fair housing training during the year.	
Action Step ID	**47**	**Creation of a brochure regarding tenant's programmatic rights**	
Begin Date:		8/8/2014 IMPLEMENTED	Multifamily
Summary		A tenant rights brochure was created by the Fair Housing and Compliance team with the intent of: 1) Increasing education about fair housing rights and reasonable accommodations, 2) Increasing education about the rights of Section 8 renters in TDHCA funded multifamily rental properties, 3) Creating a more meaningful fair housing disclosure notice, and 4) Ensuring properties are adequately advertising their available amenities and services.	

Action Step ID	50	**Creation of a marketing giveaway (letter openers) with references to Fair Housing commitment**	
Begin Date:	8/21/2014	IMPLEMENTED	Single Family
Summary		Homebuyer and MCC programs requested a marketing giveaway in the form of letter openers with references to the new Fair Housing commitment tagline, "Expanding Fair Housing Choice and Opportunities for all Texans" to increase the visibility of Fair Housing in the State. The letter openers will be given out during the TML conference.	
Action Step ID	52	**Creation of an Agency Wide Reasonable Accommodation Rule in 10 TAC Section 1.204**	
Begin Date:		IMPLEMENTED	Agency Wide
Summary		The Reasonable Accommodation Rule was created in 10 TAC Section 1.204 to better align 504 mandates with monitoring goals and provide guidance to SF, MF, and CA stakeholders regarding laws and implementation of reasonable accommodation practices.	
Action Step ID	56	**Expansion of accessibility requirements and 20% minimum construction standard for Multifamily properties**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The Uniform Multifamily Rules Subchapter B, Section 10.101(8)(B), expand accessibility requirements to multifamily developments not normally subject to Fair Housing requirements and require a minimum of 20% of each unit type to provide accessible entry levels, including a minimum of one bedroom and bathroom or powder room at entry level, and provision of all common use facilities in compliance with Fair Housing guidelines. This rule ensures that even small size developments will be subject to Department and Fair Housing accessibility rules.	
Action Step ID	59	**Qualified Allocation Plan Criteria for Tenant Populations with Special Housing Needs**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		Criteria included for Tenant Populations with Special Housing Needs includes point elections for developments for which at least 5% of units are set aside for persons with special needs (such as individuals with alcohol and drug addictions, colonia residents, persons with disabilities, persons protected by VAWA, persons with HIV/AIDS, homeless populations, veterans, wounded warriors, and migrant farm workers). Such units must be affirmatively marketed to persons with special needs and units must be held vacant for occupancy by a person meeting special needs criteria for a 12 month period at the time of lease up.	
Action Step ID	60	**Qualified Allocation Plan provisions to ensure incentives for local community support or opposition are consistent with Fair Housing objectives**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		Provisions were added in Section 11.9(d) to advise community organizations and local governments to consider Fair Housing laws, FHAST forms, current Analysis of Impediment documents in local jurisdictions, one year action plans, and five year consolidated plans when generating opposition or support documents.	

Action Step ID	**61**	**Uniform Multifamily rule provision to treat all rehabilitiation as substantial alteration**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The rule provision in Subchapter B, Section 10.101 requires that all applications proposing rehabilitiation (including reconstruction) be treated as substantial alteration in accordance with Section 1.205. The inclusion of this provision requires any developer to make 2% of units accessible to persons with vision and hearing impairments and 5% of units accessible to persons with mobility impairments as part of the development's improvements.	
Action Step ID	**80**	**NSP training included elements of Fair Housing, Affirmative Marketing, and LEP**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The Texas Apartment Association, working with TDHCA, administered NSP training during NSP1. A full day training was offered on Affirmative Marketing and training was delivered by TAA in four locations of the state to ensure that subrecipients were aware of Fair Housing, Affirmative Marketing, and LEP requirements.	

Impediment 3 The public is not sufficiently aware of how to obtain assistance necessary to protect fair housing rights.

Action Step ID **4** **Redevelopment of TDHCA Fair Housing Website Section**

Begin Date: 6/11/2014 IMPLEMENTED Agency Wide

Summary

Redevelopment of the TDHCA Fair Housing website section to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments (AI).

Action Step ID **9** **Review and revision of TDHCA's Language Assistance Plan**

Begin Date: 4/22/2014 IMPLEMENTED Agency Wide

Summary

HRC transitioned duties associated with the Language Assistance Plan to the Fair Housing Team. The Team is revisiting the use of third party service interpreter and translation services and planning the roll out of translated web pages, documents, and other resources related to basic fair housing and tenant rights. The LAP will be updated and revisions will be implemented on an agency-wide basis.

Action Step ID **10** **HHSCC and TDHCA Partnership and Creation of Rental Assistance Video Series**

Begin Date: IMPLEMENTED Agency Wide

Summary

HHSCC and TDHCA collaborated on a short video series to educate the public on fair housing (including reasonable accommodations), homebuyer assistance, rental assistance, energy assistance, home repair, emergency assistance, and service enriched housing. The short video series will be made available from the TDHCA website and used as another method to engage and inform the public.

Action Step ID **15** **Creation of a State Agency Fair Housing Workgroup**

Begin Date: 5/6/2014 IMPLEMENTED Agency Wide

Summary

A routine meeting schedule was established for TDA, TDHCA, TWC, GLO, and DSHS to assist state agencies in aligning fair housing efforts under the AI, consider ways to improve fair housing education and outreach across the state, and develop consistency in complaint direction, training, and resource provision.

Action Step ID **17 Creation of External Outreach Tools: Fair Housing Listserv**

Begin Date: 5/6/2014 COMPLETED - 7/9/2014 Agency Wide

Summary A new Fair Housing listserv was discussed and implemented along with ideas for outreach that will occur through the creation of new website sections (additional sections were implemented into the website plan such as a survey, news corner, and TX Fair Housing events and training calendar). The new listserv will assist TDHCA in reaching external fair housing advocacy and special interest groups that would not ordinarily be part of the Department's listservs.

Action Step ID **19 Creation of an Internal and External Email and Marketing Statement**

Begin Date: 5/28/2014 COMPLETED - 7/14/2014 Agency Wide

Summary FH Team and DPPA met with Executive to discuss developing a new mission statement and byline that can highlight fair housing and be used with external marketing publications and communications.

Action Step ID **24 Creation of a Fair Housing ad in TAAHP publication**

Begin Date: 5/28/2014 COMPLETED - 6/5/2014 Agency Wide

Summary DPPA received an opportunity to post a TDHCA ad in an upcoming TAAHP publication. The Fair Housing Team researched statistics and created a fair housing tagline to be used to draw attention to the Department's commitment to fair housing efforts and raise public awareness about the importance of fair housing choice.

Action Step ID **26 Revision of the TDHCA Vacancy Clearinghouse Search Tool**

Begin Date: 6/11/2014 IMPLEMENTED Multifamily

Summary Revisions to the TDHCA Vacancy Clearinghouse were discussed in relation to the Department's new Affirmative Marketing rule. Development Owners, Managers, and fair housing advocates requested a centralized marketing tool that could be used to better advertise affordable rental vacancies. Mock ups and a new name for the new site page will be created. Subchapter F rules related to quarterly reporting will be reviewed for changes needed to support more timely vacancy information. This effort will assist the Department in better communicating affordable rental availabilities and eligibility information to the public and connecting households to fair housing rights information and resources.

Action Step ID **27 Creation of an Internal Fair Housing Training Initiative**

Begin Date: 6/16/2014 IMPLEMENTED Agency Wide

Summary An internal fair housing training initiative was created to provide more education and training to internal staff. The initiative will begin with poster display and blogging on the water cooler page and will culminate in brown bag sessions for internal staff and mini power point presentations at program area staff meetings.

Action Step ID	28	**TDHCA Speakership: TxAPA Conference - Zoning Laws and Best Practices for Fair Housing**	
Begin Date:		IMPLEMENTED	Agency Wide
Summary		TDHCA will appear as a speaker along with representatives from Coats Rose and the City of Buda at the TxAPA Conference in Frisco, TX on 10/16/14. The panel discussion will include topics such as recent legal actions related to zoning, a city representative's perspective on the HTC program and how to engage with the public, and a general discussion of zoning best practices.	
Action Step ID	39	**TDHCA and Local Operator provision of Fair Housing and Educational Materials for Section 8 Recipients**	
Begin Date:		IMPLEMENTED	Single Family
Summary		As part of its Administrative Plan and to aid in the effective implementation of its program, the Section 8 Division provides HUD Fair Housing guidance to both prospective tenants and property Owners/landlords in the form of Fair Housing information packets and tenant and landlord briefings. The Housing Resources Center provides additional information for the briefing packet that includes information on schools, employment availabilities, hospitals, and other amenities by location/area.	
Action Step ID	40	**Section 8 Reasonable Accommodations Policies and Requirements**	
Begin Date:		IMPLEMENTED	Single Family
Summary		TDHCA's Section 8 program tracks requests and responses made on behalf of subrecipient reasonable accommodation requests and requires Reasonable Accommodations statements be included in the intake application and in client briefing packets. Local Operators and TDHCA inspect for equal opportunity posters, complaint information, and reasonable accommodation policy provision during annual onsite SEMAP inspections. Sample Forms for reasonable accommodation requests are also handed out in briefing packets and discussed during Section 8 briefings.	
Action Step ID	43	**Update of TDHCA's Section 8 Administrative Plan & Website Section**	
Begin Date:	5/1/2014	IMPLEMENTED	Single Family
Summary		The Section 8 Administrative Plan was reviewed and revised to better align with overall Department goals to affirmatively further fair housing. The advent of the revised plan will coincide with a new Section 8 website section on fair housing and resources for renters. The Section 8 page's fair housing information will be integrated with the Department's larger fair housing website section which is planned for release in October.	
Action Step ID	45	**Fair Housing Training Requirement Changes**	
Begin Date:	4/22/2014	IMPLEMENTED	Agency Wide
Summary		The Fair Housing Training RFQ was reviewed. Small changes were discussed with Asset Management and recommended during the rule-making process in Subchapter E (fair housing training certifications must demonstrate training within the last year and expectations for separate trainings for engineers and architects and Owners and managers were clarified). Additional changes to the Fair Housing Training RFQ and the potential for a free online training course promulgated by TWC or TDHCA will be reviewed and implemented during the 2015 year.	

Action Step ID	46	**Revision of the Fair Housing Training Component for the ESG Implementation Workshop**
Begin Date:	8/5/2014 COMPLETED - 9/16/2014	Single Family
Summary		The ESG group, with the help of the Fair Housing Team and Legal, drafted a comprehensive Fair Housing training component to be presented during the ESG Implementation Workshop. Training components included detailed discussions of all Civil Rights laws related to ESG, ADA requirements for shelters, reasonable accommodation requirements, equal access guidance, LEP guidance, and information on affirmative outreach provisions. Additional monitoring rules may be created to assist in reviewing fair housing requirements and ESG staff is discussing making a recorded fair housing webinar available or offering a separate fair housing training during the year.
Action Step ID	47	**Creation of a brochure regarding tenant's programmatic rights**
Begin Date:	8/8/2014 IMPLEMENTED	Multifamily
Summary		A tenant rights brochure was created by the Fair Housing and Compliance team with the intent of: 1) Increasing education about fair housing rights and reasonable accommodations, 2) Increasing education about the rights of Section 8 renters in TDHCA funded multifamily rental properties, 3) Creating a more meaningful fair housing disclosure notice, and 4) Ensuring properties are adequately advertising their available amenities and services.
Action Step ID	49	**3PM Revamp of the Research Database used by HRC and DPPA when answering the Auto-Call Distribution (ACD) Phone Line**
Begin Date:	8/21/2014 IMPLEMENTED	Agency Wide
Summary		The research database, which is the back end of the Help for Texans center of the TDHCA webpage, was revamped at HRC's request to include fair housing related calls which can now be included in reporting and tracking of fair housing-related information calls through the ACD line. HRC will also follow up fair housing related ACD calls with an informational letter directing callers to TWC for complaints and to the Fair Housing Team and new website section for fair housing-related information.
Action Step ID	50	**Creation of a marketing giveaway (letter openers) with references to Fair Housing commitment**
Begin Date:	8/21/2014 IMPLEMENTED	Single Family
Summary		Homebuyer and MCC programs requested a marketing giveaway in the form of letter openers with references to the new Fair Housing commitment tagline, "Expanding Fair Housing Choice and Opportunities for all Texans" to increase the visibility of Fair Housing in the State. The letter openers will be given out during the TML conference.
Action Step ID	52	**Creation of an Agency Wide Reasonable Accommodation Rule in 10 TAC Section 1.204**
Begin Date:	IMPLEMENTED	Agency Wide
Summary		The Reasonable Accommodation Rule was created in 10 TAC Section 1.204 to better align 504 mandates with monitoring goals and provide guidance to SF, MF, and CA stakeholders regarding laws and implementation of reasonable accommodation practices.

Action Step ID	62	**Uniform Multifamily Rule provision related to Owner certification of Fair Housing education**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The Uniform Multifamily rule provision in Subchapter C, Section 10.204(1)(D) requires the Development Owner to certify to the reading and understanding of the Department's fair housing educational materials posted on the website as of the beginning of the application acceptance period. The inclusion of this provision is intended to assist in reminding Owners of their duties and obligations under Fair Housing law and in aligning with TDHCA's certification to affirmatively further fair housing.	
Action Step ID	63	**Uniform Multifamily Rule provisions requiring Fair Housing training certification for Owners, Management Agents, Engineers, and Architects**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The Uniform Multifamily rule provisions in 10.402(e) and (g) of Subchapter E require 4% HTC and MRB and 9% Competitive HTC awarded developments to demonstrate five hours of Fair Housing Training for Owners or Management Agents and either Engineers or Architects at the time of Post Bond Closing and the HTC 10% Test. Demonstration of training must be provided in the form of a training certification provided within the last 2 years. HOME MF Developments are required to share training methods at the time of application when they submit a development's Affirmative Marketing Plan.	
Action Step ID	64	**Uniform Multifamily Rules and statute provision for Tenant Selection Criteria**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The Uniform Multifamily rules provision requires the creation and use of Tenant Selection Criteria in Subchapter F, Section 10.610, that prohibit refusal to rent to Section 8 tenants or tenants of other federal subsidy programs, create a minimum income standard for voucher holders to decrease impediments to low income access, and prohibit owners from denying prospective tenants on the basis of provision protected under the Violence Against Women Reauthorization Act of 2013.	
Action Step ID	65	**Uniform Multifamily Rule provision related to a Fair Housing Disclosure Notice**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The Uniform Multifamily Rules, under Subchapter F, Section 10.612(a)(4) require that a Fair Housing Disclosure Notice form be presented to the household at the time of application for occupancy and must be executed 120 days prior to the leasing effective date. The form provides the household with notification of their rights to choose among available housing options.	

Impediment 4 Protected classes may experience disparities in home mortgage loan denials and high cost loans.

Action Step ID **4** **Redevelopment of TDHCA Fair Housing Website Section**

Begin Date: 6/11/2014 IMPLEMENTED Agency Wide

Summary Redevelopment of the TDHCA Fair Housing website section to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments (AI).

Action Step ID **10** **HHSCC and TDHCA Partnership and Creation of Rental Assistance Video Series**

Begin Date: IMPLEMENTED Agency Wide

Summary HHSCC and TDHCA collaborated on a short video series to educate the public on fair housing (including reasonable accommodations), homebuyer assistance, rental assistance, energy assistance, home repair, emergency assistance, and service enriched housing. The short video series will be made available from the TDHCA website and used as another method to engage and inform the public.

Action Step ID **77** **Homebuyer program website provision of Credit Rating information**

Begin Date: IMPLEMENTED Single Family

Summary TDHCA's Homebuyer programs maintain a separate website interface that includes consumer information such as information on where to request a free credit report and referrals to agencies in a searchable area through the Help for Texans page that provide consumer credit counseling. With an upcoming google translation tool, this information will also be made available in Spanish.

Action Step ID **78** **Homebuyer programs currently provide marketing materials in both English and Spanish**

Begin Date: IMPLEMENTED Single Family

Summary TDHCA's Homebuyer programs engage with LEP populations as a normal course of marketing. Marketing materials are available in both English and Spanish for all homebuyer programs. Materials in both languages are taken to presentations and made available to participating lenders through the My First Texas Home website.

Action Step ID **97** **HTF Bootstrap Rule Requirement for Owner-Builder Homeownership Education Classes**

Begin Date: IMPLEMENTED Single Family

Summary Section 24.10 of the HTF Bootstrap Rules require Owner-Builders to complete homeownership classes prior to loan funding. These classes are offered in Spanish and English and include sections on credit to assist in helping unbanked residents to understand and build credit.

Action Step ID	**103**	**Colonia Rule Provision Allowing Funds for Credit and Debt Counseling and Finance**	
Begin Date:		IMPLEMENTED	Single Family
Summary		TDHCA's Colonia (CDBG) rule provision 25.3(7) allows the use of funds for providing credit and debt counseling related to home purchase and finance. This provision assists TDHCA in providing funds to assist unbanked residents in building credit and providing information to help access homeownership and other assistance program. Colonia Self Help Centers play an integral role in providing information to persons with Limited English Proficiency along the border.	

Impediment 5 Lack of accessible housing and visitability standards limits fair housing choice for persons with disabilities.

Action Step ID **4 Redevelopment of TDHCA Fair Housing Website Section**

Begin Date: 6/11/2014 IMPLEMENTED Agency Wide

Summary Redevelopment of the TDHCA Fair Housing website section to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments (AI).

Action Step ID **14 PRA 811 Round 2 Application**

Begin Date: 5/6/2014 IMPLEMENTED Multifamily

Summary The PRA 811 group applied for Round 2 PRA 811 funds in an effort to acquire additional funds to support initiatives to increase housing options for persons with disabilities in the existing TDHCA multifamily portfolio.

Action Step ID **20 TDHCA Fair Housing Accessibility First Construction and Compliance Training**

Begin Date: 5/29/2014 COMPLETED - 5/29/2014 Agency Wide

Summary In coordination with TAAHP and other State agencies who receive Federal funds, TDHCA coordinated the Fair Housing Accessibility First Construction and Compliance training offered by Jack Catlin of HUD approved trainer and industry expert, LCM Architects.

Action Step ID **21 TDHCA 2010 ADA Standards Training**

Begin Date: 5/30/2014 COMPLETED - 5/30/2014 Agency Wide

Summary In January 2014 following Department of Justice guidance, TDHCA adopted 2010 ADA construction standards for Section 504 compliane. TDHCA's Compliance Division conducted a 2010 ADA training and invited property management, owners, engineers, architects, and the general public.

Action Step ID **34 Increase of Project Access Voucher Allocations**

Begin Date: IMPLEMENTED Single Family

Summary Project Access vouchers were increased from 100 in 2012 to 140 in 2014 to maximize the amount of assistance provided to low income, disabled households. Project Access serves individuals exiting nursing facilities, intensive care facilities, and board and care facilities statewide.

Action Step ID	**35**	**Creation of a Project Access Pilot Program with DADS and DSHS**	
Begin Date:		IMPLEMENTED	Single Family
Summary		In working with local stakeholders and examining the needs of disabled tenants across the state, the Section 8 Program Area created the Project Access Pilot, in which 10% of 140 vouchers offered through Project Access are made available in partnership with TX DSHS and DADS to specifically assist persons exiting state psychiatric hospitals.	
Action Step ID	**36**	**Section 8 Technical Assistance for Relocation Contracts and the HOME TBRA Bridge**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Section 8 created new program policy to encourage the use of HOME TBRA as a bridge to the Project Access program to better assist persons with disabilities and facilitate access to vouchers, including allowing TBRA HOME Administrators to amend their program designs to prioritize individuals residing in institutions and on the Project Access waitlist where a Project Access voucher was not yet available. Technical Assistance for Relocation Contractors was also provided so TBRA Administrators could assist in identifying opportunities for transitioning eligible HOME TBRA participants to the Project Access program (which unlike TBRA does not have a time limit on assistance).	
Action Step ID	**37**	**TDHCA sets aside 5% of HOME funds for use in PWD (Persons with Disabilities) programs**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Out of the state's HOME allocation, TDHCA reserves 5% for use in PWD activities to encourage better service provision to disabled households across the state and in Participating Jurisdictions.	
Action Step ID	**44**	**Revision of the Single Family Umbrella Rule to Allow HTF Amy Young Barrier Removal Funds to be used for Mobile Home Modifications**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The revision of the Single Family Umbrella Rule for the 2014 Rules Cycle included revised language concerning the use of Federal funds in mobile home modifications. The Rule was specifically modified to allow the use of State funded HTF funds in the Amy Young Barrier Removal Program to be used to modify existing mobile homes where accessibility features are required to meet the needs of disabled individuals and households. Feedback on this Rule was generated through TDHCA's work with the Health and Human Services Council (HHSC) and the Disability Advocacy Workgroup (DAW).	
Action Step ID	**48**	**Expansion of Universal Design Elements to HOME HRA Minimum Construction Standards**	
Begin Date:		9/4/2014 IMPLEMENTED	Single Family
Summary		Single Family programs are proposing Minimum Construction Standards to be effective in January of 2015 that will begin to identify universal design concepts such as accessible doorway considerations when the households is performing rehabilitation with federal funds.	

Action Step ID	**51**	**Rule provisions and statute require all Multifamily properties to be subject to Section 504 as specified under 24 CFR part 8, Subpart C**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The State of Texas and TDHCA Rules require all Multifamily TDHCA monitored rental properties to follow Section 504 requirements. Rule provisions are included in statute, the Uniform Multifamily Rules, Chapter 10, Subchapter B, Section 10.101(a)(8), and are reiterated in additional program area rules, NOFAs, and in the Compliance Monitoring Rules in Subchapter F.	
Action Step ID	**86**	**TDHCA partnership with the Disability Advocates Workgroup (DAW)**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Representatives from TDHCA's HOME, PRA 811, HRC, HTF, Colonia, and other Divisions attend the Disability Advocates Workgroup to discuss relevant issues and gather feedback on policies and rulemaking that may create barriers in housing placement for persons with disabilities.	
Action Step ID	**88**	**SF HOME Homebuyer Assistance Program (HBA) additional assistance for homebuyers needing accessible features**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The SF HOME Homebuyer Assistance Program (HBA) rules allow expanded use for acquisition and rehab for homebuyers needing accessible features in their single family homes. Persons with disabilities are eligible for up to $20,000 in Hard Costs and $5,000 in Soft Costs to meet these needs.	
Action Step ID	**89**	**SF HOME Contract For Deed Conversion (CFDC) additional assistance for persons requesting accessible features**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The SF HOME CFDC rules allow for an additional $5,000 in direct cost funds requested for recipients if the household is disabled and requires accessible features.	
Action Step ID	**93**	**Section 811 PRA Grant and Implementation**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		TDHCA applied under HUD's 811 PRA Demonstration program to receive a grant that would assist the Department in offering additional housing options for persons with disabilities through project based section 8 vouchers that would be utilized in its Housing Tax Credit portfolio and incentivized in its Qualified Allocation Plan.	
Action Step ID	**96**	**HTF Bootstrap Rule Provision Allows for Alternative Means of Providing Self Help Labor**	
Begin Date:		IMPLEMENTED	Single Family
Summary		TDHCA's HTF Bootstrap Rule provision in Section 24.10 considers persons with disabilities in allowing for an alternative means of providing self help labor to qualify under owner-builder requirements in the event of a documented disability. This flexibility provision assists in extending this lending program to persons with disabilities.	

Action Step ID	98	**HTF Amy Young Barrier Removal Program Marketing Materials in Spanish and English**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The HTF Amy Young Barrier Removal Program markets program materials to households in both Spanish and English to assist in fully reaching persons with disabilities in underserved areas of the state and avoid barriers created by Limited English Proficiency (LEP).	
Action Step ID	99	**Housing Trust Fund (HTF) establishment of funds for the Amy Young Barrier Removal Program**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Beginning in 2010, the State Legislature and TDHCA established the Amy Young Barrier Removal Program to specifically serve persons with disabilities and allow additional options for persons seeking to modify their homes to meet their accessibility needs. Nonprofit and local governments process intake applications, determine eligibility, and oversee construction for program participants across the state. Funds are offered in the form of grants up to $20,000 and assists both renters and homeowners under 80% AMI.	

Impediment 6 There are barriers to mobility and free housing choice for protected classes.

Action Step ID **1 Development of a Revised Multifamily Affirmative Fair Housing Marketing Rule**

Begin Date: 6/6/2014 IMPLEMENTED Multifamily

Summary Development of a revised rule for Multifamily Affirmative Fair Housing Marketing through Subchapter F of the Uniform Multifamily Rules. The new rule will guide owners and managers in identifying "least likely to apply" populations using HUD's definition of minority concentration and seek to clarify and expand on HUD's definition of a "market area". The Department will host roundtables for feedback and create a tool to assist in comparing tenant pool data (or in the case of new construction developments, census tract demographic data) to MSA or County demographic census data.

Action Step ID **2 Internal Program Area and Monitoring Area Reviews**

Begin Date: 4/22/2014 COMPLETED - 6/12/2014 Agency Wide

Summary TDHCA program and monitoring areas were reviewed for developments in Fair Housing. Meetings were held with Division Directors to discuss current efforts and potential goals of program areas. Guiding documents of the program area were reviewed, collected demographic data was discussed, and initial action steps were identified.

Action Step ID **3 Development of a Fair Housing Tracking Database**

Begin Date: 4/22/2014 COMPLETED - 7/31/2014 Agency Wide

Summary The Fair Housing Tracking database was created to track agency goals, efforts, and progress made under the Phase 2 AI. The Fair Housing Tracking database will provide the Department with an ability to pull basic metrics and provide reports by AI Goals, Impediments, Action Items, and other meaningful search criteria. Such abilities will assist the state in identifying areas of improvement and success under its HUD-related obligation to affirmatively further fair housing choice.

Action Step ID **4 Redevelopment of TDHCA Fair Housing Website Section**

Begin Date: 6/11/2014 IMPLEMENTED Agency Wide

Summary Redevelopment of the TDHCA Fair Housing website section to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments (AI).

Action Step ID	**5**	**Development of An Evaluation Tool for Crime Data**	
Begin Date:	4/24/2014	IMPLEMENTED	Agency Wide
Summary		Data services available for crime data collection were researched and the creation of an informal bid process for procurement of a crime data vendor was discussed and implemented. Creating an objective and evaluative tool for crime data will assist the Department in ensuring that risks associated with development in high crime areas (particularly those of violent crime) are avoided or appropriately mitigated by developers and local communities seeking to provide decent affordable housing choices for low income tenants. Data will be used to create new threshold or incentive criteria for development site selection.	
Action Step ID	**6**	**Austin Area Meeting on the Adoption of a City Ordinance: Source of Income as a Protected Class**	
Begin Date:	6/4/2014	COMPLETED - 6/4/2014	Agency Wide
Summary		Fair Housing Team networking and attendance at a City of Austin meeting discussing a proposed ordinance to include source of income as a protected class. The ordinance would extend City of Austin fair housing protections to Section 8 Housing Choice voucher holders and other subsidy program recipients.	
Action Step ID	**7**	**Development of QAP Scoring Incentives for Development in High Opportunity Areas**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		In 2013, TDHCA implemented a series of scoring items to faciliate the development of tax credit properties in high opportunity areas. The scoring items included an opportunity index with the highest scoring options for locating developments in census tracts with low poverty rates (<15%), high household incomes, and high elementary school performance ratings (as reported by the Texas Education Agency). A second scoring item known as "Educational Excellence" provides additional points for locating developments in areas that also have high quality middle and high schools. These items were updated in the 2014 QAP.	
Action Step ID	**8**	**Expansion of Ineligible Adverse Site and Area Characteristics**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		In 2013, existing site ineligibility characteristics were expended. The rule now covers up to a 1,000 foot radius and ineligible features include blight, high crime, heavy industrial facilities, and other characteristics which may not be appropriate for residential development. The rule requires disclosure of such features for any multifamily applications for funding rehabilitation of an existing property or new construction. The rule results in improved neighborhood conditions for tenants.	
Action Step ID	**9**	**Review and revision of TDHCA's Language Assistance Plan**	
Begin Date:	4/22/2014	IMPLEMENTED	Agency Wide
Summary		HRC transitioned duties associated with the Language Assistance Plan to the Fair Housing Team. The Team is revisiting the use of third party service interpreter and translation services and planning the roll out of translated web pages, documents, and other resources related to basic fair housing and tenant rights. The LAP will be updated and revisions will be implemented on an agency-wide basis.	

Action Step ID	**10**	**HHSCC and TDHCA Partnership and Creation of Rental Assistance Video Series**	
Begin Date:		IMPLEMENTED	Agency Wide
Summary		HHSCC and TDHCA collaborated on a short video series to educate the public on fair housing (including reasonable accommodations), homebuyer assistance, rental assistance, energy assistance, home repair, emergency assistance, and service enriched housing. The short video series will be made available from the TDHCA website and used as another method to engage and inform the public.	
Action Step ID	**11**	**University of Houston Contract for Multifamily Primer**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		To better address opportunities for meaningful and substantive input regarding the development of affordable housing and to meet the needs of the public, advocacy groups, elected officials, and local governments in understanding Multifamily programs offered by the Department (particularly the Housing Tax Credit program), TDHCA contracted with the University of Houston to develop a lay person's guide to Multifamily housing and local community involvement.	
Action Step ID	**12**	**Development of a Demographic Collection Database**	
Begin Date:	4/16/2014	IMPLEMENTED	Agency Wide
Summary		Because of the wide array of service provision systems used by TDHCA staff, an agency-wide mechanism for capturing the demographic data of all households served by various program areas is warranted. The database will be developed first for Multifamily use (with an end date of 7/30/14) and will expand to include all Single Family and potentially also Community Affairs activities for purposes of better program planning and policy provision and to evaluate progress towards the goals identified in the AI.	
Action Step ID	**14**	**PRA 811 Round 2 Application**	
Begin Date:	5/6/2014	IMPLEMENTED	Multifamily
Summary		The PRA 811 group applied for Round 2 PRA 811 funds in an effort to acquire additional funds to support initiatives to increase housing options for persons with disabilities in the existing TDHCA multifamily portfolio.	
Action Step ID	**15**	**Creation of a State Agency Fair Housing Workgroup**	
Begin Date:	5/6/2014	IMPLEMENTED	Agency Wide
Summary		A routine meeting schedule was established for TDA, TDHCA, TWC, GLO, and DSHS to assist state agencies in aligning fair housing efforts under the AI, consider ways to improve fair housing education and outreach across the state, and develop consistency in complaint direction, training, and resource provision.	
Action Step ID	**16**	**Texas Workforce Commission MOU Revisions**	
Begin Date:	5/13/2014	COMPLETED - 10/1/2014	Agency Wide
Summary		The current MOU with TWC was reviewed and revised to add the opportunity for improved training collaboration and complaint direction. MOU requirements for mandated reporting in the event of uncorrected fair housing violations were strengthened and the expectation for information on reported violations and settlements was clarified. A final version of the MOU is expected in September.	

Action Step ID	**18**	**Development of a Revised Tenant Selection Rule**	
Begin Date:	5/22/2014	IMPLEMENTED	Multifamily
Summary		Tenant Selection Criteria can greatly affect the demographic mix of a property and the fair housing choice of protected classes. The current rule in Subchapter F of the Uniform Multifamily Rules was reviewed, feedback was collected from the property community, advocacy groups were consulted, a large scale review of plans collected during onsite monitoring were analyzed, and other State HFA policies were researched. The new rule will seek to clarify fair housing and reasonable accommodation provisions.	
Action Step ID	**23**	**Creation of TDHCA Fair Housing Marketing Guidelines**	
Begin Date:		IMPLEMENTED	Agency Wide
Summary		DPPA creation of a TDHCA Fair Housing Marketing Guidelines booklet concerning items such as: Inclusion of information on how to request reasonable accommodations on all publicly distributed event notices, acceptable terminology, fair housing logo use, and appropriate use of photographs and images in advertising.	
Action Step ID	**25**	**Development of a New Single Family Affirmative Fair Housing Marketing Rule**	
Begin Date:	6/10/2014	IMPLEMENTED	Single Family
Summary		A new Single Family Affirmative Marketing Rule was drafted for inclusion in the Single Family Umbrella Rule. The new Rule will assist the Department in clarifying expectations and monitoring for compliance with HUD's affirmative marketing and Limited English Proficiency (LEP) requirements. State HTF programs will also be subject to the provision to create consistency with the rule and the Department's overall objective to affirmatively further fair housing choice.	
Action Step ID	**26**	**Revision of the TDHCA Vacancy Clearinghouse Search Tool**	
Begin Date:	6/11/2014	IMPLEMENTED	Multifamily
Summary		Revisions to the TDHCA Vacancy Clearinghouse were discussed in relation to the Department's new Affirmative Marketing rule. Development Owners, Managers, and fair housing advocates requested a centralized marketing tool that could be used to better advertise affordable rental vacancies. Mock ups and a new name for the new site page will be created. Subchapter F rules related to quarterly reporting will be reviewed for changes needed to support more timely vacancy information. This effort will assist the Department in better communicating affordable rental availabilities and eligibility information to the public and connecting households to fair housing rights information and resources.	
Action Step ID	**27**	**Creation of an Internal Fair Housing Training Initiative**	
Begin Date:	6/16/2014	IMPLEMENTED	Agency Wide
Summary		An internal fair housing training initiative was created to provide more education and training to internal staff. The initiative will begin with poster display and blogging on the water cooler page and will culminate in brown bag sessions for internal staff and mini power point presentations at program area staff meetings.	

Action Step ID	29	**Research and Identification of Translation Services for Limited English Proficiency clients**	
Begin Date:	6/20/2014	IMPLEMENTED	Agency Wide
Summary		The Fair Housing Team will lead efforts in quantifying the need for agency third party translation services. Funding was discussed as well as developing an MOU with another state agency currently contracting (DSHS, HHSC) for services. DSHS and HHSCC were contacted for more information and in preparation of a TDHCA proposal for services. An internal agency survey was conducted through program Division Directors to acquire feedback on prospective use of written and oral translation services. Results of the survey will be used to assist the agency in estimating efficacy and cost.	
Action Step ID	30	**Revisions to CMTS Demographic Data Collection Fields**	
Begin Date:	6/27/2014	IMPLEMENTED	Multifamily
Summary		The FH Team and Compliance Division will lead CMTS system changes to report demographic information by household member rather than on a cumulative household basis. These corrections in the CMTS system will assist the Department in being able to better evaluate and streamline demographic reporting, deliver data to HUD for inclusion in the HFA report, and analyze the demographic composition of its portfolio.	
Action Step ID	32	**Revisions to CMTS: Fixing and Populating Census Tract Entry**	
Begin Date:	7/8/2014	IMPLEMENTED	Multifamily
Summary		The FH Team is leading the initiative to improve and populate census tract entry to prepare for creating a website mapping tool that will show service delivery areas and demographic populations served. This kind of tool is heavily dependent on address entry being accurate and the ability to easily pull census data. GIS Lat/Long Verification tools will also be researched for integration.	
Action Step ID	33	**Expansion of Undesirable Site and Area Features Rules in the 2015 Multifamily Rules**	
Begin Date:	7/15/2014	IMPLEMENTED	Multifamily
Summary		Elements related to Environmental Justice were researched for inclusion in the 2015 Undesirable Site and Area Features Rules to be incorporated in the Uniform Multifamily Rules in Subchapter B. The rule revisions consider the incorporation of additional undesirable site features such as large refineries and highly volatile pipelines and suggest a basic criteria to be used in determining whether additional staff review of a site is necessary (criteria suggested considered poverty rates, crime index ratings, and proximity to facilities that raise environmental justice concerns). The Rule was drafted for Board consideration and taken for discussion to a Round Table on the QAP and Uniform Multifamily Rules in September.	
Action Step ID	34	**Increase of Project Access Voucher Allocations**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Project Access vouchers were increased from 100 in 2012 to 140 in 2014 to maximize the amount of assistance provided to low income, disabled households. Project Access serves individuals exiting nursing facilities, intensive care facilities, and board and care facilities statewide.	

Action Step ID	35	**Creation of a Project Access Pilot Program with DADS and DSHS**	
Begin Date:		IMPLEMENTED	Single Family
Summary		In working with local stakeholders and examining the needs of disabled tenants across the state, the Section 8 Program Area created the Project Access Pilot, in which 10% of 140 vouchers offered through Project Access are made available in partnership with TX DSHS and DADS to specifically assist persons exiting state psychiatric hospitals.	
Action Step ID	36	**Section 8 Technical Assistance for Relocation Contracts and the HOME TBRA Bridge**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Section 8 created new program policy to encourage the use of HOME TBRA as a bridge to the Project Access program to better assist persons with disabilities and facilitate access to vouchers, including allowing TBRA HOME Administrators to amend their program designs to prioritize individuals residing in institutions and on the Project Access waitlist where a Project Access voucher was not yet available. Technical Assistance for Relocation Contractors was also provided so TBRA Administrators could assist in identifying opportunities for transitioning eligible HOME TBRA participants to the Project Access program (which unlike TBRA does not have a time limit on assistance).	
Action Step ID	37	**TDHCA sets aside 5% of HOME funds for use in PWD (Persons with Disabilities) programs**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Out of the state's HOME allocation, TDHCA reserves 5% for use in PWD activities to encourage better service provision to disabled households across the state and in Participating Jurisdictions.	
Action Step ID	38	**Section 8 uses small area Fair Market Rent Standards as the rent limit basis to encourage voucher use in high opportunity areas**	
Begin Date:		IMPLEMENTED	Single Family
Summary		After a review of household and affordability data and based on feedback from program participants, the Section 8 program determined that in some cases the fair housing choice of TBRA assisted households is limited by voucher payment standards; TDHCA began using the small area FMR standards (higher standards for certain high opportunity census tracts) to enable household use with maximum choice and limited barriers.	
Action Step ID	41	**Section 8 Program Security Deposit Limit under the HAP Contract**	
Begin Date:		IMPLEMENTED	Single Family
Summary		TDHCA requires Owners participating in the HAP program to limit security deposits to no more than 1 month's rent to increase unit affordability for low income families.	

Action Step ID	**44**	**Revision of the Single Family Umbrella Rule to Allow HTF Amy Young Barrier Removal Funds to be used for Mobile Home Modifications**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The revision of the Single Family Umbrella Rule for the 2014 Rules Cycle included revised language concerning the use of Federal funds in mobile home modifications. The Rule was specifically modified to allow the use of State funded HTF funds in the Amy Young Barrier Removal Program to be used to modify existing mobile homes where accessibility features are required to meet the needs of disabled individuals and households. Feedback on this Rule was generated through TDHCA's work with the Health and Human Services Council (HHSC) and the Disability Advocacy Workgroup (DAW).	
Action Step ID	**46**	**Revision of the Fair Housing Training Component for the ESG Implementation Workshop**	
Begin Date:		8/5/2014 COMPLETED - 9/16/2014	Single Family
Summary		The ESG group, with the help of the Fair Housing Team and Legal, drafted a comprehensive Fair Housing training component to be presented during the ESG Implementation Workshop. Training components included detailed discussions of all Civil Rights laws related to ESG, ADA requirements for shelters, reasonable accommodation requirements, equal access guidance, LEP guidance, and information on affirmative outreach provisions. Additional monitoring rules may be created to assist in reviewing fair housing requirements and ESG staff is discussing making a recorded fair housing webinar available or offering a separate fair housing training during the year.	
Action Step ID	**47**	**Creation of a brochure regarding tenant's programmatic rights**	
Begin Date:		8/8/2014 IMPLEMENTED	Multifamily
Summary		A tenant rights brochure was created by the Fair Housing and Compliance team with the intent of: 1) Increasing education about fair housing rights and reasonable accommodations, 2) Increasing education about the rights of Section 8 renters in TDHCA funded multifamily rental properties, 3) Creating a more meaningful fair housing disclosure notice, and 4) Ensuring properties are adequately advertising their available amenities and services.	
Action Step ID	**48**	**Expansion of Universal Design Elements to HOME HRA Minimum Construction Standards**	
Begin Date:		9/4/2014 IMPLEMENTED	Single Family
Summary		Single Family programs are proposing Minimum Construction Standards to be effective in January of 2015 that will begin to identify universal design concepts such as accessible doorway considerations when the households is performing rehabilitation with federal funds.	
Action Step ID	**51**	**Rule provisions and statute require all Multifamily properties to be subject to Section 504 as specified under 24 CFR part 8, Subpart C**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The State of Texas and TDHCA Rules require all Multifamily TDHCA monitored rental properties to follow Section 504 requirements. Rule provisions are included in statute, the Uniform Multifamily Rules, Chapter 10, Subchapter B, Section 10.101(a)(8), and are reiterated in additional program area rules, NOFAs, and in the Compliance Monitoring Rules in Subchapter F.	

Action Step ID	53	**Expansion of Affirmative Marketing requirements to HTF, MRB, and HTC properties**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		Affirmative Marketing requirements are extended to the HTC and HTF programs through the Uniform Multifamily Rules in Subchapter F to ensure state goals of affirmatively furthering fair housing across its affordable housing portfolio. As a result of including these additional programs, all multifamily TDHCA monitored properties are required to affirmatively market.	
Action Step ID	54	**Qualified Allocation Plan and Statute Housing De-Concentration Factors**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		In an effort to ensure that affordable, low income properties monitored by TDHCA are not clustered in concentrated areas that will create a lack of fair housing choice, TDHCA maintains four deconcentration factors for threshold selection. These are listed in Section 11.3 of the QAP and include the Two Mile Same Year Rule, the Twice the State Average Per Capita Rule, the One Mile Three Year Rule, and Limitations on Developments in Certain Census Tracts Rule.	
Action Step ID	55	**Qualified Allocation Plan limitation on qualified non-rural elderly developments**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The 2014 QAP provided a limitation on qualified non-rural elderly developments in the counties of Collin, Denton, Ellis, Johnson, Hays, and Guadalupe as well as non-rural developments in Regions 5, 6, and 8. This limitation was created to balance TDHCA's portfolio, which showed a percentage of qualified elderly households exceeding percentages of the total qualified elderly eligible populations for the area. As result, developers were incentivized to pursue general family developments in these areas and increase housing stock for non-elderly families.	
Action Step ID	57	**Qualified Allocation Plan Tie Breaker Factor based on High Opportunity area provisions**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The 2014 QAP included applications scoring higher on the Opportunity Index as its first tie breaker factor in the event that Competitive HTC applications should tie with another application with the same score at the time of HTC award. This further served to incentivize development in High Opportunity areas as specified in the 2014 QAP under 11.9(c)(4).	
Action Step ID	58	**Qualified Allocation Plan Criteria to serve and support Texans most in need**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		Criteria included in the QAP to ensure that Texans most in need are supported and served by the HTC program include point elections to incentivize development of additional units to serve 30% AMI (extremely low income) tenants and development of supporitve housing developments. The criteria awards additional points in the event that 20% of units will be made available to tenants at 30% AMI for supportive housing or at least 10% of all units in urban or 7.5% of all units in rural will be made available to tenants at 30% AMI	

Action Step ID **59 Qualified Allocation Plan Criteria for Tenant Populations with Special Housing Needs**

Begin Date: IMPLEMENTED Multifamily

Summary Criteria included for Tenant Populations with Special Housing Needs includes point elections for developments for which at least 5% of units are set aside for persons with special needs (such as individuals with alcohol and drug addictions, colonia residents, persons with disabilities, persons protected by VAWA, persons with HIV/AIDS, homeless populations, veterans, wounded warriors, and migrant farm workers). Such units must be affirmatively marketed to persons with special needs and units must be held vacant for occupancy by a person meeting special needs criteria for a 12 month period at the time of lease up.

Action Step ID **60 Qualified Allocation Plan provisions to ensure incentives for local community support or opposition are consistent with Fair Housing objectives**

Begin Date: IMPLEMENTED Multifamily

Summary Provisions were added in Section 11.9(d) to advise community organizations and local governments to consider Fair Housing laws, FHAST forms, current Analysis of Impediment documents in local jurisdictions, one year action plans, and five year consolidated plans when generating opposition or support documents.

Action Step ID **64 Uniform Multifamily Rules and statute provision for Tenant Selection Criteria**

Begin Date: IMPLEMENTED Multifamily

Summary The Uniform Multifamily rules provision requires the creation and use of Tenant Selection Criteria in Subchapter F, Section 10.610, that prohibit refusal to rent to Section 8 tenants or tenants of other federal subsidy programs, create a minimum income standard for voucher holders to decrease impediments to low income access, and prohibit owners from denying prospective tenants on the basis of provision protected under the Violence Against Women Reauthorization Act of 2013.

Action Step ID **66 Uniform Multifamily Rule provision related to notice of amenities and services**

Begin Date: IMPLEMENTED Multifamily

Summary The Uniform Multifamily rule provision included in Subchapter F, Section 10.613(k), Leasing Provisions, requires that the development owner provide each household at the time of execution of an initial lease a notice describing common amenities, unit amenities, or required services. The provision assists the Department in expanding choice to low income and disabled households who might desire particular amenities or services.

Action Step ID **67 Bond/4% HTC Rules Tie Breaker Factor based on Housing De-Concentration Factors**

Begin Date: IMPLEMENTED Multifamily

Summary The Multifamily Housing Revenue Bond Rules in Section 12.4 (c) Scoring and Ranking, include tie breaker factors for 4% HTC and MRB deals in the following order: 1) Applications that meet any of the criteria under serving and supporting Texans most in need (related to offering more units at a lower AMI range to create more affordable housing options for low income families, offering tenant services or supportive housing or housing to tenants with special housing needs, or qualifying under the opportunity index), or 2) Applications that are the greatest linear distance from the nearest HTC assisted development (in the interest of ensuring maximum fair housing choice).

Action Step ID	68	**Creation of the TX Interagency Council for the Homeless**	
Begin Date:		IMPLEMENTED	Agency Wide
Summary		Provisions in statute for the TX Interagency Council for the Homeless provide that TDHCA will send one person from Community Affairs and one person from MF Finance tasked to assist in providing the Council's recommendations in preparing TDHCA's low income housing plan. The Council itself was created to provide technical assistance to the housing finance division in assessing special needs in different TX localities.	
Action Step ID	69	**Qualified Allocation Plan At Risk Set Aside provisions**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The 2014 QAP included At Risk Set Aside criteria that allowed relocation of existing units qualifying as at risk if the affordable restrictions and subsidies were approved for transfer to a new site prior to the tax credit commitment deadline, the same number of restricted units was proposed, and the new development site would qualify for points under the Opportunity Index. This new provision assisted TDHCA in guiding new policies concerning demolition and replacement of at risk units in areas better suited to fair housing choice and opportunity than their original locations while also seeking to preserve affordable housing units.	
Action Step ID	70	**Provision of awards based on the TX State Regional Allocation Formula (RAF)**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The Regional Allocation Formula was developed in compliance with Texas Government Code Section 2306.1115 to award available funds within rural and urban sub-regions and to ensure equitable and consistent provision of credits, HOME, and HTF funds based on statistical data that measures affordable housing needs and resources in 13 State Service Regions. The RAF is revised annually to reflect changes in data, public comment, and assess available resources.	
Action Step ID	71	**Qualified Allocation Plan Quantifiable Community Participation provisions**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The QAP includes Quantifiable Community Participation provisions in Section 11.9(4)(C) that include highest point incentives for explicit support or neutrality from a Neighborhood Organization that during at least one of three prior Application Rounds provided a written statement that qualified as Quanitifiable Community Participation opposing any Competitive Housing Tax Credit Application and whose boundaries remain unchanged. These provisions assist TDHCA in incentivizing development in communities which have been historically opposed to affordable housing but have changed their views.	

Action Step ID	72	**Qualified Allocation Plan Community Revitalization Provisions**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		The QAP includes Community Revitalization Plan provisions in Section 11.9(d)(7) that serve as an incentive for communities outside of the Opportunity Index to invest in community revitalization to address adverse environmental conditions, presence of blight, inadequate transportation and infrastructure, lack of accessibility and/or inadequate public facilities, presence of significant crime, lack of poor condition and/or performance of public education, lack of local business providing employment opportunities, or lack of planning efforts to promote diversity. As a result of this investment, communities with concerted revitalization efforts that include affordable housing development can still enter competitive applications for consideration.	
Action Step ID	73	**Combination of MCC and down payment assistance through the Homebuyer Program**	
Begin Date:		IMPLEMENTED	Single Family
Summary		In 2012, program rules allowed users to receive both down payment assistance and access to the MCC program to claim tax credits for a portion of their mortgage paid each year, thereby extending greater levels of assistance to low income homebuyers across the state of Texas.	
Action Step ID	74	**Homebuyer Contract with Ehousing Plus**	
Begin Date:		IMPLEMENTED	Single Family
Summary		In 2012, the TDHCA Homebuyer program contracted with a third party contractor, Ehousing Plus, to streamline demographic and data collection. Data is now provided via a web-based system that can be extracted into excel for analysis and use in determining trends and patterns. Program staff can request data metrics and back up on an as needed basis to create new policies and examine barriers.	
Action Step ID	75	**Prohibited discrimination provisions in Master Mortgage Origination Agreements (Section 4.15)**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Master Mortgage Origination Agreements promulgated by the Department (Section 4.15) include prohibitions of discrimination and give TDHCA the right to request periodic reports on applicant data at any time to ensure that the master mortgage originator is not engaging in discriminatory practices.	
Action Step ID	76	**Prohibited discrimination provisions in Participating Lender Agreements**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Participating Lender Agreements promulgated by TDHCA include nondiscrimination provisions based on protected class status. Such nondiscrimination provisions also protect the exercising of rights under the Federal Consumer Credit Protection Act and other antidiscrimination laws or laws based on any other characteristic of a person defined as a prohibited basis for credit discrimination under state, federal, or local laws.	

Action Step ID	79	**NSP3 application point incentives encouraging high opportunity area investments**
Begin Date:		IMPLEMENTED Single Family
Summary		NSP3 application point incentives were created to encourage: 1) Housing for households at or below 50% AMI (5 pts), 2) Development in low poverty areas (census tracts with no greater than 10% poverty thresholds according to the census) (1 pt), 3) Development in mixed-use residential/community areas located within a 1/4 mile radius of existing or proposed bus stops (1 pt), 4) Development in attendance zones of exemplary or recognized elementary schools (1 pt), and 5) Development of units designed to serve special needs or hard to serve populations (2 pts were possible if 51% of units were reserved for this purpose).
Action Step ID	81	**NSP options for households with limited or no credit and limited funds for initial investment**
Begin Date:		IMPLEMENTED Single Family
Summary		NSP training and rules adoption allowed for alternative means of demonstrating credit in the event that a single family household had limited or no credit available at application. Alternative means of demonstration included references from rental housing, utility companies, and landline phones. In addition, though homebuyers were required to demonstrate an initial $500 investment, the program allowed sweat equity in exchange of the financial investment (which could be performed by the homebuyer or a related party on the homebuyer's behalf). This flexibility is intended to provide less barriers in program access for low income persons and persons with disabilities.
Action Step ID	82	**NSP pairing of homebuyer assistance with zero interest loans for 50% AMI families**
Begin Date:		IMPLEMENTED Single Family
Summary		The NSP program allowed subrecipients to apply to acquire foreclosed, abandoned, or vacant properties with permanent loans with deferred, forgivable terms. The NSP1 NOFA required that subrecipients use at least 35% of their non-admin funds to serve households at or below 50% AMI and NSP3 awarded points to incentivize applications seeking to serve households at or below 50% AMI. Households at or below 50% AMI were eligible for 0% interest mortgages plus deferred forgivable homebuyer assistance.
Action Step ID	84	**ESG Adoption of Outcome Analysis and CoC Award Models**
Begin Date:		IMPLEMENTED Single Family
Summary		ESG, as part of a Federal initiative, is moving funding awards to Continuum of Care recipients rather than individual providers. The result will be awards moving through local jurisdictions rather than individual providers and should achieve a better mechanism for data capture, needs assessment, and determining efficiency and accountability. As part of moving to this new model, the ESG application, its NOFAs, and elements of competitive scoring have been revised to consider elements such as past performance, future target outcomes. This model will assist the program area in better evaluating barriers, impediments, and program metrics by leveraging the CoC local capacity and expertise.
Action Step ID	87	**SF HOME Homeowner Rehabilitation Assistance (HRA) allowance of additional funds for accessible features**
Begin Date:		IMPLEMENTED Single Family
Summary		The HRA section of the SF HOME Rules allows $5,000 in direct costs over the program maximum to be requested for homeowners requesting accessible features in their homes.

Action Step ID	90	**SF HOME TBRA extended terms for tenants applying for vouchers or other subsidized housing programs**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Under the SF HOME TBRA rules, the 24 month term of TBRA was extended an additional 24 months (not to exceed 60) if a tenant has applied for a Housing Choice Voucher through a housing authority, if a tenant has applied to a project based unit in the 811 or 202 programs, or has entered an application for a Project Access voucher during their TBRA tenure. This extension for TBRA assistance allows subrecipients to guide participants towards permanent housing options that will best meet their household's needs and helps to avoid unnecessary gaps in housing assistance for low income families and persons with disabilities.	
Action Step ID	92	**Single Family Accessibility Requirements and Incorporation in Program Area Rules**	
Begin Date:		IMPLEMENTED	Single Family
Summary		To ensure compliance with Single Family accessibility requirements, changes in program rules were implemented to require either approved verification of accessibility requirements based on a review of plans and specs or written verification of accessibility requirements at final inspection. Stronger compliance and enforcement will assist the state in ensuring new single family development units are constructed in compliance with the SF accessibility standards mandated by TDHCA and statute.	
Action Step ID	93	**Section 811 PRA Grant and Implementation**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		TDHCA applied under HUD's 811 PRA Demonstration program to receive a grant that would assist the Department in offering additional housing options for persons with disabilities through project based section 8 vouchers that would be utilized in its Housing Tax Credit portfolio and incentivized in its Qualified Allocation Plan.	
Action Step ID	94	**Creation of an affordable housing presentation for HTC public forums**	
Begin Date:		IMPLEMENTED	Multifamily
Summary		MFMU created a short video to show at the beginning of HTC public forums during the Tax Credit cycle that could be used to address common questions and concerns about affordable housing. The video premiered during the 2014 cycle and is available on the MFMU website as a tool that can be used and viewed by local government officials, communities, and developers in addressing common questions and concerns.	
Action Step ID	95	**HTF Bootstrap Rule Provision Considerations of Credit Eligibility Factors Impacting Low Income Households**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The TDHCA HTF Bootstrap Rule provisions in Section 24.9 widen credit eligibility to include households engaged in remediation such as payment plans that are intended to assist the household in re-establishing credit.	

Action Step ID	97	**HTF Bootstrap Rule Requirement for Owner-Builder Homeownership Education Classes**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Section 24.10 of the HTF Bootstrap Rules require Owner-Builders to complete homeownership classes prior to loan funding. These classes are offered in Spanish and English and include sections on credit to assist in helping unbanked residents to understand and build credit.	
Action Step ID	98	**HTF Amy Young Barrier Removal Program Marketing Materials in Spanish and English**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The HTF Amy Young Barrier Removal Program markets program materials to households in both Spanish and English to assist in fully reaching persons with disabilities in underserved areas of the state and avoid barriers created by Limited English Proficiency (LEP).	
Action Step ID	99	**Housing Trust Fund (HTF) establishment of funds for the Amy Young Barrier Removal Program**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Beginning in 2010, the State Legislature and TDHCA established the Amy Young Barrier Removal Program to specifically serve persons with disabilities and allow additional options for persons seeking to modify their homes to meet their accessibility needs. Nonprofit and local governments process intake applications, determine eligibility, and oversee construction for program participants across the state. Funds are offered in the form of grants up to $20,000 and assists both renters and homeowners under 80% AMI.	
Action Step ID	100	**Housing Trust Fund (HTF) establishment of funds for Contract for Deed Conversion**	
Begin Date:		IMPLEMENTED	Single Family
Summary		In addition to HOME CFDC activities, the Department also offers a Housing Trust Fund program for Contract for Deed Conversion. Contract for Deed allows households located in Colonia areas to convert contracts for deed into warranty deeds and thereby attain ownership and property rights.	
Action Step ID	101	**TX State CDBG Grant Allocation for use in Colonia Self Help Centers**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The Legislature provided for use of TX State CDBG grant allocations for the express purpose of providing Colonia Self Help Centers in 1995. Self Help Centers in five Colonia areas currently provide a range of assistance to Colonia residents and assist the Department in reducing barriers for Colonia residents seeking to apply for funds under other TDHCA low income and disability programs.	
Action Step ID	102	**Colonia Rule Provision Allowing for Grant and Loan Use for Suitable Housing Outside of a Colonia**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Rule provisions in Section 25.3(9) and Statute allow for the use of Colonia grant and loan funds for suitable housing outside colonias as well as within colonia areas as a way to improve and provide existing colonia housing. The flexibility of the rule is intended to protect fair housing choice and allow the relocation of households to areas that may offer more opportunity and infrastructure.	

Action Step ID	**103**	**Colonia Rule Provision Allowing Funds for Credit and Debt Counseling and Finance**	
Begin Date:		IMPLEMENTED	Single Family
Summary		TDHCA's Colonia (CDBG) rule provision 25.3(7) allows the use of funds for providing credit and debt counseling related to home purchase and finance. This provision assists TDHCA in providing funds to assist unbanked residents in building credit and providing information to help access homeownership and other assistance program. Colonia Self Help Centers play an integral role in providing information to persons with Limited English Proficiency along the border.	
Action Step ID	**104**	**Colonia Rule Provision Allowing Funds for Provision of Assistance to Access Loans or Grants Offered by TDHCA**	
Begin Date:		IMPLEMENTED	Single Family
Summary		Colonia Rule provision Section 25.3(11) through statute allows funds to be used by Colonia Self Help Centers to provide assistance to households eligible for loan or grant programs offered by TDHCA. In this way, Colonia CDBG funds assist the Department in reaching "least likely to apply" populations along the border in the five designated Colonia Self Help Center areas and decrease barriers due to Limited English Proficiency (LEP).	
Action Step ID	**105**	**Creation of Colonia Resident Advisory Councils by Statute and Rule**	
Begin Date:		IMPLEMENTED	Single Family
Summary		TDHCA Rule provision 25.6(a) requires through statute the appointment of five residents of a Colonia to serve on a Colonia Resident Advisory Council within any area in which a Colonia Self Help Center is located to advise the Board on the Colonia's housing needs, the effectiveness of its proposed programs, and the award of contracts. Non-profits submit suggested appointments to the County and the County submits nominations to the TDHCA Board, which makes nominations to the C-Rac. In this way, the State of TX and TDHCA ensure that resident feedback is heard and considered in seeking to improve housing opportunities for protected classes and low income populations in Colonia areas.	
Action Step ID	**106**	**Colonia Self Help TDHCA Rule Provision Related to Access to Activities**	
Begin Date:		IMPLEMENTED	Single Family
Summary		The Colonia Self Help Rule Provision in 25.7(j) of TDHCA's rules requires that Self Help Center administrators allow access to all public service activities identified in their contracts on at least two Saturdays a month and at least one day during the work week after normal working hours to limit barriers to access for Colonia residents and families.	
Action Step ID	**107**	**Provision of Three Border Field Offices**	
Begin Date:		IMPLEMENTED	Single Family
Summary		TDHCA Rules and Statute support the administration of three border field offices funded by General Revenue, Bond Funds, and CDBG. These offices provide technical assistance to Colonia residents, non-profits, for-profits, UGLGs, and other community organizations along the Texas-Mexico border. Technical assistance and language services are provided for TDHCA programs. The Border Field Offices also provide help with applications, procurement, spec writing, and other items as needed. Like Self Help Centers, the Border Field Office offer additional support and language services to residents in underserved areas within the Colonias.	

Exhibit B

Following is a draft screen from the new demographic database created for the Fair Housing Team. The database is currently being used to generate an Affirmative Marketing Tool. A draft of the screenshot tool is provided along with two sample reports for a property in the TDHCA inventory showing groups determined "least likely to apply". One shows the report functionality for new developments and developments with less than 40 units. The other shows the report functionality for an existing development with a representative tenant pool.

TDHCA Affirmative Fair Housing Marketing Tool

Step 1: Type in or select your CMTS number from the "Select Property" drop down menu. Do not type in or select a CMTS number if your property is unoccupied, a new construction property beginning lease up, or a property with less than 40 units. For these properties, check the "Other" box and enter the census tract of your development.

Step 2: Your Census Tract, County, and MSA designation will auto generate in the Geographic data box. This information is based on your CMTS property information. If you are not in an MSA, an Option box will appear that will allow you to widen your report to include areas in a nearby MSA. You may choose to widen your marketing area by using this feature. This is not required under the Rule.

Step 3: Click the "Generate Report" button to receive results for groups considered underrepresented in your development or area to whom you must affirmatively market. As a reminder, persons with disabilities will always appear in your results and must always be included in your affirmative marketing. Results will not display for any populations representing less than 1% of the total population of the County or MSA. These populations will not be required in your affirmative marketing.

1) Select Property: 4612 OR ☐ Other (See above instructions)

2) **Geographic Data:**

Tract: 48089750300

County: Colorado

MSA:

In MSA: No

☐ Optional: Select your nearest MSA to view larger areas to which you might market your property

MSA:

3) Generate Report

Affirmative Marketing Results

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Geographic Data:

Census Tract: 48113018001
County: Dallas
MSA: Dallas-Fort Worth-Arlington, TX

Table 1: Census Tract v. MSA

Class	% Tract	% MSA	Underserved	Tracts for Outreach Consideration
Persons with Disabilities	11.70%	9.16%	Yes	48257051300
Asian	0.84%	6.01%	Yes	48113014127
American Indian / Alaska Native	1.02%	1.36%	Yes	48139060101

The report above shows the groups to whom you must affirmatively market based on a comparison of your tenant data pool or census tract to the applicable County or MSA area as identified in the Rule. You must select these groups on the HUD 935.2A form as groups least likely to apply.

The census tracts provided for outreach consideration represent nearby neighborhoods identified in the U.S. Census as having the highest concentration of the groups who are least likely to apply at your development based on its location or the demographic make up of its tenant pool. The identified neighborhoods may represent a first step for planning meaningful outreach and marketing for your development.

Affirmative Marketing Results

Geographic Data:

Census Tract: 48089750300
County: Colorado
MSA: Not in MSA

Table 1: Tenant Pool v. County

Class	% Dev	% County	Underserved	Tracts for Outreach Consideration
Not Hispanic	42.31%	73.87%	Yes	48293970200
Persons with Disabilities	23.08%	13.92%	Yes	48199030100

The report above shows the groups to whom you must affirmatively market based on a comparison of your tenant data pool or census tract to the applicable County or MSA area as identified in the Rule. You must select these groups on the HUD 935.2A form as groups least likely to apply.

The census tracts provided for outreach consideration represent nearby neighborhoods identified in the U.S. Census as having the highest concentration of the groups who are least likely to apply at your development based on its location or the demographic make up of its tenant pool. The identified neighborhoods may represent a first step for planning meaningful outreach and marketing for your development.

Table 2: Nearest MSA

Class	Tracts for Outreach Consideration
Not Hispanic	48479001713

Exhibit C

Following is a draft of the landing page, “Fair Housing 101” for the new TDHCA Fair Housing website section generated by the Fair Housing Team. The new website section will include topics as shown in the left-side menu bar. The website is currently being readied for final approval and launch. Its launch will be announced via the new Fair Housing email list.

DRAFT Version

Fair Housing 101

What Is the Federal Fair Housing Act and Who Does it Protect?

The Federal Fair Housing Act refers to Title VIII of the Civil Rights Act of 1968 (www.justice.gov). The Act protects your right to rent an apartment, buy a home, obtain a mortgage, or purchase homeowners insurance free from discrimination based on:

- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status, and
- Disability

In addition to these protected classes under the Act, cities, counties, and other municipalities may have additional housing discrimination laws to protect additional groups. To find out about existing additional protections in your City, County, or municipality, find your City's website using the Texas.gov (www.texas.gov) directory or find and contact your local Legal Aid Office using TXLawHelp.org (www.txlawhelp.org).

In addition to the Act, the following legislation and executive orders may apply and provide the basis for fair housing law and enforcement:

- Title VI of the Civil Rights Act of 1964 (www.justice.gov)
- The Architectural Barriers Act of 1968 (www.access-board.gov)
- Title IX of the Education Amendments Act of 1972 (www.justice.gov)
- Section 504 of the Rehabilitation Act of 1973 (www.hud.gov)
- Section 109 of Title I of the Housing Act of 1974 (hud.gov)
- The Age Discrimination Act of 1975 (www.dol.gov)
- Title II of the Americans with Disabilities Act of 1990 (www.ada.gov)
- The Violence Against Women Reauthorization Act of 2013 (www.gpo.gov)
- Executive Orders (hud.gov):
  - 11063
  - 11246
  - 12892
  - 12898
  - 13166
  - 13217

For help in identifying what discrimination may look like, please view the U.S. Department of Housing and Urban Development ("HUD") YouTube Channel (youtube.com) or the National Fair Housing Alliance page (www.nationalfairhousing.org). If you believe you have been a victim of discrimination, view the How to File a Complaint page. To download more information, including the HUD complaint app and fair housing rights brochures, visit our Toolkits, Sample Forms, and Downloads page.

What Is the Goal of the Fair Housing Act?

HUD, in its proposed 2013 rule on Affirmatively Furthering Fair Housing, considers the Fair Housing Act to have two main goals: 1) ending housing discrimination; and 2) promoting diverse, inclusive communities. Read the proposed rule (www.huduser.org) or access HUD's Fair Housing Planning Guide (PDF) (hud.gov) to learn more about HUD's goals to eliminate segregation and discriminatory practices in programs administered with its funds.

Fair Housing in TDHCA Monitored Rental Properties

The Texas Department of Housing and Community Affairs ("TDHCA") is committed to expanding fair housing choice and opportunities in the State of Texas as required by HUD. See additional guidance on this page for renters, homebuyers, housing professionals, or elected officials and local governments.

The Department of Justice ("DOJ") and HUD are jointly responsible for enforcing the Fair Housing Act. The Texas Workforce Commission ("TWC") (www.twc.state.tx.us) is the state agency in Texas responsible for enforcing the Texas Fair Housing Act, even in TDHCA monitored rental properties. To learn more about making a complaint, visit our How to File a Complaint page.

Are Any Kinds of Housing Exempt From the Law?

All housing is covered by fair housing law though there may be differences in how some laws and provisions are applied. Only owner-occupied buildings with no more than four units, single family sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members are exempt under certain circumstances.

While not exempt, some properties follow special guidance under the Housing for Older Persons Amendment ("HOPA") to the Fair Housing Act, which can change the way a property must follow familial status protections under fair housing law. Review the HOPA (PDF) (hud.gov). For additional guidance, please read HUD's HOPA FAQs (PDF) (hud.gov).

Exhibit D

Following is a draft of the proposed Tenant Brochure to include tenant programmatic rights information, fair housing information, and an integrated fair housing disclosure notice. TDHCA staff is seeking development and community suggestions and feedback on this brochure and its use within the TDHCA monitored rental property portfolio.

Looking for an Apartment?

A Tenant Rights and Resources Guide for TDHCA Monitored Rental Properties

DRAFT

Published by TDHCA on September 12, 2014

What Does Fair Housing Choice Mean?

The Texas Department of Housing and Community Affairs ("TDHCA") is committed to expanding fair housing choice and opportunities for Texans. Under the Fair Housing Act, your rights to rent an apartment, buy a home, obtain a mortgage, or purchase homeowner's insurance free from discrimination based on race, color, national origin, religion, sex, familial status, and disability are protected.

This means that you have the right to make choices about where you will live and must receive equal access to housing and related programs under the law. TDHCA offers a number of affordable rental housing units throughout the state that are supported by low income housing tax credits and loans or grants from federal housing programs. Some of the eligibility requirements under each type of program that TDHCA funds may be different and not all of the types of housing it offers may be available in areas in which you would like to live; however, TDHCA encourages you in making any rental decision to ask questions about and consider whether the area in which the rental property is located provides access to one or more of the following items that may help meet your rental needs:

- High quality schools (Find school ratings on the Texas Education Association's website: www.tea.state.tx.us)
- Low crime (Call the local police precinct and ask for crime statistics or visit www.neighborhoodscout.com)
- Access to reliable methods of public transportation (Ask about local bus routes, commuter rails, or other methods of transportation and check metro schedules for the area or visit www.walkscore.com)
- Access to quality healthcare (Map distances to your local health clinics, urgent care, and hospital facilities)
- Access to grocery stores that offer healthy food choices (Map distances to full service grocery stores)
- Proximity to family, friends, job sites, and organizations to which you might belong (You're the expert here)

There may be additional items that are important to you in making your decision. If you want to explore your housing options, you can identify other TDHCA affordable rental properties in your community by accessing TDHCA's apartment search tool:

http://hrc-ic.tdhca.state.tx.us/hrc/VacancyClearinghouseSearch.m

Additional information about landlord and tenant responsibilities and your fair housing rights in TDHCA monitored properties can also be found in this booklet or from the TDHCA website at:

http://www.tdhca.state.tx.us/

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What Additional Rights Do I Have as a Renter in TDHCA Properties?*

Texas State Landlord-Tenant Law can be found in the Texas Property Code, Chapter 301 (http://governor.state.tx.us/disabilities/resources/housing/). Texas Property Code outlines the responsibilities of landlords and tenants in residential rental agreements. In addition to landlord responsibilities under the code, landlords of TDHCA monitored rental properties must:

- Keep properties suitable for occupancy and in good repair consistent with Uniform Physical Condition Standards ("UPCS") published by the U.S. Department of Housing and Urban Development ("HUD").

- Estimate utility costs at the property, annually review the utility allowance they calculate, and make utility allowances available for inspection. Utility allowances are used to help determine the amount a property owner will charge for rent.

- Provide residents with a certain number and type of property amenities and/or services.

  This property is required to provide the following amenities and/or services for its residents:

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- Operate the property in accordance with its Land Use Restriction Agreement ("LURA") as affordable housing, whether or not ownership or management agents change. You can request a copy of the LURA from property management staff.

- Offer written leases, generally with an initial term of at least 6 months for HTC properties and one year for HOME and other federally-assisted properties.

- Provide tenants with written notice in the event of lease termination or non-renewal.

- Provide reasonable accommodations or modifications at the owner's expense (except in most Housing Tax Credit properties awarded before 2001) provided such an accommodation does not create an undue administrative and financial burden on the owner.

Owners of TDHCA monitored rental properties are prohibited from:

- Locking out or seizing property of tenants who have not paid rent.

- Charging rents in excess of program-specific rent limits that are published each year.

Published by TDHCA on September 12, 2014

- Using certain lease provisions that restrict tenant rights to court and appeals processes or decisions, excuse owners from responsibility, or require tenants to pay court fees if a proceeding is won against the owner.

- Denying households for rental housing on the sole basis of the household's participation in the Section 8, HOME Tenant Based Rental Assistance, or other federal rental assistance program.

- Requiring households participating in the Section 8, HOME Tenant Based Rental Assistance, or other federal rental assistance program to demonstrate a monthly income of more than 2.5 times the household's share of the monthly rent (households with less than $50 of annual income are not required to demonstrate more than an annual income of $2,500).

  Example: A voucher holder's tenant portion of the rent will be $216.30 per month.
  $216.30 x 2.5 = $540.75 per month.
  The household cannot be asked to demonstrate more than $540.75 per month to be eligible for housing.

- Evicting tenants for other than good cause under the lease. Landlords are also prohibited from retaliating against renters who have made a discrimination complaint or who have assisted others in exercising his or her fair housing rights, including rights to enter reasonable accommodation or modification requests.

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Additional information on Texas State Landlord-Tenant Law can be accessed by viewing the Texas State Law Library's Landlord/Tenant Research Guide and eviction resources page at http://guides.sll.texas.gov/landlord-tenant-law or accessing the Austin Tenant Council page at http://www.housing-rights.org/brochures.html. Texas A&M Real Estate Center has also published a Landlord Tenants Guide which is available at: http://recenter.tamu.edu/pdf/866.pdf.

**Disclaimer: The above is not an exclusive list and does not grant or limit any right a tenant may have under local, state, or federal law.*

Need Legal Help?

TDHCA does not provide legal advice or assistance and does not determine whether an eviction was for good cause. If you have received a property violation notice or an eviction notice and need legal assistance, free assistance may be available to you through one of the following legal aid resources in your area:

Legal Aid of Northwest Texas
(1-888-529-5277, Serving North and West Texas, www.lanwt.org)

Volunteer Legal Services of Central Texas
(512-476-5550, Serving Central Texas, www.vlsoct.org)

Texas RioGrande Legal Aid
(1-888-988-9996, Serving South, West, and Central Texas, www.trla.org)

LoneStar Legal Aid
(1-800-733-8394, Serving East Texas, www.lonestarlegal.org)

Additional legal resources may be available from the Texas law help page (www.texaslawhelp.org) or through HUD's fair housing counseling page:
http://hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary

What Are My Fair Housing Rights?

Owners and property managers are also required to follow federal, state, and local fair housing laws (which may include protected classes in addition to those listed below) and are prohibited from discriminating on the basis of:

- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Disability

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Examples of discrimination in rental housing could include but are not limited to:

- A refusal to rent or show available housing
- Requiring different terms or conditions for identical dwellings
- Being told that a dwelling isn't right for you or your family
- Being told that housing isn't available in an apartment displaying a "For Rent" sign
- Housing advertisements that say "no kids" or "adults only"
- A refusal to make reasonable accommodations or allow modifications during the application process or to make a dwelling accessible for a person with a disability
- Harassment or intimidation
- Terms of availability that change between a phone contact and an in-person visit
- Being steered to racially segregated neighborhoods during your rental search
- Being steered to one building or assigned to units on one side of a complex, regardless of other available options
- Excessive or inappropriate questioning upon requesting information about a dwelling

How Do I Make a Reasonable Accommodation Request?

Reasonable accommodations are changes in rules, policies, practices, or services that may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling, including areas provided for public or common use.

You can make a reasonable accommodation in writing or orally. Reasonable accommodations are not required to be entered on specific forms, though properties may maintain a form for this purpose. However, it is a best practice to provide such requests in writing, include the date the request was made, and make a copy of the request you provided.

Remember that an owner *can* request verification of disability but *cannot* request information about the nature, extent, or severity of a disability.

Examples of reasonable accommodations requests may include:

- Requesting to keep a service or companion animal despite a "no pets" policy
- Requesting an assigned disabled parking spot that will be closer to your unit
- Requesting an access aisle on an existing parking spot to allow for better wheelchair access
- Requesting the use of an interpreter, use of a telephone relay service, or an auxiliary aid prior to a scheduled meeting with property staff to ensure you can communicate effectively if you are hearing impaired
- Requesting that your live-in personal care attendant not be required to apply separately for tenancy or be added to your lease
- Requesting a unit transfer from an upper floor to a ground floor unit due to mobility concerns that relate to your disability
- Requesting grab bars in your bathroom near the toilet and shower
- Requesting a widened doorway to accommodate the use of your wheelchair

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Owners are required in federally subsidized properties and in Housing Tax Credit/Bond properties awarded after 2001 to pay for the reasonable modification or accommodation.

Does An Owner Have to Provide an Accommodation or Modification Once I Make a Request?

Owners have the right to deny a reasonable accommodation request if the request was not made by or on behalf of a person with a disability, if there is no disability-related need for the accommodation or modification, or if the request would result in an undue administrative and financial burden or would fundamentally alter the nature of the provider's operations.

What results in an undue administrative and financial burden should be determined on a case-by-case basis and should include consideration of the owner's financial resources, the cost of the proposed change, and the availability of alternative accommodations that would meet the requestor's needs.

If an owner decides to deny an accommodation request, they should always discuss with the resident whether there is an alternative accommodation that will meet their disability-related needs.

Disability discrimination provisions of the Fair Housing Act do not extend to persons who claim to be disabled solely on the basis of having been adjudicated as a juvenile delinquent, having a criminal record, or being a sex offender. Furthermore, the Fair Housing Act does not protect persons who currently use illegal drugs or persons with or without disabilities who present a direct threat to the persons or property of others.

How Do I File a Fair Housing Complaint?

Filing Complaints in the State of Texas

If you believe you have been discriminated against based on race, color, national origin, religion, sex, familial status, or disability, TDHCA strongly encourages you to file a complaint with the Texas Workforce Commission ("TWC").

TWC is the entity responsible for receiving and resolving housing discrimination complaints in the State of Texas and works with TDHCA to enforce the Fair Housing Act and investigate violations. You have one year after an alleged violation to file a complaint, but you should file it as soon as possible. Complaints can be filed by email, fax, phone call, hand delivery, or mail:

Texas Workforce Commission
Civil Rights Division
1117 Trinity Street, Room 144-T
Austin, TX 78701
(888) 452-4778 or (512) 463-2642
TTY: 512-371-7473
Fax: 512-463-2643
HousingComplaints@twc.state.tx.us

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A copy of the TWC complaint form is available from the TWC website at:
http://www.twc.state.tx.us/crd/how-submit-housing-discrimination-complaint.html

When you enter a complaint to TWC, TWC will also file your complaint with HUD. However, you can also file a complaint directly with HUD.

Filing Complaints with HUD

HUD accepts online complaints through its website and also makes complaint forms available in multiple languages such as Spanish, Arabic, Cambodian, Chinese, Korean, Russian, and Vietnamese. Download HUD's mobile complaint app at: https://portalapps.hud.gov/AdaptivePages/HUD/welcome.htm or see HUD's complaint page under the Fair Housing and Equal Opportunity Office at www.hud.gov. You can also contact the local state of Texas HUD office at:

Fort Worth Regional Office of FHEO
U.S. Department of Housing and Urban Development
801 Cherry Street, Unit # 45
Suite 2500
Fort Worth, TX 76102
(817) 978-5900
(800) 669-9777
TTY (817) 978-5595

There may be additional local fair housing enforcement agencies that accept discrimination complaints depending on where you live. For a list of these entities, contact TWC or visit their fair housing page.

2

ORAL PRESENTATION

3a

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action on a Request for a Waiver of §11.3(e) of the 2014 Qualified Allocation Plan Relating to Developments in Certain Sub-regions and Counties for Villas at Plano Gateway

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for Villas at Plano Gateway Apartments was submitted to the Department on September 22, 2014;

WHEREAS, the application proposes a new construction, Qualified Elderly development to be located in Plano, Collin County;

WHEREAS, §11.3(e) of the 2014 Qualified Allocation Plan ("QAP") states that Qualified Elderly developments in Collin County are considered ineligible for consideration of multifamily funding in the 2014 application round;

WHEREAS, the applicant has requested a waiver of this prohibition stating, in part, that the 2015 proposed QAP removes this restriction against Qualified Elderly developments, thus contending that the perceived imbalance of Qualified Elderly developments in certain sub-regions and counties no longer exists; and

WHEREAS, staff believes that despite the proposed removal of the prohibition of Qualified Elderly developments in certain regions and counties in the 2015 proposed QAP, the prohibition remains in effect under the program rules under which the application was submitted;

NOW, therefore, it is hereby

RESOLVED, that the request for a waiver of §11.3(e) of the 2014 QAP for Villas at Plano Gateway Apartments is hereby denied.

BACKGROUND

Villas at Plano Gateway Apartments, a proposed Qualified Elderly development located in Plano, Collin County, proposes the new construction of a 292-unit mixed income development of which 233 units will be rent and income restricted at 60% of AMFI and the remaining 59 units will be market rate with no rent or income restrictions.

The 2014 QAP includes a prohibition against Qualified Elderly Developments in certain areas. Specifically, §11.3(e) reads "*In the 2014 Application Round the following Counties are ineligible for*

Qualified Elderly Developments: Collin; Denton; Ellis; Johnson; Hays; and Guadalupe, unless the Application is made in a Rural Area. In the 2014 Application Round Regions five (5); six (6); and eight (8) are ineligible for Qualified Elderly Developments, unless the Application is made in a Rural Area. These limitations will be reassessed prior to the 2015 Application Round and are based on the fact that data evaluated by the Department has shown that in the ineligible areas identified above, the percentage of qualified elderly households residing in rent restricted tax credit assisted units exceeds the percentage of the total Qualified Elderly-eligible low income population for that area." The applicant is requesting a waiver of this prohibition and has stated that the 2015 Draft QAP removes the restriction against Qualified Elderly developments, thus contending that the perceived imbalance indicated in the rule no longer exists.

As required under §10.207(a) of the Uniform Multifamily Rules regarding the general waiver process, "…*The waiver request must establish how it is necessary to address circumstances beyond the Applicant's control and how, if the waiver is not granted, the Department will not fulfill some specific requirement of law. In this regard, the policies and purposes articulated in Texas Government Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, are general in nature and apply to the role of the Department and its programs, including the Housing Tax Credit program. Where appropriate, the Applicant is encouraged to submit with the requested waiver any plans for mitigation or alternative solutions. Any such request for waiver must be specific to the unique facts and circumstances of an actual proposed Development and must be submitted to the Department in the format required in the Application materials.* The request submitted by the applicant submitted the following argument:

1. Texas Government Code, §2306.001: 1(B) tasks TDHCA purposes: "to assist local government in overcoming financial social and environmental problems." This development is sponsored by the City of Plano Housing Corporation to implement a plan to provide affordable housing in the City of Plano. The departments is obligated by statute to assist them in implementing this plan to address the social need for more senior living in this specific location in a zero vacancy market.

2. Texas Government Code, §2306.001: (2) tasks TDHCA to "provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income." So the development of MF rental for independent seniors at or below 60% of AMFI is a primary purpose of TDHCA. This site is uniquely suited for senior housing in a rare qualified census tract in Collin County where 4% credits can be use in an economically feasible manner to serve senior households of low income.

3. Texas Government Code, §2306.002: (b) The statute mandates a policy for TDHCA making it "The highest priority of the department is to provide assistance to individuals and families of low and very low income who are not assisted by private enterprise or other governmental programs so that they may obtain affordable housing or other services and programs offered by the department." So denying low income seniors who are special needs under the Statute is contrary to statutory mandated policy. It is a rule the Executive Director and or the Board has authority to approve or waive to insure the department's policies are fully implemented.

4. Texas Government Code, §2306.511: Simply defines elderly as a population meeting the special needs definition by Statute and relates to the other comments in this letter related to special needs household. In addition, the development is providing 10% of all units equipped for handicapped residents with special needs. Plano Housing Corporation, PHC, in cooperation with the North Texas Veterans Coalition have targeted these equipped units for seniors who are veterans in need of housing. The nonprofit general partner, PHC, has applied for a HOME Depot grant which would expand this obligation to 60 of the 292 units, for senior veteran households. So the department is affirmatively addressing the special needs population, including Veterans\Wounded Warriors in need a fully equipped living unit.

5. Texas Government Code, §2306.6710: In evaluating this request and this application, the Department is obligated to consider community support for the development in review and approval processes. The development has a resolution of support, unanimously passed by the Plano City Council. The development received its bond inducement by resolution, unanimously passed by the Collin County Commissioners Court to support this development plan. So under this standard weight should be given in reviewing this request related to the total community support enjoyed by this applicant for this development in this location.

While staff acknowledges that the 2015 proposed QAP removes the restriction on Qualified Elderly developments in certain sub-regions and counties of the State, until the 2014 program year and activity under its multifamily funding sources is complete, it is a prediction at best, as to whether the prohibition achieved its intended purpose to correct the imbalance of elderly rent restricted units when compared to the eligible low income elderly population for the specific area. Moreover, it is possible for the applicant to proceed with submission of the application in the 2015 program year assuming the prohibition is lifted when the 2015 QAP is adopted. Staff notes that the competitive HTC applications awarded in the 2014 application round were done so in accordance with this prohibition and staff does not believe the timing of the submission of the application or the funding source applied for constitutes a justification for a waiver allowing the development to move forward in this program year.

TX Collin Apartments, L.P.
Attn: Jean Brown and Kent Conine
5430 LBJ Freeway, Suite 1200
Dallas, TX 75240
972-663-9368
972-663-9301 FAX

TDHCA Executive Staff
ATTN: Tim Irvine, Executive Director
211 E. 11th Street
Austin, TX 77011

September 19, 2014

RE: Request to the TDHCA staff for a pre clearance or waiver under the 2014 MR rules related to senior housing development in Region 3, Collin County

Dear Tim:

Please consider our request for a pre clearance or waiver of the prohibition on affordable senior housing development in Region 3, Collin County under the 2014 MF rules. Please note in your consideration that the proposed development is mixed income, senior living in Plano, Texas. The development location is part of a master planned development, Plano Gateway. The site is owned by the applicant and specifically zoned for independent senior living, long before the 2014 rule took effect. The site is institutional investment quality located directly across the street, Shiloh, from a medical complex of doctor's office, rehabilitation hospital and medical services. More significantly, it is across Renner from the newly expanded and modernized Richardson Methodist Hospital. More significantly for the statute, the development is a 4% HTC tax exempt bond financed development. A resource the State has not been fully utilizing for the past several years.

We support the department's efforts to use and focus 9% credit resources to affirmatively further fair housing choice for Texas families. But Texas is not using large amounts (hundreds of millions) of tax-exempt volume cap and related non-competitive 4% tax credit equity to fulfill the department's obligations under statute as outlined below. ICP and the department both recognize these developments are only feasibility, as a rule, in QCT's. In addition, the board voted, relying on staff recommendation, for a QAP and rule draft for 2015 that removes this prohibition.

Staff is on record that the prohibition policy started with the 2014 QAP and rules in late 2013 has served its purpose. There is no longer the perceived imbalance that led to the current rule, at least through the close of business 2015. Given this back ground, the applicant respectively asks for approval by the Executive Director for a preclearance or waiver to proceed with our application for 4% housing tax credits at this time. A request to the board is also requested should you choose to defer action to them.

The good causes in compliance with the Statute are as follows:

1. 2306.001: 1 B tasks TDHCA purposes: "to assist local government in overcoming financial social and environmental problems." This development is sponsored by the City of Plano Housing Corporation to implement a plan to provide1,000 units affordable housing in the City of Plano. The department is tasked by statute to assist the City of Plano and Collin County in implementing this plan to address the social need for more senior living in this specific location in a zero vacancy market with long wait lists.
2. 2306.001: 2 tasks TDHCA to "provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income." So the development of MF rental for independent seniors at or below 60% of AMFI is a primary purpose of TDHCA. This site is uniquely suited for senior housing in a rare qualified census tract in Collin County where 4% credits can be use in an economically feasible manner to serve senior households of low income.
3. 2306.002: (b) The statute mandates a policy for TDHCA making it " The highest priority of the department is to provide assistance to individuals and families of low and very low income who are not assisted by private enterprise or other governmental programs so that they may obtain affordable housing or other services and programs offered by the department." So denying low income seniors who are special needs under the Statute is contrary to statutory mandated policy. It is a rule the Executive Director and or the Board has authority to approve or waive to insure the department's policies are fully implemented.
4. 2306.511: Simply defines elderly as a population meeting the special needs definition by Statute and relates to the other comments in this letter related to special needs household. In addition, the development is providing 10% of all units equipped for handicapped residents with special needs. Plano Housing Corporation, PHC, in cooperation with the North Texas Veterans Coalition have targeted these equipped units for seniors who are veterans in need of housing. The non-profit general partner, PHC, has applied for a HOME Depot grant which would expand this obligation to 60 of the 292 units, for senior veteran households. So the department is affirmatively addressing the special needs population, including Veterans\Wounded Warriors in need a fully equipped living unit.
5. 2306.6710: In evaluating this request and this application, the Department is obligated to consider community support for the development in review and approval processes. The development has a resolution of support, unanimously passed by the Plano City Council. The development received its bond inducement by resolution, unanimously passed by the Collin County Commissioners court to support this development plan. So under this standard, weight should be given in reviewing this request related to the total community support enjoyed by this applicant for this development in this location.

Mitigation of the need for this pre clearance or waiver: The site is specifically zoned for this use and was zoned for this very appropriate land use before the 2014 rule was adopted. It is the highest and best use given the location and surrounding amenities. The City and County recognize that recent growth in their affordable senior housing needs coupled with an explosion of rental rates in this zero vacancy market is preventing long-time residents of Plano and Collin County from staying in the community fabric. So given the demand for the housing and existing master plan zoning, no mitigation is available but to ask for affirmative approval by TDHCA to allow this development to proceed. This development plan began implementation in June 2013, long before the rule was put in place. By the time TDHCA adopted this prohibition, the developer had incurred over $300,000 in non-recoverable costs. So it was not with a cavalier approach the applicant is in this position. They have operated in good faith under the rules at all times.

At a minimum, Applicant respectfully requests your approval to proceed with a 4% application that can be approved no later than the December 2014 board meeting. This would move the item to a time when the board has approved the final rule and QAP for 2015, consistent with this request. It would also move the final approval to a point when the Governor has signed the new QAP and or rules, without this senior housing prohibition. So we need your approval for staff to proceed with a fully review of the application at this time.

This timing is critical to the viability of this development opportunity due to possible changes in QCT's. If the development lapsed into 2015 and the QCT 130% boost is lost, the current financing plan would no longer meet TDHCA requirements for underwriting feasibility.

The applicant is asking for your approval in time for the October 2014 board meeting to allow for a closing of the financing in November 2014. Applicant represents that this 4% HTC and tax exempt bond financed development is permit ready, the applicant owns the site, all the debt and equity financing is in place. Please allow this development to proceed with alacrity.

One behalf of the sponsors, including Plano Housing Corporation and Conine Residential, I ask you to approve this application for eligibility at this time.

Your consideration of this request is appreciated.

Sincerely,

Kent Conine
Conine Residential

CC: Plano Housing Corporation
Jean Brown
Bill Fisher, SHA

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Home > Biz Beat Blog

Another huge mixed-use development is on the drawing boards in Richardson

By Steve Brown
stevebrown@dallasnews.com
10:45 am on September 25, 2014 | Permalink

92 19 0 14

Next door to State Farm Insurance's towering new office campus in Richardson, developers are working on another huge mixed-use development that will bring millions of square feet of additional construction.

The proposed project – which was just approved by Richardson's planning and zoning commission – would take up the vacant 55 acres between U.S. Highway 76 and the CityLine development anchored by State Farm.

DART's Bush Turnpike commuter rail station sits in the middle of the two properties.

The vacant property, which is being rezoned, is at the southeast corner of Bush Turnpike and U.S. 75 and is owned by the Caruth Foundation.

Real estate investor and developer Parliament Group Inc. is buying the property and has been working with the owners, city officials and Good Fulton & Farrell architects to plan the new project.

Zoning was just approved by the Richardson Plan Commission for 1.35 million square feet of office space, a 150-room hotel and 60,000 square feet of shopping.

There will be 1,250 urban style apartments, to be developed by Trammell Crow Residential.

"The velocity and scope of this is impressive," said Richardson City Manager Dan Johnson. "We are excited that these firms see the value of Richardson."

Johnson said the just-approved zoning changes for the Caruth property were "tweaks" on planning done back in 2010 and 2011.

That's when initial designs for the Caruth land and the adjacent CityLine property were down.

In 2012 developer KDC bought the 186-acre CityLine tract on the south side of Bush Turnpike at Plano Road and began work on a $1.5 billion mixed-use project.

The smaller Caruth property – which fronts on U.S. 75 – has remained vacant while State Farm's office towers have gone up to the east.

But that's soon going to change.

"The projects will be very symbiotic to each other," Johnson said. "Combined they are over $2 billion in tax base."

The latest zoning allows for high-rise office construction at the northeast corner of Renner Road and U.S. 75 and "freeway hi-rise" buildings of up to 300 feet tall at the southeast corner of Bush and 75.

Mid-rise mixed-use buildings would be constructed along the DART line.

Designs for the project include a greenbelt along Spring Creek.

"A corridor has been left to construct the proposed Cotton Belt rail line," Johnson said.

Parliament Group plans to start taking ownership of the property in December, according to partner Joe Altemore.

"This project is going to be huge," Altemore said. "It's going to be a bookend for the CityLine development.

"We are getting a great reception to the project," from commercial real estate firms that will buy development sites and build, he said.

Trammell Crow Residential is working on plans for the first phase of apartment communities it will build, which will be designed by Good Fulton & Farrell, Altemore said.

Next door at CityLine, construction is already underway on four office towers for State Farm, a half-million-square-foot campus for Raytheon Corp. and almost 1,000 apartments.

A shopping center anchored by Whole Foods Market and an Aloft Hotel are about to start construction.

Combined, CityLine and the Caruth tract development will create one of the largest, most dense transit oriented, mixed-use developments in the country.

"This is an active urban market – not suburban," Johnson said. "The intensity and quality of the development is so strong."

From Around the Web

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TOP PICKS

DINING

FALL FESTIVALS

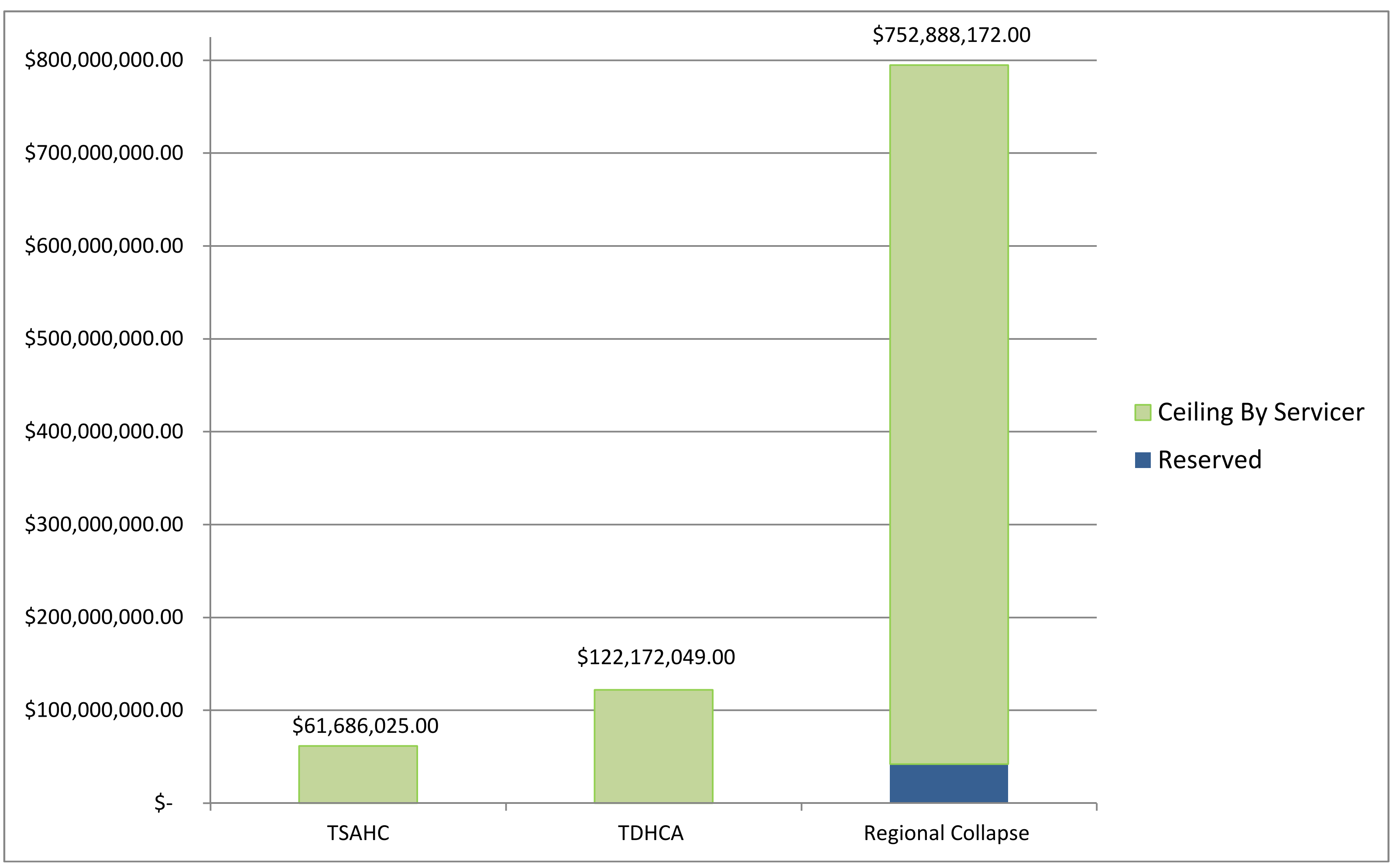
STATE OF TEXAS
2013 PRIVATE ACTIVITY BOND ALLOCATION PROGRAM

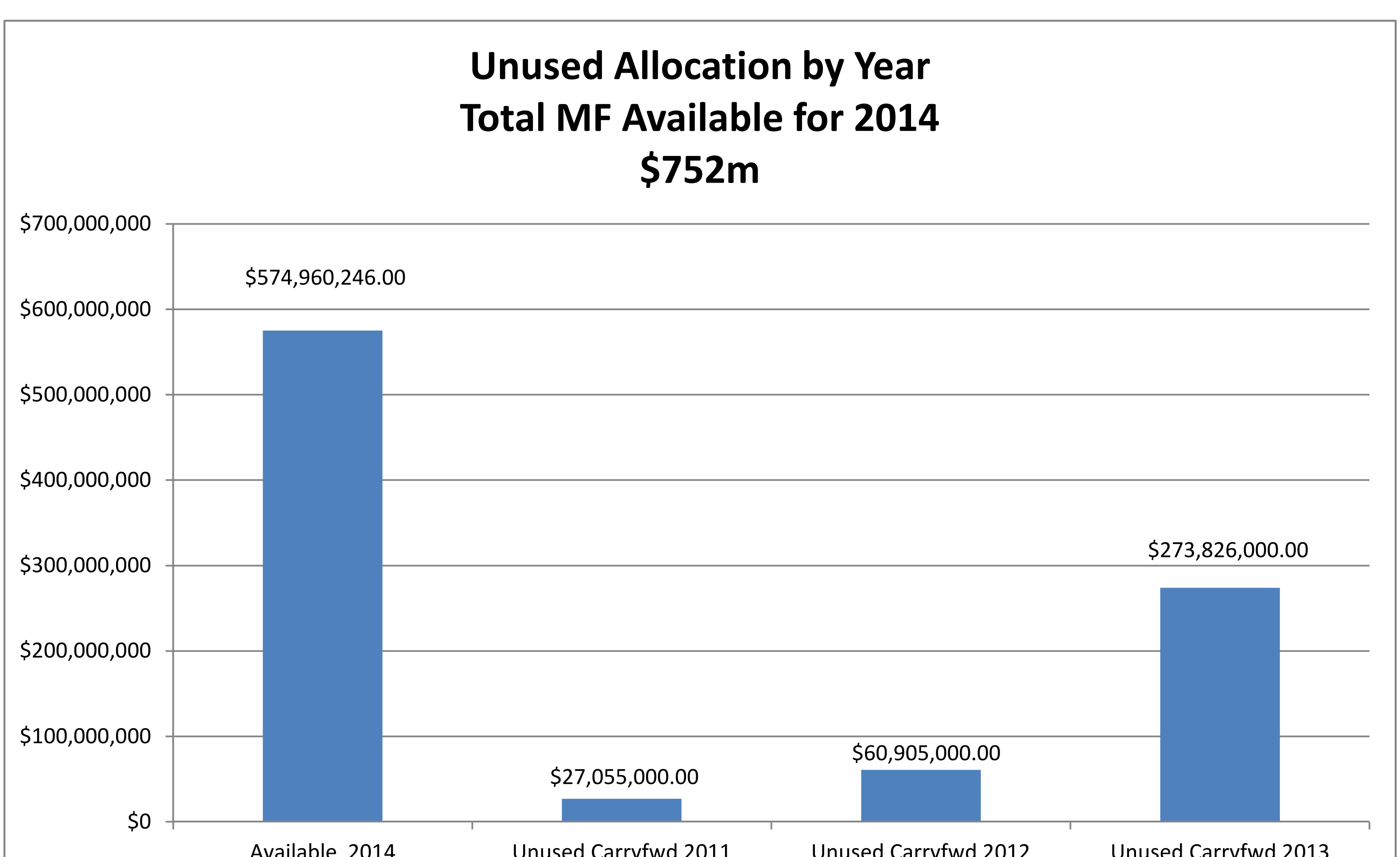
STATUS OF **2014** ALLOCATION PROGRAM AS OF - **9/19/2014** **UN-USED MF BOND CAP INCLUDING CARRYOVER 2011-2014** **$ 936,746,246**

	100.00% TOTAL	28.00% SC 1 MRB's	8.00% SC 2 State Voted	2.00% SC 3 IDBs	2.20% SC 4 TSAHC - MF	4.40% SC 4 TDHCA - MF	15.40% SC 4 Local HFC's MF	10.50% SC 5 Student Loan	29.50% SC 6 All Other	
2014 STATE CEILING	**$ 2,644,819,300**	**$ 740,549,404**	**$ 211,585,544**	**$ 52,896,386**	**$ 58,186,025**	**$ 116,372,049**	**$ 407,302,172**	**$ 277,706,027**	**$ 780,221,693**	
ELIGIBLE REQUESTS TO DATE	$ 1,444,516,000	$ 956,266,000	$ -	$ 3,650,000	$ -	$ 8,300,000	$ 5,300,000	$ -	$ 471,000,000	54.62%
RESERVATIONS TO DATE	$ 1,440,516,000	$ 956,266,000	$ -	$ 3,650,000	$ -	$ 4,300,000	$ 5,300,000	$ -	$ 471,000,000	54.47%
CERTIFIED TO DATE	$ 1,388,516,000	$ 956,266,000	$ -	$ 3,650,000	$ -	$ 8,300,000	$ 5,300,000	$ -	$ 415,000,000	52.50%
ALLOCATIONS TO DATE	$ 60,516,000	$ 31,266,000	$ -	$ 3,650,000	$ -	$ 5,600,000	$ -	$ -	$ 20,000,000	2.29%
RESERVATIONS RELEASED	$ 578,700,000	$ 525,000,000	$ -	$ -	$ -	$ 2,700,000	$ -	$ -	$ 51,000,000	21.88%
UNSATISFIED REQUESTS	$ 4,000,000	$ -	$ -	$ -	$ -	$ 4,000,000	$ -	$ -	$ -	0.15%
AVAILABLE ALLOCATION 14	$ 1,783,003,300	$ 309,283,404	$ 211,585,544	$ 49,246,386	$ 58,186,025	$ 114,772,049	$ 402,002,172	$ 277,706,027	$ 360,221,693	67.41%
CARRYFORWARD 2011	$ 428,605,012	$ 170,400,000	$ 81,150,012	$ -	$ -	$ -	$ 27,055,000	$ 100,000,000	$ 50,000,000	
CARRYFORWARD 2012	$ 660,905,000	$ -	$ -	$ -	$ 3,500,000	$ -	$ 57,405,000	$ 300,000,000	$ 300,000,000	
CARRYFORWARD 2013	$ 773,412,213	$ 499,586,213	$ -	$ -	$ -	$ 7,400,000	$ 266,426,000	$ -	$ -	
	$ 3,645,925,525	$ 979,269,617	$ 292,735,556	$ 49,246,386	$ 61,686,025	$ 122,172,049	$ 752,888,172	$ 677,706,027	$ 710,221,693	

2014 Private Activity Bond Cap and Availability

	TOTAL PAB		TSAHC - MF	TDHCA - MF	Local HFC's MF	TOTAL MF
2014 STATE CEILING	**$ 2,644,819,300.00**		**$ 58,186,025.00**	**$ 116,372,049.00**	**$ 407,302,172.00**	$ 581,860,246.00
						$ -
ELIGIBLE REQUESTS TO DATE	$ 1,444,516,000.00		$ -	$ 8,300,000.00	$ 5,300,000.00	$ 13,600,000.00
						$ -
RESERVATIONS TO DATE	$ 1,440,516,000.00		$ -	$ 4,300,000.00	$ 5,300,000.00	$ 9,600,000.00
						$ -
CERTIFIED TO DATE	$ 1,388,516,000.00		$ -	$ 8,300,000.00	$ 5,300,000.00	$ 13,600,000.00
						$ -
ALLOCATIONS TO DATE	$ 60,516,000.00		$ -	$ 5,600,000.00	$ -	$ 5,600,000.00
						$ -
RESERVATIONS RELEASED	$ 578,700,000.00		$ -	$ 2,700,000.00	$ -	$ 2,700,000.00
						$ -
UNSATISFIED REQUESTS	$ 4,000,000.00		$ -	$ 4,000,000.00	$ -	$ 4,000,000.00
AVAILABLE ALLOCATION 14	$ 1,783,003,300.00		$ 58,186,025.00	$ 114,772,049.00	$ 402,002,172.00	$ 574,960,246.00
CARRYFORWARD 2011	$ 428,605,011.80		$ -	$ -	$ 27,055,000.00	$ 27,055,000.00
CARRYFORWARD 2012	$ 660,905,000.00		$ 3,500,000.00	$ -	$ 57,405,000.00	$ 60,905,000.00
CARRYFORWARD 2013	$ 773,412,213.00		$ -	$ 7,400,000.00	$ 266,426,000.00	$ 273,826,000.00
AVAILABLE ALLOCATION 14	**$ 3,645,925,524.80**		**$ 61,686,025.00**	**$ 122,172,049.00**	**$ 752,888,172.00**	**$ 936,746,246.00**





3b

Item 3b

To Be Posted 3 Days Prior to the Board Meeting

4a

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action to consider waiver of 10 TAC, §50.4(d)(16)(H) and a Land Use Restriction Agreement ("LURA") Amendment for six developments (Pine Club Apartments #12404 in Beaumont, Saddlewood Club Apartments #12404 in College Station, Ridgewood West Apartments #12406 in Huntsville, Woodglen Park Apartments #12407 in Dallas, Willow Green Apartments #12408 in Houston and Tealwood Place Apartments #12409 in Wichita Falls).

RECOMMENDED ACTION

WHEREAS, the Owner of six related Developments, in various regions of the state, received an award of 4% Housing Tax Credits in 2012 to acquire and rehabilitate each of the existing tax credit Developments;

WHEREAS, each of the tax credit applications for these six Developments required specific mandatory development amenities described in 10 TAC, §50.4(d)(16)(H) and, specifically the subject of this action, the requirement to have exhaust/vent fans (vented to the outside) in bathrooms with no exception for rehabilitation Developments;

WHEREAS, the LURA for each of the developments requires the mandatory development amenities to be present at the development throughout the Extended Use Period;

WHEREAS, all of these Developments are within their Extended Use Period, of the original respective LURAs;

WHEREAS, all of the Developments have been renovated and have requested the issuance of IRS Forms 8609 by submitting a cost certification package for review;

WHEREAS, the Development Owner did not request to exclude the "exhaust/vent fans (vented to the outside) in bathrooms" as a mandatory development amenity at the time of application as required by the rule, 10 TAC, §50.4(d)(16)(H) but is now requesting a waiver and to amend all six LURAs to remove the requirement;

WHEREAS, the lack of venting to the outside was not discovered by the Owner prior to construction nor during the actual construction/rehabilitation activity but only after the rehabilitation was completed;

WHEREAS, the Owner provided three possible options that could be completed in lieu of providing venting to the outside but further stated that none of the options were financially viable;

WHEREAS, the Owner provided no alternative solutions or compensatory amenities to mitigate the deficiency in full but indicated that the good cause for not providing the required venting is the structural integrity of the buildings and the purpose of the waiver, consistent with Government Code Chapter, is the preservation of affordable housing; and

WHEREAS, staff supports granting in part and denying in part the Owner's request for the waiver and amendment by approving the two of the options provided by the Owner of conducting quarterly on-site inspections of all units and annual third party inspections to identify moisture, mold, and mildew issues and to construct venting to the outside for all bathrooms in units on the top floor of each building;

NOW, therefore, it is hereby

RESOLVED, that the requested waiver and LURA amendments are denied in part and granted in part and the LURA is approved to be amended with the requirement to conduct quarterly unit inspections and annual third party inspections for moisture and mold through the end of the new Extended Use Period and vent all top floor units; and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

The Developments were originally constructed in 1995-1996 under the 9% Housing Tax Credit program. They were acquired by the current owner in 2012, Dalcor Holding, LLC ("Dalcor"), who is a Principal of each of the Development Owners for the six Developments. Dalcor applied for and received 4% tax credits and tax-exempt bond financing in 2012 to rehabilitate each of the developments. Dalcor used RPGA Design Group, Inc. as the architect and Penco/JKLD Construction as the general contractor for the rehabilitation which was completed in 2013. On February 10, 2014, a final construction inspection for Ridgewood West Apartments was completed by TDHCA staff. It was during this inspection that the Owner indicated he first learned that the Development had failed to include exhaust fans vented to the outside for each bathroom which is a mandatory amenity. This led to full inspection by the Owner of all of the Developments and the discovery that while the bathrooms had fans none were vented to the outside. Dalcor contends that the properties have apparently not had the exterior vents for the fans since construction and they have experienced no operational issues with regards to air quality or mold.

Dalcor indicated that it conducted due diligence prior to acquiring the Developments and during the rehabilitation, and further indicated in certifications and plans that the exhaust fans were present or would be present upon completion of the rehab work. At the time of application, as-built plans were provided and reviewed by the general contractor and architect for Ridgewood West Apartments, Woodglen Park Apartments, Willow Green Apartments, and Tealwood Place Apartments that identified exhaust fans venting to the outside. For Developments where the as-built plans could not be obtained (Pine Club and Saddlewood Club), notes were reviewed that also confirmed the existence of exhaust fans. Both the architect and construction contractor state that the information provided indicated that for each of the Developments the bathroom exhaust vents were vented to the outside. Therefore, this was not included in the construction scope of work to be completed during the renovation.

The rehabilitation has been completed and cost certifications are currently under review. A condition of the cost certifications is the clearance of the final inspections performed by the Compliance Division. This issue can only be corrected through either an approved waiver or by reconstructing and installing exhaust fans that vent to the outside. Since the final inspection, Dalcor staff inspected the attics of all of the Developments and confirmed that this issue exists with all of the Developments. Staff has been advised that the bathroom exhaust fans in the units have recirculating fans and do not vent to the outside.

As part of this waiver request, Dalcor provided a letter from the architect and general contractor that explains the possible structural integrity issues that could occur should all units be required to be vented to the outside in accordance with the rule and LURA (see attached letter). The letter states that retrofitting the bathroom exhaust fans to vent to the outside is structurally intrusive and not economically feasible at this point but describes two possible options for completing this correction. Their estimate to perform the work for all of Developments, using either of the two options described in the letter, is $2,292,732 or $897 per unit (not including costs associated with displacement of tenants during construction).

Staff reviewed the Property Condition Assessment, submitted at application, for each Development. There is no mention of bathroom exhaust fans as an item that would be required to be vented to the outside in the scope of work. Additionally, the as-built plans and notes provided by the Owner were reviewed by staff who was unable to definitively ascertain whether the bathroom exhaust fans were vented to the outside; however, there is some indication of general venting. On the original Exhibit 5A-Development Summary with Architect's Certification forms submitted with the cost certification packages, the architect certified that "exhaust/vent fans (vented to the outside) in bathrooms", which confirms their belief that these were in existence at the Development. All principals of the applicant signed certifications in the application stating that they would comply with all requirements of §50.4. The Development Owner's legal counsel opines that it is reasonable to conclude that since the Owner did not know of the venting issue, they also could not have foreseen the need to request a waiver at the time of application.

During the process of evaluating this request, Dalcor was contacted and advised that the cost certification reviews do not support that funds are unavailable to cover the costs to install bathroom exhaust fans to the outside. Additionally, Dalcor was encouraged to provide information on any alternative options they considered to mitigate the lack of the mandatory amenity. In response, Dalcor indicated they incurred approximately $364,584 in additional construction costs between the six Developments that were not reflected in the cost certifications. However, it appears that even with the increased construction costs, the Developments still have enough cumulative financial capacity to absorb additional construction costs. Dalcor subsequently presented three options for venting the bathrooms (see attached supplemental request). The first option is to add dehumidifiers to each of the units, either in the bathrooms or in the form or a portable whole house device, at a total estimated cost of $325,000 for all six Developments. The second option is to vent the bathroom exhaust fans for just the top level units. This would involve venting two units to one wall cap to reduce the number of penetrations to the outside and would not require relocating the tenants. It would also address 1188 of the total 2556 exhaust fans needed for all six Developments. The cost for this option is estimated to be

$625,470 for all six Developments. The third option is to provide quarterly monitoring and inspections for mold and mildew for all of the units. In addition, a third party inspector would perform an inspection of all the units on an annual basis. The estimated annual cost of this option is $4,000 per development, or a total of $297,582 over the fifteen year compliance period, and would come out of the annual operating budgets for the Developments. Dalcor requests to offer only the third option as a solution for the bathroom exhaust fans not venting to the outside, since, in their opinion it will address the primary objective of mitigating the accumulation of moisture and microbial growth.

Staff recommends that an escrow account be set up by the Owner, with Department oversight, to ensure that all top floor unit bathrooms will be constructed to be vented to the outside. In addition, the Owner will provide quarterly monitoring and inspections for mold and mildew in all of the units, along with a third party inspector performing an inspection of all units on an annual basis, throughout the new Extended Use Periods for all six Developments.

Locke Lord LLP
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June 10, 2014

Via Email

Ms. Cari Garcia
Ms. Patricia Murphy
Ms. Jean Latsha
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: **Request for Exclusion of Mandatory Amenity**
Properties: Pine Club Apartments (Beaumont) TDHCA No. 12404
Saddlewood Club Apartments (College Station) TDHCA No. 12405
Ridgewood West Apartments (Huntsville) TDHCA No. 12406
Woodglen Park Apartments (Dallas) TDHCA No. 12407
Willow Green Apartments (Houston) TDHCA No. 12408
Tealwood Place Apartments (Wichita Falls) TDHCA No. 12409

Ladies:

We represent Dalcor Holdings, LLC ("**Dalcor**"), which is a Principal of the Development Owner of each of the Developments listed above. The Developments were originally constructed in 1995-1996 under the 9% Tax Credit program. As the Developments reached the end of their initial Compliance Periods, Dalcor structured a portfolio acquisition, rehabilitation, and refinancing to preserve the affordability, economic viability, and physical integrity of the Developments. Dalcor arranged for Tax-Exempt Bond financing and applied for 4% Tax Credits under the 2012 Qualified Allocation Plan. The acquisitions and planned rehabilitation were completed in 2013. Upon application for TDHCA' final construction inspection and issuance of Forms 8609, the Dalcor learned that the Developments had failed to include a mandatory amenity – bathroom exhaust fans vented to the outside. Having thoroughly investigated this matter, this request is presented.

Request

The Development Owners hereby request exclusion of bathroom exhaust fans, vented to the outside, in accordance with Section 50.4(d)(16)(H) of the 2012 Qualified Allocation Plan.

The Rule

Section 50.4(d)(16)(H) of the 2012 Qualified Allocation Plan states:

(16) **Mandatory Development Amenities.** All New Construction, Reconstruction or Adaptive Reuse Units must provide each and all of the amenities in subparagraphs (A) - (M) of this paragraph. Rehabilitation Developments must provide the amenities in subparagraphs (C) - (M) of this paragraph unless expressly identified as not required. (§2306.187) Supportive Housing Developments are not required to provide the amenities in subparagraph (B), (E), (F) or (G) of this paragraph; however, access must be provided to a comparable amenity in a common area. Deviations for good cause, by which one or more of the foregoing will not be provided, must be approved prior to award and the request for such deviation must be included in the Application. The Executive Director may issue such approvals. Requests not approved may be appealed to the Board in accordance with §50.10(c) of this chapter. These amenities must be at no charge to the tenants.

(H) Exhaust/vent fans (vented to the outside) in bathrooms;

Background Information

As part of its diligence in acquiring the Developments, Dalcor obtained a set of as-built plans for each Development. These as-built plans were provided to the general contractor and architect. When Dalcor was completing the Tax Credit Applications with regard to mandatory amenities, it specifically consulted with the general contractor to assure that it was responding correctly to TDHCA with regard to the availability of the various amenities. The general contractor advised Dalcor that each of the Developments already had exhaust fans in the bathrooms, vented to the outside. (See confirmation from the general contractor in a letter attached as Exhibit A.) In reliance upon this representation from the general contractor, Dalcor identified the mandatory amenity as present for each Development and did not include any work for the bathroom exhaust fans in its budgets.

Dalcor did not learn that the bathroom exhaust fans were not vented to the outside until TDHCA completed its final construction inspection and issued a deficiency for this mandatory amenity. Upon receipt of the deficiency, Dalcor inquired with the general contractor and learned of the mistake that had been made. In an attempt to cure the deficiency by venting the bathroom exhaust fans to the outside, Dalcor asked the general contractor and architect to advise as to the scope of work and cost involved. Based upon their input, it is clear that retrofitting the bathroom exhaust fans to vent to the outside at this point would be undesirable for a variety of reasons: (1) it would require numerous penetrations of existing, water-tight walls that could expose the structure to water intrusion; (2) fire rated assemblies would be compromised; (3) it would require each resident to vacate his or her unit for several days; (4) it would likely result in physical changes to the apartment unit that are not aesthetically pleasing; and (5) there would be a tremendous cost, which is not capable of being accommodated in the budget. (See general contractor's letter at Exhibit A, along with a letter from the architect, attached as Exhibit B.)

Grounds for Exclusion

Had Dalcor known about the situation with the bathroom exhaust fans at the time of Application, it would have asked for an exclusion then. The bathrooms in the Developments do have exhaust fans – they simply are not vented to the outside. Retrofitting to add this feature has ramifications of penetrating existing water-tight walls and compromising fire rated assemblies, which are not in the best interests of the buildings or the residents. Had the request been made at the time of Application, Section 50.4(d)(16)(H) of the 2012 Qualified Allocation Plan provided a means for the Development Owner to be exempt from the mandatory amenity. The QAP specifically states that deviations from the list of mandatory amenities may be had *for good cause*. Dalcor believes structural integrity is such a good cause.

Dalcor did perform diligence when submitting its Tax Credit Application by inquiring with the general contractor as to the venting on the bathroom exhaust fans. Upon learning of the error, it promptly investigated all available alternatives with its construction professionals. The result of this investigation is a determination that retrofitting the bathroom exhaust fans (which were not required to be vented to the outside under the Tax Credit program when the buildings were originally constructed) is simply not appropriate for the Developments, given the potential structural damage that would be done.

Dalcor and the Development Owners have acted in good faith in the rehabilitation of the Developments and respectfully request your approval to exclude this mandatory amenity for the reasons set forth above. If you have further questions about this request, feel free to contact us.

Very truly yours,

Cynthia L. Bast

Cynthia L. Bast

Enclosure

Exhibit A – Contractor's Letter
Exhibit B – Architect's Letter

Exhibit A

Contractor's Letter

Penco-Imperial/JKLD Construction JV
PO Box 160517
Austin, TX 78716
(512)900-3190

May 20, 2014

Mr. Kent Bedell
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

RE: Exhaust Fans –
Pine Club Apartments, Beaumont, Texas
Ridgewood Apartments, Huntsville, Texas
Saddlewood Apartments, Bryan, Texas
Tealwood Apartments, Wichita Falls, Texas
Willow Green Apartments, Houston, Texas
Woodglen Apartments, Dallas, Texas

Dear Mr. Bedell:

Penco served as the General Contractor of rehabilitation projects performed at the above referenced properties. It has recently come to our attention that the existing bathroom exhaust fans do not currently duct to the outside of the building. Dalcor Companies has requested we provide a scope of work and cost to retrofit the existing bathroom exhaust fans to be ducted outside the building.

On behalf of Dalcor, we are providing this letter to express that in our professional opinion, this requirement is not feasible to achieve in these existing buildings. This letter also intends to define the difficulties and extensive costs associated with retrofitting these exhaust fans.

To begin, during the process of creating the scope of work the Architect and Penco reviewed the as-built drawings and determined that they indicated the exhaust fans were vented to the outside. As a result, no further investigation was performed on the exhaust fans.

In the event we were required to duct the existing fans, we only determine two conceivable methods:

- Method 1 - Run 6" rigid pipe horizontally through the floor/ceiling truss assemblies from exhaust fan to exterior wall of the building. The challenge this method presents is that the building was not originally constructed to consider this 6" vent. It is impossible to determine what obstacles will be encountered within the trusses, until a portion of the floor/ceiling fire assembly is removed, and trusses are exposed.

AUS:0054472/00001:544222v1

- Method 2 – run 6” rigid pipe horizontally below the floor/ceiling assembly along walls extending to the exterior of the building and then cover the exposed pipe with a furr down.

In either method described above, the work will require each current resident to move-out of their dwelling for a period of 2-3 days. As you can imagine, the challenge in moving residents from and back to 1,444 units would be difficult and the cost implications would be severe.

Approximately a year ago, each property completed a significant renovation. In 95% of the units, we were able to perform this work without displacing any of the residents. We were able to do this because the work did not require extensive sheetrock work or movement of any walls. We only performed “replacement” work which included the replacement of: flooring; appliances; light fixtures; HVAC equipment; plumbing fixtures; cabinet doors; countertops; and hardware. The only work that required displacing residents was work associated with converting the remaining 5% of the units to fully accessible ADA units. The scope of work to convert these units to ADA units was much more intrusive and required both the movement of walls and extensive sheetrock work.

To come back at this late date and perform this intrusive work that requires the displacing residents will anger many residents and possibly cause some to move-out permanently.

Another concern if this requirement is enforced would be the significant number of penetrations we would have to make to the now watertight exterior walls. We would have to penetrate the exterior façade 2,556 times. This is not difficult in new construction; however, properly flashing these penetrations on existing buildings is challenging and opens the building up to possible water intrusion.

Method 2 would require us to install a significant number of unwanted sheetrock furr downs throughout bedrooms and living rooms to cover the exposed vent pipes. The furr downs would be located on a few walls and would aesthetically not be appealing to tenants.

Finally, the cost associated to perform this work is the most compelling reason we feel this is not feasible. The cost to perform either method identified above averages $897.00 per exhaust fan. To understand the cost impact this retrofit would require, see the summary provided below:

Property	Units	Exhaust Fans	Approx Cost
Pine Club	**232**	**416**	**$373,152.00**
Ridgewood	**232**	**416**	**$373,152.00**
Saddlewood	**232**	**416**	**$373,152.00**
Tealwood	**180**	**324**	**$290,628.00**
Willowgreen	**336**	**584**	**$523,848.00**
Woodglen	**232**	**400**	**$358,800.00**
Grand Total	**1444**	**2556**	**$2,292,732.00**

As you can see the costs associated with this is significant. As well, this does not include the costs that Dalcor will incur to manage and lodge the displaced residents during construction. I can only estimate but, if you calculate $200.00 per unit at 1444 units, this adds an additional $289,000.00 to the total cost the properties would incur.

Based on the challenges this retrofit will cause the residents; the extensive penetrations required; the unattractive furr downs installed; and ultimately, the extreme cost associated with this retrofit, we believe meeting the requirement to vent the existing exhaust fans is not feasible. Should you have any questions, please feel free to contact me.

Sincerely,

Brad Young
EVP – Production
Penco-Imperial/JKLD Construction JV

Exhibit B

Architect's Letter

RPGA
DESIGN GROUP, INC.

May 5, 2014

Mr. Kent Bedell
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Pine Club, Beaumont TX
Ridgewood West, Huntsville TX
Saddlewood Club, Bryan TX
Willow Green, Houston TX
Woodglen Park, Dallas TX
Tealwood Place, Wichita Falls TX

Dear Mr. Bedell:

RPGA Design Group is the architect of record for the rehabilitation of the projects listed above, for our client Dalcor Companies. We are writing this letter on behalf of Dalcor regarding the feasibility of retrofitting existing bathroom exhaust fans to be ducted to the exterior. We do understand that having exhaust fans ducted to the exterior are current requirements for new construction, but there are several impracticalities that exist at these existing properties that make a retrofit of this requirement infeasible.

It came to Dalcor's attention that these properties did not possess this compliance after all other construction modifications were complete. Dalcor was able to minimize the tenant disturbance throughout the repositioning of these properties, and did not require full relocation of the existing residents. Only the units that required the modifications to the handicap accessible units were vacated, because of the level of construction required to the kitchens and bathrooms. The methods we will discuss to achieve the exterior venting would require tenants to be relocated while the work is being carried out. Each unit would have their bathrooms out of service while trying to isolate residents from the ongoing construction work for several days. Framing, drywall dust, insulation and exposed utilities would not be a safe living condition while compliance is being achieved.

The only option that is available to install a duct so that the vent fans are exhausted to the exterior is with horizontal ducting to the nearest exterior wall of the dwelling units. The 2 methods in which this can be achieved is providing a rigid duct in the truss space or below the rated assembly of the ceiling within a furr down. Each method possesses its own impracticalities.

To achieve the shortest duct runs possible, running the duct through the webbing of the trusses would be the best option. Since these are existing buildings and the original construction of these structures did not consider this component, and the shortest routes are obstructed by other existing utilities and structural components. This would cause many difficulties during the installation such as excessive bends and cutting of the duct. These difficulties would make a completed duct run not perform as intended. In addition to the installation difficulty of the duct run, the fan component would need to be sized for the worst case scenario. This would result in an oversized fan and motor that the residents would be less likely to use because of the noise that is generated. The life safety concern with this method is that the rated fire assembly would be compromised to achieve this installation. The patching and reworking of the existing construction materials would need to be meticulously done to ensure a continuity of the rated UL assembly. Finally, every vent fan on these properties will result in a new exterior wall penetration. The presented problem with this is that a new hole will be created in an existing watertight façade. It is extremely difficult for a retrofitted penetration to be properly flashed and sealed for long term integrity. Due to the unevenness of the cladding material, caulk is typically overused and is a likely point of failure which results in water infiltration.

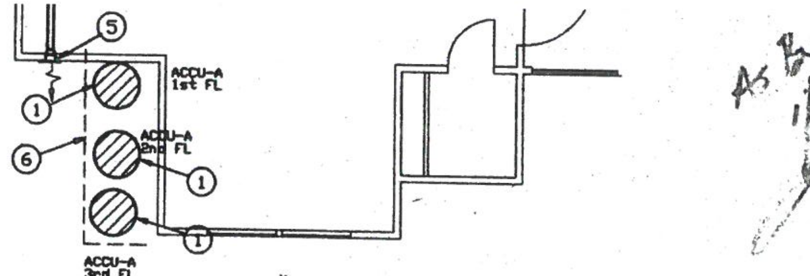
The alternative to running the duct through the truss space would be to enclose it in a furr down below the rated assembly. This method does eliminate a few of the obstacles that would be encountered above the ceiling, but possesses a new set of issues. To avoid having odd furr downs running through prominent rooms like the bedrooms and living rooms, the duct runs would be extended so that furr downs would occur along the perimeter of the rooms. Once again the extended runs would warrant upsizing the fan to handle an effective volume of air and push it the needed distance to the exterior. While there is less concern with the continuity of the rated assembly, residents would still be displaced so that this work can be completed and a result of a lowered ceiling in some areas would not be pleasing. This method also has the same concerns regarding the point of penetration at the exterior wall as the previous method.

The greatest concerns regarding the infeasibility of this modification is the displacement of every resident at these properties, compromising the rated assembly in every dwelling unit and the number of new exterior wall penetrations that will be created that can potentially fail. We do feel that the venting to the exterior does have its place in new construction in regards to indoor air quality, when the structure is properly designed for it. Retrofitting this exhaust is impractical due to the existing difficulties presented, and the realistic payoff it will achieve.

Sincerely,

Richard P. Garza, Principal Architect
RPGA Design Group, Inc.

ILING



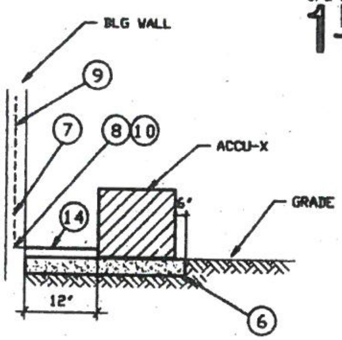
1 FLOOR PLAN– UNIT A – HVAC

SCALE : 1/4" = 1'-0"

NOTES BY SYMBOL: ◯

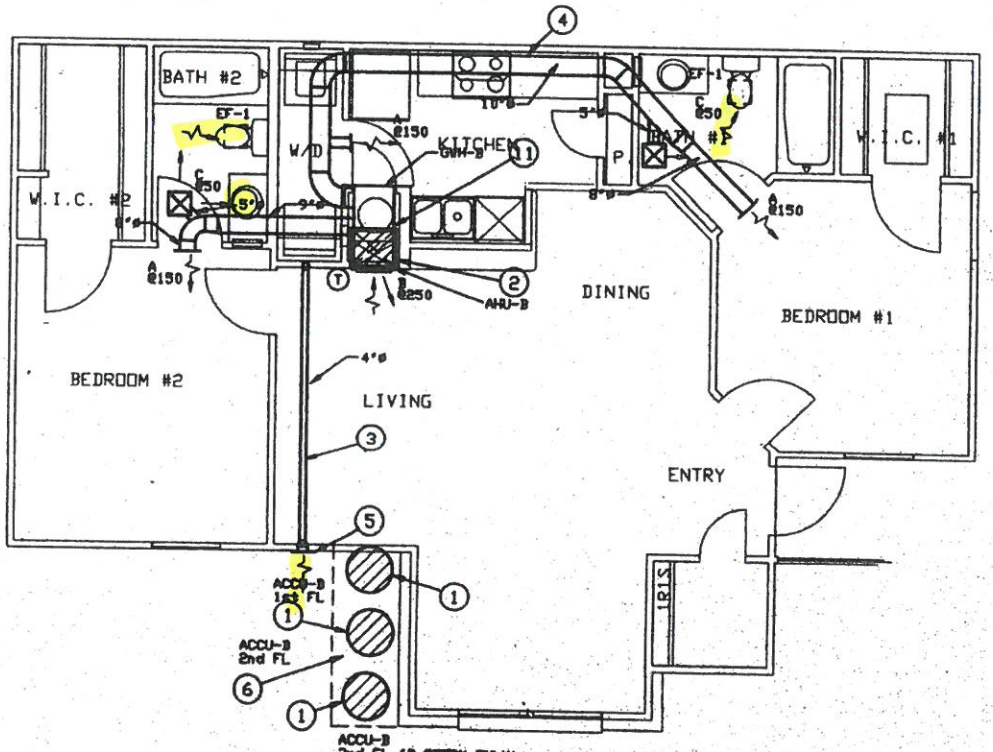
1. AIR COOLED CONDENSING UNIT MOUNTED ON 4" THICK CONCRETE PAD. PAD BY GENERAL CONTRACTOR, REF: 5/M-1
2. FAN COIL UNIT MOUNTED IN WALL, REF: 4/M-1
3. DUCTS MOUNTED IN JOIST SPACE
4. DUCTS MOUNTED HIGH AS POSSIBLE IN FURRING
5. 4" DRYER OR EXHAUST VENT THIN EXTRUSION WALL TO VENT JUNCTION.
6. 4" THICK CONCRETE PAD BY GENERAL CONTRACTOR, MONOLITHIC FOR CONDENSING UNITS . REF: NOTE 1 & ARCHITECTURAL
7. REFRIGERANT PIPING SIZED AS REQUIRED BY AIR CONDITIONING EQUIPMENT MANUFACTURER, EXTENDED TO AIR HANDLING UNIT INSIDE
8. INSULATION OF EXPOSED REFRIGERANT SHALL BE PROTECTED WITH PVC JACKET FROM UNIT TO EXPANSIVE FOAM IN WALL, REF: NOTE 11
9. REFRIGERANT PIPING FROM UNIT ABOVE AS APPLICABLE
10. SEAL WALL PENETRATION WITH FOAM—FIL, EXPANSIVE FOAM
11. APPROXIMATE LOCATION OF 2" HUB DRAIN EXTENDED TO ABOVE PLENUM TOP FOR CONDENSATE
12. INSTALL CONTROL WIRE INSIDE PVC JACKET (NOTE 8) TO INSIDE OF WALL

OR



5 DETAIL

SCALE : NONE



2 FLOOR PLAN– UNIT B – HVAC

SCALE : 1/4"= 1'-0"

As Built

Inc.

7515 GREENVILLE A
SUITE 310 LB. 519
DALLAS TEXAS 752
214-363-9100
FAX 214-363-0143

PROJECT:

RIDGEWOO
WEST
APARTME

HUNTSVILLE TEXA

CLIENT:

TEXAS E SOUT
PARTNERS, L.

REVISIONS

DRAWN BY: T

CHECKED BY: R

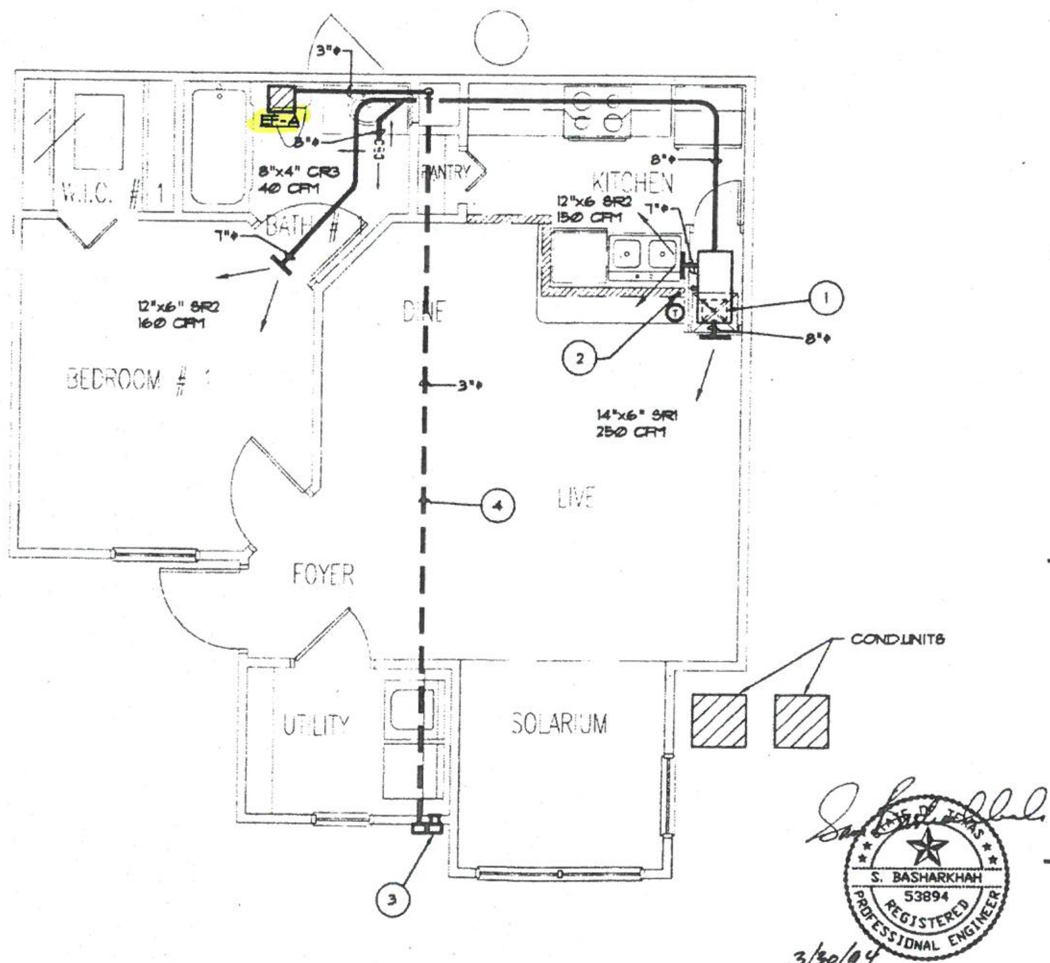
DATE: 7

JOB NUMBER

SHEET NUMBER

OR PLAN - H.V.A.C. UNIT'B'

1/4"=1'-0"



01 FLOOR PLAN - H.V.A.C. UNIT'A'

SCALE: 1/4"=1'-0"

Title

D

E

F

G

H

Rev.	No	Date	Issue History
1		5-17-94	CONDENSATE

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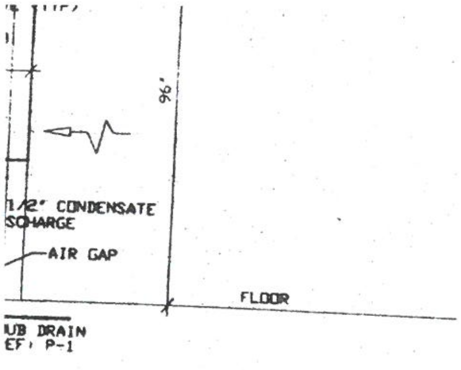
WINTER PARK, FL. 32789 (407) 629-0595

PROJECT ARCHITECT
THE CRAYCROFT ARCHITECTS
4131 NORTH CENTRAL SUITE 550
DALLAS, TX. 75204 (214)522-6060

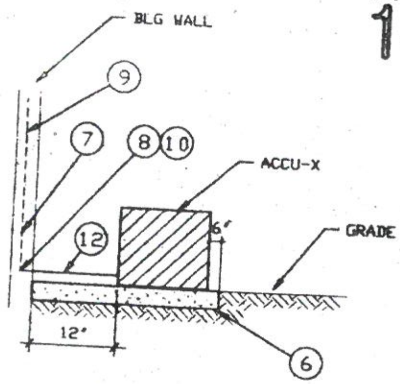
basharkhah flower, inc.
consulting engineers
6500 greenville ave. #525
dallas · texas · 75206

WILLOW GREEN APARTMENTS

Dr. MIA
Ch. SMG
Apr.
Date 5-17-94



AIL
: 1/2" = 1'-0"



5 DETAIL
SCALE : NONE

ACCU-A
3rd FL

1 FLOOR PLAN– UNIT A – HVAC
SCALE : 1/4" = 1'-0"

NOTES BY SYMBOL: ◯

1. AIR COOLED CONDENSING UNIT MOUNTED ON 4" THICK CONCRETE PAD. PAD BY GENERAL CONTRACTOR, REF: 5/M-1
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6. 4" THICK CONCRETE PAD BY GENERAL CONTRACTOR, MONOLITHIC FOR CONDENSING UNITS . REF: NOTE 1 & ARCHITECTURAL
7. REFRIGERANT PIPING SIZED AS REQUIRED BY AIR CONDITIONING EQUIPMENT MANUFACTURER, EXTENDED TO AIR HANDLING UNIT INSIDE
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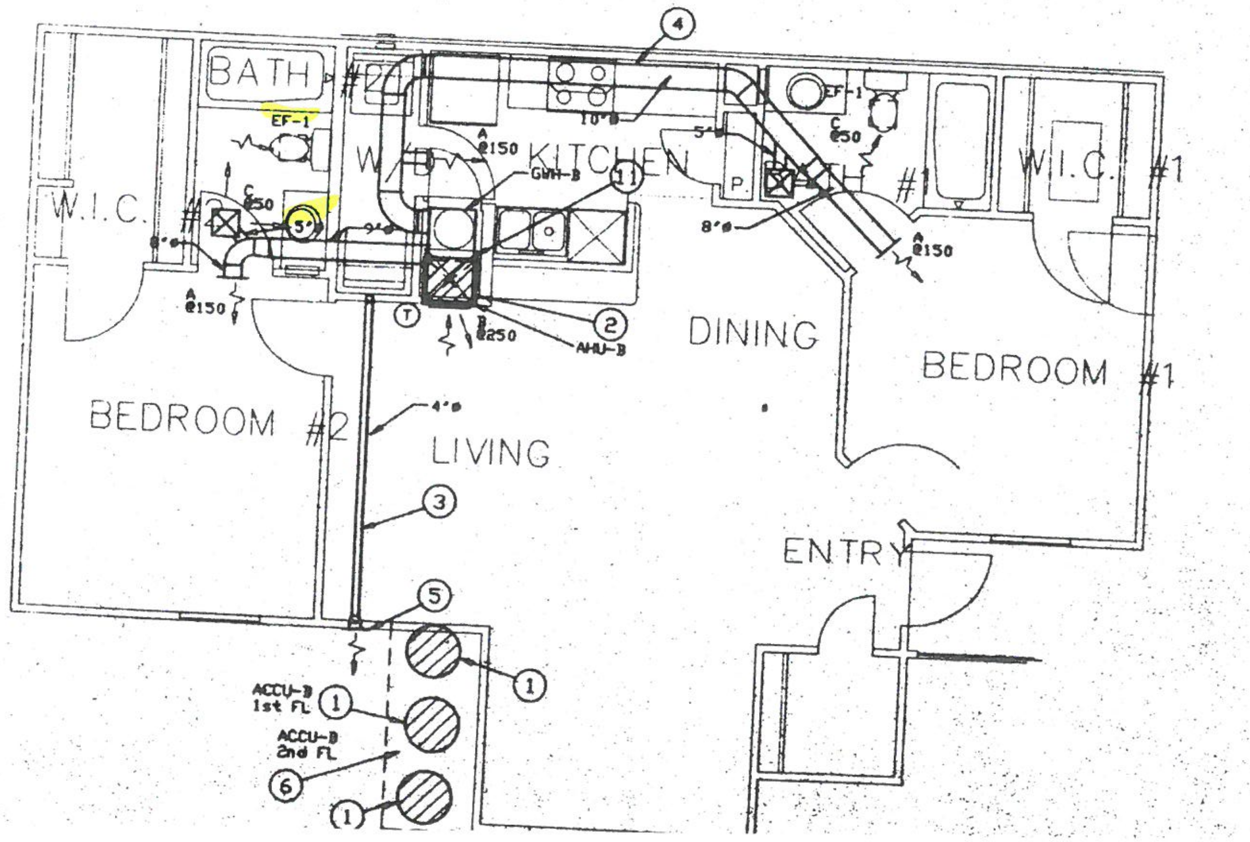
9. REFRIGERANT PIPING FROM UNIT ABOVE AS APPLICABLE
10. SEAL WALL PENETRATION WITH FOAM—FIL, EXPANSIVE FOAM
11. APPROXIMATE LOCATION OF 2" HUB DRAIN EXTENDED TO ABOVE PLENUM TOP FOR CONDENSATE
12. INSTALL CONTROL WIRE INSIDE PVC JACKET (NOTE 8) TO INSIDE OF WALL



TEALWOOD
PLACE
APARTMENT

WICHITA FALLS, TEXAS

CLIENT:
TEXAS E SOUTHWES
PARTNERS, L.P.

REVISIONS

DRAWN BY:

CHECKED BY:

DATE:

JOB NUMBER:

Pine Club

NOTES BY SYMBOL:

1. AIR COOLED CONDENSING UNIT MOUNTED ON 4" THICK CONCRETE PAD. PAD BY GENERAL CONTRACTOR, REF: 5/M-1
2. FAN COIL UNIT MOUNTED IN WALL, REF: 4/M-1
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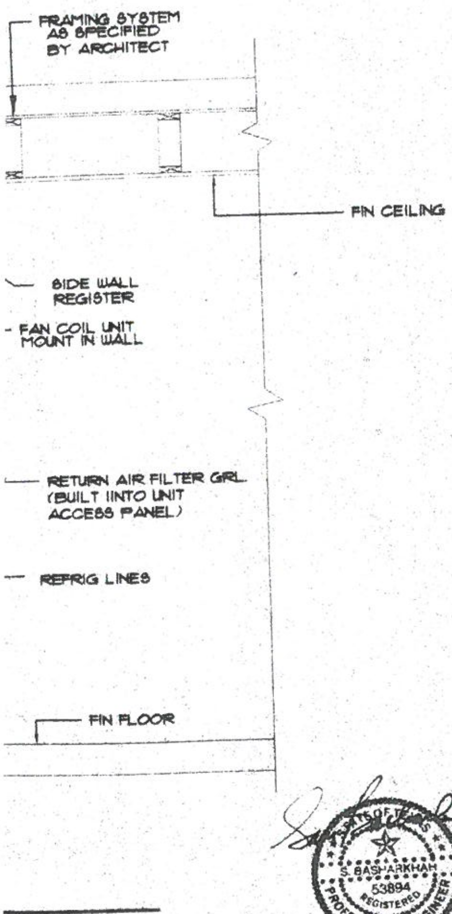
9. REFRIGERANT PIPING FROM UNIT ABOVE AS APPLICABLE
10. SEAL WALL PENETRATION WITH FOAM--FIL, EXPANSIVE FOAM
11. APPROXIMATE LOCATION OF 2" HUB DRAIN EXTENDED TO ABOVE PLENUM TOP FOR CONDENSATE
12. NOT USED
13. EXHAUST FAN/LIGHT COMBINATION SUPPLIED BY ELECTRICAL CONTRACTOR. MECHANICAL CONTRACTOR TO MAKE FINAL CONNECTION AND INSTALL DUCTWORK.
14. INSTALL CONTROL WIRE INSIDE PVC JACKET (NOTE 8) TO INSIDE OF WALL
15. UP IN WALL TO JOIST SPACE

T PLAN



	CR3	AIRMATE OR EQUAL #503-M
	CR4	AIRMATE OR EQUAL #404-M
RET AIR GRILLES	RAFG	AIRMATE OR EQUAL #170-FF
	RAG-A	AIRMATE OR EQUAL #171
	RAG-B	AIRMATE OR EQUAL #170

EXHAUST FAN SCHEDULE

ITEM	LOCATION	DESCRIPTION	CFM	ESP"WG	REMARKS
EF-A	APT TOILETS	BROAN #670	50	0.1	3" DIA DUCT
EF-B	CLUB	BROAN #676	110	0.1	4" DIA DUCT

HVAC NOTES

1. PROVIDE AND INSTALL FILTER IN EACH RETURN AIR GRILLE.
2. PROVIDE 24 VOLT THERMOSTAT FOR EACH APARTMENT UNIT (HEAT-OFF-COOL/FAN:AUTO-ON).
3. MOUNT CONDENSING UNITS ON 4" THICK REINFORCED CONCRETE PAD.
4. PROVIDE AND INSTALL REFRIGERANT LINES PER MANUFACTUTER'S RECOMMENDATIONS. SEAL ALL PENETRATIONS THRU EXTERIOR WALL WITH MASTIC.
5. PROVIDE HONEYWELL ELECTRONIC PROGRAMMABLE THERMOSTAT FOR EACH A/C UNIT AT CLUBHOUSE, WITH LOCKING COVERS.
6. APPROVED MANUFACTURER'S EQUIPMENT MAY BE USED. VERIFY ELECTRICAL LOADS.
7. COORDINATE WORK WITH ALL TRADES.
8. PROVIDE FIRE DAMPERS AT ALL PENETRATIONS THRU ONE-HOUR RATED CEILINGS WHERE REQUIRED BY CODE. DAMPERS SHALL BE RUSKIN OR EQUAL #CFD-4.

HVAC LEGEND

ITEM	DESCRIPTION	ITEM	DESCRIPTION
AHU	AIR HANDLING UNIT	CD	CEILING DIFFUSER
F/C	FAN/COIL	FD	FIRE DAMPER
RTU	ROOFTOP A/C UNIT	UH	UNIT HEATER
CU	CONDENSING UNIT	VTR	VENT THROUGH ROOF
EF	EXHAUST FAN	TG	TRANSFER GRILLE
ER	EXHAUST REGISTER	DG	DOOR GRILLE
SR	SIDEWALL REGISTER	OA	OUTSIDE AIR
CR	CEILING REGISTER	EXH	EXHAUST
RA	RETURN AIR	DIA	DIAMETER
RAR	RETURN AIR REGISTER	AFF	ABOVE FINISHED FLOOR
RAFG	RETURN AIR FILTER GRILLE	MU	MAKE-UP

STATE OF TEXAS
S. BASHARKHAH
53894
REGISTERED PROFESSIONAL ENGINEER
3/30/94

Rev.	No	Date	Issue History
		9.23.94	CONSTRUCTION ISSUE

DESIGN ARCHITECT
FUGLEBERG KOCH ARCHITECTS
2555 TEMPLE TRAIL
WINTER PARK, FL 32789 (407) 629-0595

PROJECT ARCHITECT
THE CRAYCROFT ARCHITECTS
4131 NORTH CENTRAL SUITE 550
DALLAS, TX 75204 (214)522-6060

basharkhah flower, inc.
consulting engineers
5500 greenville ave. #525
dallas • texas • 75206

Woodglen Apts

REDBIRD RIDGE APARTMENTS

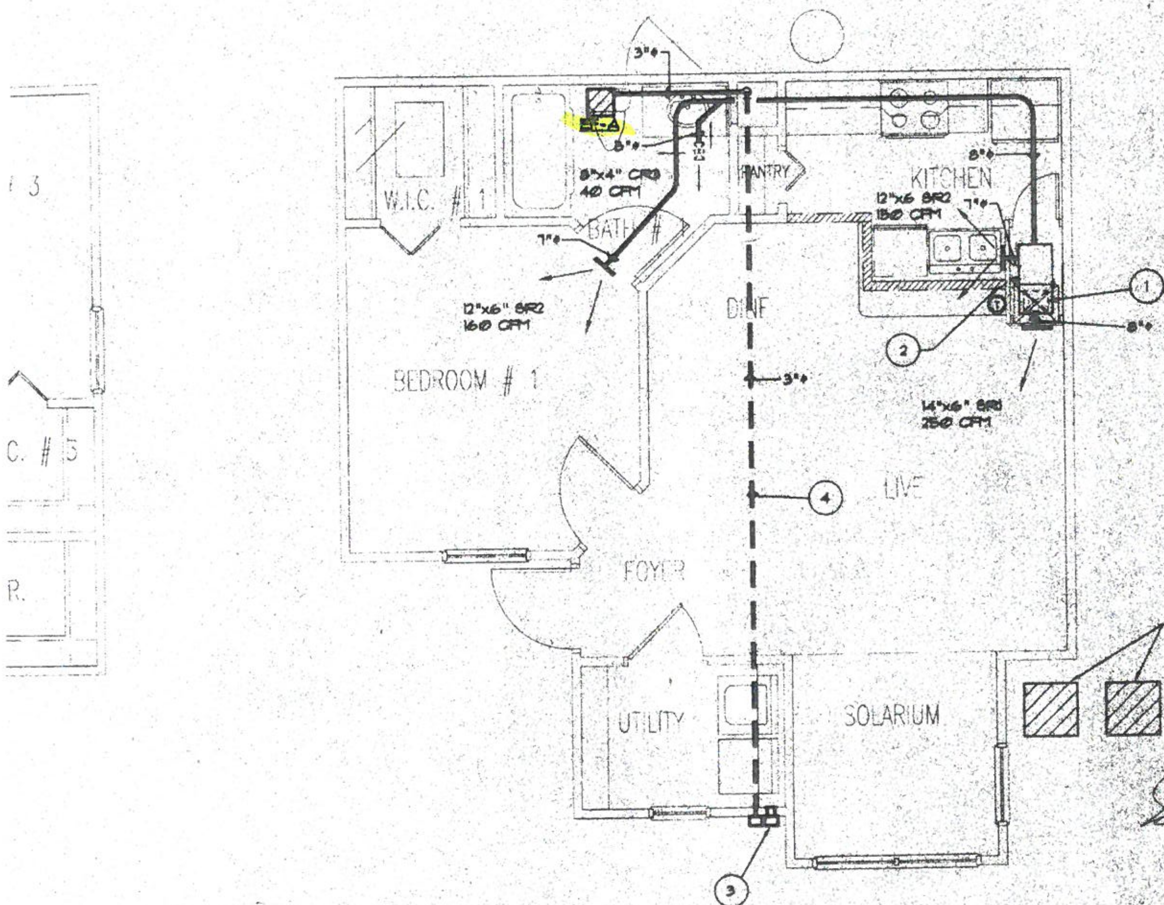
Dr. MIA
Ck. SMG
Apr.
Date 5.17.94
Proj.

HVAC DETAILS, SPECS.& SCHEDULES

M-3

FLOOR PLAN - H.V.A.C. UNIT'B'

SCALE: 1/4"=1'-0"



S. BASHARKHAH
53894
REGISTERED PROFESSIONAL ENGINEER

3/30/09

01 FLOOR PLAN - H.V.A.C. UNIT'A'

SCALE: 1/4"=1'-0"

Rev.	No	Date	Issue History
		9.23.94	CONSTRUCTION ISSUE

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Woodglen Apts

REDBIRD RIDGE APARTMENTS

dr. MIA
ck. SMG
date 6.17.94

UNIT

M1

From:	Tom Gouris
To:	Bast, Cynthia L.; cari.garcia@tdhca.state.tx.us; Lee Ann Chance
Cc:	ddodson@dalcorcompanies.com; "Kathi Yeager"
Subject:	RE: Dalcor - Request for Exclusion of Mandatory Amenity
Date:	Friday, August 15, 2014 6:28:40 PM

Hi Cynthia, thanks for this further clarification. Sorry, I am out of the office today but we can discuss further on Monday. No one is impying any sort of bad faith with regard to the situation. I think we have concern about this line of thought as, without anything further, could be be used to waive any requirement for a rehab development. Obviously funding these developments further the preservation purpose but how does waiving this requirement further preservation? If venting bathrooms is detrimental to the long term preservation purpose then the argument would be to remove the requirement from the rule for new and rehab projects altogether. It might help to consider alternatives. While it could be costly, difficult and intrusive to vent interior bathrooms, has there been any discussion of venting bathrooms with exterior walls and fitting interior bathrooms with dehumidifier soloutions to attempt to address moisture in those units. While the proposed overall dollar estimate is a large number, it did not appear to be prohibitive. Timing might be another issue that we have to understand better as it appears to be at least a part of the driver in not being able to get it accomplished before the owner needs the 8609s issued. How much equity is left to come in when 8609s are issued and how much equity will be lost through adjusters if the 8609s are not issued in September?

Again we can discuss these issues further Monday but I did not want the weekend to go by without them being on the table, which was the point of the call yesterday.

Tom Gouris
Sent from my cell please excuse spelling imperfections.

-------- Original message --------
From: "Bast, Cynthia L." <clbast@lockelord.com>
Date:08/15/2014 5:31 PM (GMT-06:00)
To: Tom Gouris <tom.gouris@tdhca.state.tx.us>, "Cari Garcia (cari.garcia@tdhca.state.tx.us)" <cari.garcia@tdhca.state.tx.us>, Lee Ann Chance <leeann.chance@tdhca.state.tx.us>
Cc: "M. Dale Dodson (ddodson@dalcorcompanies.com)" <ddodson@dalcorcompanies.com>, 'Kathi Yeager' <kathi@jklgrp.com>
Subject: Dalcor - Request for Exclusion of Mandatory Amenity

With respect to the request for exclusion of a mandatory amenity (exhaust fans vented to outside) dated June 10, 2014, you left me a voice mail message yesterday, inquiring about the “2306 purpose” supporting the request. I have tried to contact each of you and am getting indications that you are out of the office, so I am going to attempt to respond via email, even though we have not had an opportunity to discuss. Timing is very important here, as our client needs to receive their Forms 8609 in September. We do not want to take a chance of delaying the consideration of this item at the September 4 Board meeting.

I think the statutory purpose is clear and articulated in my original letter. This transaction was about preservation. All six properties were built under the tax credit program. At the end of their compliance periods, it was time for them to refinance, refresh, and be in good condition for the next phase of their lives. Before commencing the transaction, representatives of Dalcor met with TDHCA personnel to vet the idea. Staff was extremely supportive, noting the importance of preserving these assets and assuring they could remain viable for the long term. Dalcor was encouraged by that response. Section 2306.001 of TDHCA's governing statute calls out preservation as a stated purpose of the agency.

These properties were built under the tax credit program and have been operating under the tax credit program with exhaust fans that are not vented to the outside for all this time. I would expect that many rehabilitation/preservation properties in TDHCA's portfolio have exactly the same condition. The residents are not harmed by the current condition and would, in fact, be more inconvenienced if Dalcor tried to change the venting after the fact. There was no blatant disregard for the rules, and no one is operating in bad faith here.

In short, there is a legitimate "2306 purpose" for this request. As to any other considerations we may need to discuss, please contact me as soon as you can so that we may button this up for the upcoming Board meeting. Thank you.

Sec. 2306.001. PURPOSES. The purposes of the department are to:

(1) assist local governments in:

(A) providing essential public services for their residents; and

(B) overcoming financial, social, and environmental problems;

(2) provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income;

(3) contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income;

(4) assist the governor and the legislature in coordinating federal and state programs affecting local government;

(5) inform state officials and the public of the needs of local government;

(6) serve as the lead agency for:

(A) addressing at the state level the problem of homelessness in this state;

(B) coordinating interagency efforts to address homelessness; and

(C) addressing at the state level and coordinating interagency efforts to address any problem associated with homelessness, including hunger; and

(7) serve as a source of information to the public regarding all affordable housing

resources and community support services in the state.

Cynthia Bast
Partner
Locke Lord LLP
600 Congress Avenue
Suite 2200
Austin, Texas 78701
T: 512-305-4707
F: 512-391-4707
cbast@lockelord.com
www.lockelord.com

Atlanta, Austin, Chicago, Dallas, Hong Kong, Houston, London, Los Angeles, New Orleans, New York, Sacramento, San Francisco, Washington DC

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This message and any attached files may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Dalcor

Date: September 17, 2014

To: Ms. Lee Ann Chance
Asset Manager
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

From: Dale Dodson
Dalcor Affordable Housing, LLC
15950 Dallas Pkwy, Suite 300
Dallas, TX 75248

Re: Additional Information for Request for Exclusion of Mandatory Amenity
Properties: Pine Club Apartments (Beaumont) TDHCA No. 12404
Saddlewood Club Apartments (College Station) TDHCA No. 12405
Ridgewood West Apartments (Huntsville) TDHCA No. 12406
Woodglen Park Apartments (Dallas) TDHCA No. 12407
Willow Green Apartments (Houston) TDHCA No. 12408
Tealwood Place Apartments (Wichita Falls) TDHCA No. 12409

Request: The Development Owners have requested exclusion of bathroom exhaust fans, vented to the outside, as otherwise prescribed by Section 50.4(d)(16)(H) of the 2012 Qualified Allocation Plan. In discussions with TDHCA, the Department has requested additional information as to alternatives the Development Owners have considered to address the exclusion of this amenity.

Background: The Developments were originally constructed in 1995-1996 under the 9% Tax Credit program. As the Developments reached the end of their initial Compliance Periods, Dalcor structured a portfolio acquisition, rehabilitation, and refinancing to preserve the affordability, economic viability, and physical integrity of the Developments. Dalcor arranged for Tax-Exempt Bond financing and applied for 4% Tax Credits under the 2012 Qualified Allocation Plan. The acquisitions and planned rehabilitation were completed in 2013. Upon application to the TDHCA for final construction inspection and issuance of Forms 8609, Dalcor learned that the Developments had failed to include a mandatory amenity – bathroom exhaust fans vented to the outside. Having investigated this matter, this request was presented on June 10, 2014. (Attached is initial Request for Exclusion).

Dalcor is in the business of preserving affordable housing in multiple states. As we began to work on this portfolio in Texas, we spent considerable planning time with TDHCA and TSAHC. Specifically, the QAP mandated a certain threshold amount of rehabilitation per unit that was not appropriate for Developments that were already in the program and had been built within the last 20 years. We worked with TDHCA to change the QAP to reduce the per-unit rehabilitation amount to $15,000. This amount was essential to the goal of preservation. If the rehab requirement was higher, the properties could not be purchased at the current cap rates mandated by the market and would be subject to leaving the affordable housing program through the qualified contract process. We focused on a rehabilitation budget and plan that would have a direct impact on the standard of living for the residents and the life of the property. In particular, we focused on replacing outdated equipment and systems with energy saving devices. Our rehabilitation budget provided new HVAC mechanical systems, new appliances, new lighting fixtures, new plumbing fixtures, new flooring, and new hardware. Some Developments received new roofs, many new water heaters, exterior painting, ADA Accessible routing and 5% ADA units and 2% units for the hearing/vision impaired. We added additional amenities to many of the Developments, including additional playgrounds, volleyball courts, valet trash collections, etc.

We raised our initial budget to approximately $17,000 per unit after discovering that none of the Developments were built to current ADA standard or even the ADA standard required at the time of their construction. With the assistance of our architect, we developed plans and specifications to meet ADA requirements. Moreover, during construction we determined that the exterior windows at Tealwood were substandard and poorly designed; Dalcor funded the additional expenditure to Tealwood so energy efficient windows could be installed; a cost of approximately $250,000 over the budget. All of these additional costs are shown in the cost certification packages that TDHCA has received.

During the construction period and after the rehab was completed, the properties were inspected by TDHCA; Dalcor received favorable reports from the inspectors. It appeared that all inspectors liked what we were doing for the properties and our residents. Once cost certifications were completed, we were notified that we should prepare a request for inspection from the construction department of TDHCA. We immediately prepared the request.

Upon receipt of our first deficiency notice from the construction inspection, we immediately started work on the deficiencies. Our construction team, site personnel and third party GC worked on the noted deficiencies. Approximately $365,000 of additional rehab cost was added that is not in our cost certification submissions; substantially all was advanced by Dalcor.

Pine Club	Ridgewood	Saddlewood	Tealwood	Willow Green	Woodglen	Total Texas
57,810	118,642	49,048	42,427	55,058	41,599	364,584

We addressed all initial construction deficiencies, except the exterior venting of bathroom exhaust fans. (We have received responses to our submissions from TDHCA; we are working to resolve any final issues.) As noted in our Request for Exclusion, we believed that the exhaust fans were vented to the exterior. We learned of this issue during one of the site inspections. We promptly initiated discussions with our contractor, construction personnel and architect to determine a viable mechanism for venting the exhaust fans. Currently the bathroom fans in each bathroom are recirculating; not vented to the outside.

The estimate to install the vented exhaust fans from the General Contractor was previously submitted to TDHCA. The current exhaust fan cannot be vented to the exterior; new fans as well as duct work are required. Below is the estimate. Please review the attached Request for Exclusion.

Property	Units	Exhaust Fans	Approx Cost
Pine Club	**232**	**416**	**$373,152.00**
Ridgewood	**232**	**416**	**$373,152.00**
Saddlewood	**232**	**416**	**$373,152.00**
Tealwood	**180**	**324**	**$290,628.00**
Willow Green	**336**	**584**	**$523,848.00**
Woodglen	**232**	**400**	**$358,800.00**
Grand Total	**1444**	**2556**	**$2,292,732.00**

This is not a straight-forward installation but an extensive retrofit as the buildings were neither designed nor constructed for vented exhaust fans, regardless of the "as built drawings". The cost of managing this process with our residents is not included in this proposal. Residents would be required to vacate their apartments for several days; the additional associated cost is approximately $250,000. The residents are vehemently opposed to such a disruption. We anticipate a significant (approximately 10%) loss in occupancy if we undertake this additional construction. We believe to meet this requirement, would be detrimental to the property and the residents.

Alternatives:

As noted above, the Developments have already incurred significant cost overruns, with the ADA work, Tealwood windows, and deficiencies identified in TDHCA's construction inspection. Besides the structural integrity and tenant disruption issues highlighted in our Request for Exclusion, the expenditure of approximately $2.3 million to replace the exhaust fans simply is not financially feasible.

At the request of TDHCA, we have explored alternatives for the vented exhaust fans, taking into consideration the regulatory purpose of having this requirement in the rules in the first place and the financial implications. We have considered three options:

1. Add a Dehumidifier.
    a. We reviewed options to add a permanent dehumidifier to each bathroom. Such equipment would require significant amount of work and cost. The major concern would be the drainage piping required and the possibility of mildew and mold. We believe that leaks and overflows would be a constant problem and create an unhealthy environment.
    b. An alternative would be to provide a "whole" house portable dehumidifier to each unit. We would provide a unit that could be placed in a centralized area of the house, and would cover up to 1500 square ft. The system would allow the humidity to be set to a desired humidity level, and have an auto shut off when the water level was full.
    c. Our maintenance staff provides quarterly inspections of each unit. We would add the dehumidifier to the inspection list. They would insure that the unit works, and clean the filter.
    d. As is the case of the exhaust fan, the resident would determine if they used the dehumidifier or not. If they do use the dehumidifier, they will be responsible for emptying the water receptacle.

   e. We would purchase an Energy Star 50 pt. Dehumidifier for each unit. The cost is approximately $225.00 per unit.
   f. Total Cost approximately – $325,000.00.

2. Venting to the outside of the top floor units only.
   a. We reviewed this option and determined that we could vent the exhaust fan to the attic on the top floor unit without requiring the residents to move out of their units.
   b. We would install a new energy star rated exhaust fan and run duct up to the attic.
   c. Two units would be connected to one wall cap to reduce the number of penetrations.
   d. Terminations would be through siding at gables, to avoid roof and stucco penetrations.
   e. Assume draft stop repair at every 4 units.
   f. There are 674 units and 1188 bathrooms that are on the top floor of the six Developments. This would provide approximately 600 penetrations in the gable area; an average of 100 per development.
   g. The estimated cost per bathroom is $526.49, for a total of $625,470.07.

3. Provide Monitoring/Inspection of all units for moisture, mildew and mold.
   a. We have an O&M Plan for Moisture and Mold.
   b. All on-site staff would receive training on this procedure.
   c. Our on-site maintenance staff would perform quarterly inspections of all units for moisture, mildew and mold.
   d. We would establish an Action Form and Log of any issues.
   e. Additionally, a third party inspector would inspect 100% of the units annually for moisture, mildew and mold.
   f. Cost is approximately $4,000 per year per Development or $24,000 per year. We currently have two of the Developments inspected now, and those costs are included in the current operating budgets, so the actual additional cost would be $16,000 per year for the remaining Developments.
   g. Estimate for 15 year cost would be approximately $297,582.60.

Financial Impact:

Below is a summary of the available cash for the six Developments through receipt of Forms 8609. We believe that this shows that the financial impact to vent the exhaust fans to the outside, or to undertake any of the alternatives, creates a financial hardship. The details of each Development are included as an attachment.

DALCOR - TEXAS PROPERTIES
SUMMARY OF REMAINING FUNDS AND DEFERRED DEVELOPER FEE

	Pine Club	Ridgewood	Saddlewood	Tealwood	Willow Green [a]	Woodglen	Combined
Total HTC Equity Contribution (inclusive of adjusters)	$5,736,486	$4,567,244	$4,622,141	$3,942,285	$6,635,387	$5,062,865	$30,566,408
Paid to date	($4,991,015)	($4,188,212)	($4,419,183)	($3,218,765)	($5,827,757)	($4,621,328)	($27,266,260)
Contribution Remaining	$745,471	$379,032	$202,958	$723,520	$807,630	$441,537	$3,300,148
Balance in Project Fund	$439,291	$9,320	$70,197	$38,633	$101,111	$10,618	$669,171
Available Cash					$67,000	$367,000	$434,000
Additional Collateral Fund					$280,000	$640,000	$920,000
Remaining sources of funds	$1,184,762	$388,353	$273,155	$762,153	$1,255,741	$1,459,155	$5,323,319
Less:							
Capitalized Reserves	($620,681)	($535,926)	($607,705)	($465,972)	($869,199)	($609,546)	($3,709,029)
Incentive Leasing Fee (Not Paid - See audit reports)	($180,408)	($114,507)	($191,464)	($172,791)	($300,297)	($331,468)	($1,290,935)
Additional development cost invoiced [b]	($15,591)	($17,778)	($15,448)	($21,969)	($1,869)	($10,028)	($82,683)
Advances by Developer (operating & construction) [b]	($224,399)	($403,313)	($144,632)	($142,034)	$0	$0	($914,378)
Balance of funds available	$143,682	($683,172)	($686,093)	($40,613)	$84,376	$508,113	($673,706)
Developer fee	$2,433,883	$1,879,706	$2,269,273	$1,791,607	$3,107,929	$2,140,305	$13,622,703
Previously paid	($250,000)	$0	$0	($425,000)	($415,000)	($230,000)	($1,320,000)
Balance	$2,183,883	$1,879,706	$2,269,273	$1,366,607	$2,692,929	$1,910,305	$12,302,703
Deferred developer fee	$2,040,201	$1,879,706	$2,269,273	$1,366,607	$2,608,553	$1,402,192	$11,566,531

[a] Willow Green has changed from the previous submission; the following correspondence was received on 16-Sep-2014:
"After review of the updated financial and pursuant to the loan documents, partial Additional Collateral can be transferred to the Escrow account. We will direct the trustee to wire $280,000 in to the Escrow account (similar to that of Woodglen). The balance of $320,000 will remain in the Additional Collateral account."

Conclusion:
We do not have the funds available to vent the exhaust fans to the outside. The alternatives presented above are also burdensome for the Developments. However, we are willing to discuss any of them further with TDHCA, if necessary to ensure issuance of the Forms 8609.

The main issue for us is the properties and the residents. We do not believe that providing the venting will yield a positive result for the properties or residents. The properties were built under TDHCA guidelines and Dalcor has assured that they will remain in the program. We have been asked what we would have done had we known the exhaust fans were not vented in the beginning. We would have requested a waiver. If the waiver would have been denied, we would not have purchased the properties. At the time we acquired these properties, the sellers were presented with other purchase opportunities that would not have involved preservation. But for this transaction, the Developments would not be the vital dynamic living environment they are today, but declining and quite possibly not even affordable housing properties.

We believe we have six great properties. We are proud of the properties and we believe TDHCA is as well.

We respectfully request that TDHCA provide exclusion for the mandatory item.

Please let us know if you have questions or need additional information.

DALCOR - TEXAS PROPERTIES
SUMMARY OF REMAINING FUNDS AND DEFERRED DEVELOPER FEE

	Pine Club	Ridgewood	Saddlewood	Tealwood	Willow Green [a]	Woodglen	Combined
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Balance in Project Fund	$439,291	$9,320	$70,197	$38,633	$101,111	$10,618	$669,171
Available Cash					$67,000	$367,000	$434,000
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Remaining sources of funds	$1,184,762	$388,353	$273,155	$762,153	$1,255,741	$1,459,155	$5,323,319
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"After review of the updated financial and pursuant to the loan documents, partial Additional Collateral can be transferred to the Escrow account. We will direct the trustee to wire $280,000 in to the Escrow account (similar to that of Woodglen). The balance of $320,000 will remain in the Additional Collateral account."

[b] Additional construction costs	$364,584
Amounts invoiced	($82,683)
Paid from property funds or advanced by Developer	$281,901

PINE CLUB
15 YEAR RENTAL HOUSING OPERATING PRO FORMA

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	$2,017,536	$2,057,887	$2,099,044	$2,141,025	$2,183,846	$2,227,523	$2,272,073	$2,317,515	$2,363,865	$2,411,142	$2,459,365	$2,508,552	$2,558,723	$2,609,898	$2,662,096
Secondary Income	243,624	248,496	253,466	258,536	263,706	268,981	274,360	279,847	285,444	291,153	296,976	302,916	308,974	315,154	321,457
POTENTIAL GROSS ANNUAL INCOME	$2,261,160	$2,306,383	$2,352,511	$2,399,561	$2,447,552	$2,496,503	$2,546,433	$2,597,362	$2,649,309	$2,702,296	$2,756,341	$2,811,468	$2,867,698	$2,925,052	$2,983,553
Provision for Vacancy & Collection Loss	169,587	172,979	176,438	179,967	183,566	187,238	190,983	194,802	198,698	202,672	206,726	210,860	215,077	219,379	223,766
Rental Concessions	0														
EFFECTIVE GROSS ANNUAL INCOME	$2,091,573	$2,133,404	$2,176,073	$2,219,594	$2,263,986	$2,309,266	$2,355,451	$2,402,560	$2,450,611	$2,499,623	$2,549,616	$2,600,608	$2,652,620	$2,705,673	$2,759,786
EXPENSES															
General & Administrative Expenses	$ 39,931	$41,129	$42,363	$43,634	$44,943	$46,291	$47,680	$49,110	$50,583	$52,101	$53,664	$55,274	$56,932	$58,640	$60,399
Management Fee	83,663	86,173	88,758	91,421	94,163	96,988	99,898	102,895	105,982	109,161	112,436	115,809	119,283	122,862	126,548
Payroll, Payroll Tax & Employee Benefits	224,488	231,223	238,159	245,304	252,663	260,243	268,050	276,092	284,375	292,906	301,693	310,744	320,066	329,668	339,558
Repairs & Maintenance	87,769	90,402	93,114	95,908	98,785	101,749	104,801	107,945	111,183	114,519	117,955	121,493	125,138	128,892	132,759
Electric & Gas Utilities	27,447	28,270	29,119	29,992	30,892	31,819	32,773	33,756	34,769	35,812	36,886	37,993	39,133	40,307	41,516
Water, Sewer & Trash Utilities	199,236	205,213	211,369	217,711	224,242	230,969	237,898	245,035	252,386	259,958	267,757	275,789	284,063	292,585	301,362
Annual Property Insurance Premiums	98,000	100,940	103,968	107,087	110,300	113,609	117,017	120,528	124,143	127,868	131,704	135,655	139,725	143,916	148,234
Property Tax	185,105	190,658	196,378	202,269	208,337	214,587	221,025	227,656	234,485	241,520	248,766	256,229	263,915	271,833	279,988
Reserve for Replacements	69,600	71,688	73,839	76,054	78,335	80,685	83,106	85,599	88,167	90,812	93,537	96,343	99,233	102,210	105,276
Other Expenses:	94,153	96,978	99,887	102,884	105,970	109,149	112,424	115,796	119,270	122,848	126,534	130,330	134,240	138,267	142,415
TOTAL ANNUAL EXPENSES	$1,109,392	$1,142,674	$1,176,954	$1,212,263	$1,248,631	$1,286,090	$1,324,672	$1,364,412	$1,405,345	$1,447,505	$1,490,930	$1,535,658	$1,581,728	$1,629,180	$1,678,055
NET OPERATING INCOME	$982,181	$990,731	$999,118	$1,007,331	$1,015,355	$1,023,176	$1,030,779	$1,038,148	$1,045,266	$1,052,118	$1,058,686	$1,064,950	$1,070,892	$1,076,493	$1,081,731
DEBT SERVICE															
First Deed of Trust Annual Loan Payment	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415	$851,415
Second Deed of Trust Annual Loan Payment															
Third Deed of Trust Annual Loan Payment															
Other Annual Required Payment:															
Other Annual Required Payment:															
NET CASH FLOW	$130,766	$139,316	$147,703	$155,916	$163,940	$171,761	$179,364	$186,733	$193,851	$200,703	$207,271	$213,535	$219,477	$225,078	$230,316
Debt Coverage Ratio	1.15	1.16	1.17	1.18	1.19	1.20	1.21	1.22	1.23	1.24	1.24	1.25	1.26	1.26	1.27
Other (Describe)															

Deferred developer fee	$2,040,201	$1,909,435	$1,770,119	$1,622,416	$1,466,500	$1,302,560	$1,130,799	$951,435	$764,702	$570,851	$370,148	$162,877
Cash flow	($130,766)	($139,316)	($147,703)	($155,916)	($163,940)	($171,761)	($179,364)	($186,733)	($193,851)	($200,703)	($207,271)	($162,877)
	$1,909,435	$1,770,119	$1,622,416	$1,466,500	$1,302,560	$1,130,799	$951,435	$764,702	$570,851	$370,148	$162,877	$0

RIDGEWOOD WEST
15 YEAR RENTAL HOUSING OPERATING PRO FORMA

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	$1,669,152	$1,702,535	$1,736,586	$1,771,317	$1,806,744	$1,842,879	$1,879,736	$1,917,331	$1,955,678	$1,994,791	$2,034,687	$2,075,381	$2,116,888	$2,159,226	$2,202,411
Secondary Income	202,848	206,905	211,043	215,264	219,569	223,961	228,440	233,009	237,669	242,422	247,271	252,216	257,260	262,406	267,654
POTENTIAL GROSS ANNUAL INCOME	$1,872,000	$1,909,440	$1,947,629	$1,986,581	$2,026,313	$2,066,839	$2,108,176	$2,150,340	$2,193,346	$2,237,213	$2,281,958	$2,327,597	$2,374,149	$2,421,632	$2,470,064
Provision for Vacancy & Collection Loss	140,400	143,208	146,072	148,994	151,973	155,013	158,113	161,275	164,501	167,791	171,147	174,570	178,061	181,622	185,255
Rental Concessions	0														
EFFECTIVE GROSS ANNUAL INCOME	$1,731,600	$1,766,232	$1,801,557	$1,837,588	$1,874,340	$1,911,826	$1,950,063	$1,989,064	$2,028,845	$2,069,422	$2,110,811	$2,153,027	$2,196,087	$2,240,009	$2,284,809
EXPENSES															
General & Administrative Expenses	$ 52,457	$54,031	$55,652	$57,321	$59,041	$60,812	$62,636	$64,515	$66,451	$68,444	$70,498	$72,613	$74,791	$77,035	$79,346
Management Fee	80,404	82,816	85,301	87,860	90,495	93,210	96,007	98,887	101,853	104,909	108,056	111,298	114,637	118,076	121,618
Payroll, Payroll Tax & Employee Benefits	212,128	218,492	225,047	231,798	238,752	245,914	253,292	260,891	268,717	276,779	285,082	293,635	302,444	311,517	320,863
Repairs & Maintenance	84,746	87,288	89,907	92,604	95,382	98,244	101,191	104,227	107,354	110,574	113,892	117,308	120,828	124,452	128,186
Electric & Gas Utilities	29,010	29,880	30,777	31,700	32,651	33,631	34,639	35,679	36,749	37,851	38,987	40,157	41,361	42,602	43,880
Water, Sewer & Trash Utilities	157,320	162,040	166,901	171,908	177,065	182,377	187,848	193,484	199,288	205,267	211,425	217,768	224,301	231,030	237,961
Annual Property Insurance Premiums	79,350	81,731	84,182	86,708	89,309	91,988	94,748	97,590	100,518	103,534	106,640	109,839	113,134	116,528	120,024
Property Tax	124,620	128,359	132,209	136,176	140,261	144,469	148,803	153,267	157,865	162,601	167,479	172,503	177,678	183,009	188,499
Reserve for Replacements	69,600	71,688	73,839	76,054	78,335	80,685	83,106	85,599	88,167	90,812	93,537	96,343	99,233	102,210	105,276
Other Expenses:	84,530	87,066	89,678	92,368	95,139	97,993	100,933	103,961	107,080	110,292	113,601	117,009	120,520	124,135	127,859
TOTAL ANNUAL EXPENSES	$974,165	$1,003,390	$1,033,492	$1,064,496	$1,096,431	$1,129,324	$1,163,204	$1,198,100	$1,234,043	$1,271,064	$1,309,196	$1,348,472	$1,388,926	$1,430,594	$1,473,512
NET OPERATING INCOME	$757,435	$762,842	$768,065	$773,091	$777,908	$782,502	$786,859	$790,964	$794,802	$798,358	$801,614	$804,555	$807,161	$809,415	$811,297
DEBT SERVICE															
First Deed of Trust Annual Loan Payment	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125	$606,125
Second Deed of Trust Annual Loan Payment															
Third Deed of Trust Annual Loan Payment															
Other Annual Required Payment:															
Other Annual Required Payment:															
NET CASH FLOW	$151,310	$156,717	$161,940	$166,966	$171,783	$176,377	$180,734	$184,839	$188,677	$192,233	$195,489	$198,430	$201,036	$203,290	$205,172
Debt Coverage Ratio	1.25	1.26	1.27	1.28	1.28	1.29	1.30	1.30	1.31	1.32	1.32	1.33	1.33	1.34	1.34
Other (Describe)															

Deferred developer fee	$1,879,706	$1,728,396	$1,571,679	$1,409,739	$1,242,773	$1,070,989	$894,612	$713,878	$529,039	$340,362	$148,129	$0
Cash flow	($151,310)	($156,717)	($161,940)	($166,966)	($171,783)	($176,377)	($180,734)	($184,839)	($188,677)	($192,233)	($148,129)	$0
	$1,728,396	$1,571,679	$1,409,739	$1,242,773	$1,070,989	$894,612	$713,878	$529,039	$340,362	$148,129	$0	$0

SADDLEWOOD CLUB
15 YEAR RENTAL HOUSING OPERATING PRO FORMA

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	$1,901,376	$1,939,404	$1,978,192	$2,017,755	$2,058,111	$2,099,273	$2,141,258	$2,184,083	$2,227,765	$2,272,320	$2,317,767	$2,364,122	$2,411,405	$2,459,633	$2,508,825
Secondary Income	174,036	177,517	181,067	184,688	188,382	192,150	195,993	199,913	203,911	207,989	212,149	216,392	220,720	225,134	229,637
POTENTIAL GROSS ANNUAL INCOME	$2,075,412	$2,116,920	$2,159,259	$2,202,444	$2,246,493	$2,291,423	$2,337,251	$2,383,996	$2,431,676	$2,480,309	$2,529,916	$2,580,514	$2,632,124	$2,684,767	$2,738,462
Provision for Vacancy & Collection Loss	155,656	158,769	161,944	165,183	168,487	171,857	175,294	178,800	182,376	186,023	189,744	193,539	197,409	201,358	205,385
Rental Concessions	0														
EFFECTIVE GROSS ANNUAL INCOME	$1,919,756	$1,958,151	$1,997,314	$2,037,261	$2,078,006	$2,119,566	$2,161,957	$2,205,196	$2,249,300	$2,294,286	$2,340,172	$2,386,975	$2,434,715	$2,483,409	$2,533,077
EXPENSES															
General & Administrative Expenses	$ 54,940	$56,588	$58,286	$60,034	$61,835	$63,691	$65,601	$67,569	$69,596	$71,684	$73,835	$76,050	$78,331	$80,681	$83,102
Management Fee	76,790	79,094	81,467	83,911	86,428	89,021	91,692	94,442	97,276	100,194	103,200	106,296	109,485	112,769	116,152
Payroll, Payroll Tax & Employee Benefits	177,220	182,537	188,013	193,653	199,463	205,447	211,610	217,958	224,497	231,232	238,169	245,314	252,673	260,254	268,061
Repairs & Maintenance	121,895	125,552	129,318	133,198	137,194	141,310	145,549	149,915	154,413	159,045	163,817	168,731	173,793	179,007	184,377
Electric & Gas Utilities	28,107	28,950	29,819	30,713	31,635	32,584	33,561	34,568	35,605	36,673	37,773	38,907	40,074	41,276	42,514
Water, Sewer & Trash Utilities	166,485	171,480	176,624	181,923	187,380	193,002	198,792	204,756	210,898	217,225	223,742	230,454	237,368	244,489	251,824
Annual Property Insurance Premiums	64,721	66,663	68,663	70,723	72,844	75,030	77,280	79,599	81,987	84,446	86,980	89,589	92,277	95,045	97,897
Property Tax	150,187	154,693	159,333	164,113	169,037	174,108	179,331	184,711	190,252	195,960	201,839	207,894	214,131	220,555	227,171
Reserve for Replacements	69,600	71,688	73,839	76,054	78,335	80,685	83,106	85,599	88,167	90,812	93,537	96,343	99,233	102,210	105,276
Other Expenses:	89,758	92,451	95,224	98,081	101,023	104,054	107,176	110,391	113,703	117,114	120,627	124,246	127,973	131,813	135,767
TOTAL ANNUAL EXPENSES	$999,703	$1,029,694	$1,060,585	$1,092,403	$1,125,175	$1,158,930	$1,193,698	$1,229,509	$1,266,394	$1,304,386	$1,343,518	$1,383,823	$1,425,338	$1,468,098	$1,512,141
NET OPERATING INCOME	$920,053	$928,457	$936,729	$944,858	$952,831	$960,636	$968,259	$975,687	$982,906	$989,900	$996,654	$1,003,152	$1,009,377	$1,015,311	$1,020,936
DEBT SERVICE															
First Deed of Trust Annual Loan Payment	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930	$788,930
Second Deed of Trust Annual Loan Payment															
Third Deed of Trust Annual Loan Payment															
Other Annual Required Payment:															
Other Annual Required Payment:															
NET CASH FLOW	$131,123	$139,527	$147,799	$155,928	$163,901	$171,706	$179,329	$186,757	$193,976	$200,970	$207,724	$214,222	$220,447	$226,381	$232,006
Debt Coverage Ratio	1.17	1.18	1.19	1.20	1.21	1.22	1.23	1.24	1.25	1.25	1.26	1.27	1.28	1.29	1.29
Other (Describe)															

Deferred developer fee	$2,269,273	$2,138,150	$1,998,624	$1,850,825	$1,694,897	$1,530,996	$1,359,290	$1,179,961	$993,204	$799,228	$598,258	$390,534	$176,312
Cash flow	($131,123)	($139,527)	($147,799)	($155,928)	($163,901)	($171,706)	($179,329)	($186,757)	($193,976)	($200,970)	($207,724)	($214,222)	($176,312)
	$2,138,150	$1,998,624	$1,850,825	$1,694,897	$1,530,996	$1,359,290	$1,179,961	$993,204	$799,228	$598,258	$390,534	$176,312	$0

TEALWOOD PLACE
15 YEAR RENTAL HOUSING OPERATING PRO FORMA

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	$1,503,072	$1,533,133	$1,563,796	$1,595,072	$1,626,973	$1,659,513	$1,692,703	$1,726,557	$1,761,088	$1,796,310	$1,832,236	$1,868,881	$1,906,259	$1,944,384	$1,983,272
Secondary Income	146,196	149,120	152,102	155,144	158,247	161,412	164,640	167,933	171,292	174,718	178,212	181,776	185,412	189,120	192,903
POTENTIAL GROSS ANNUAL INCOME	$1,649,268	$1,682,253	$1,715,898	$1,750,216	$1,785,221	$1,820,925	$1,857,344	$1,894,491	$1,932,380	$1,971,028	$2,010,448	$2,050,657	$2,091,671	$2,133,504	$2,176,174
Provision for Vacancy & Collection Loss	123,695	126,169	128,692	131,266	133,892	136,569	139,301	142,087	144,929	147,827	150,784	153,799	156,875	160,013	163,213
Rental Concessions	0														
EFFECTIVE GROSS ANNUAL INCOME	$1,525,573	$1,556,084	$1,587,206	$1,618,950	$1,651,329	$1,684,356	$1,718,043	$1,752,404	$1,787,452	$1,823,201	$1,859,665	$1,896,858	$1,934,795	$1,973,491	$2,012,961
EXPENSES															
General & Administrative Expenses	$ 39,419	$40,602	$41,820	$43,074	$44,366	$45,697	$47,068	$48,480	$49,935	$51,433	$52,976	$54,565	$56,202	$57,888	$59,625
Management Fee	76,326	78,616	80,974	83,403	85,906	88,483	91,137	93,871	96,687	99,588	102,576	105,653	108,823	112,087	115,450
Payroll, Payroll Tax & Employee Benefits	169,951	175,050	180,301	185,710	191,281	197,020	202,930	209,018	215,289	221,748	228,400	235,252	242,309	249,579	257,066
Repairs & Maintenance	84,179	86,704	89,306	91,985	94,744	97,587	100,514	103,530	106,635	109,835	113,130	116,523	120,019	123,620	127,328
Electric & Gas Utilities	20,885	21,512	22,157	22,822	23,506	24,211	24,938	25,686	26,456	27,250	28,068	28,910	29,777	30,670	31,590
Water, Sewer & Trash Utilities	88,237	90,884	93,611	96,419	99,312	102,291	105,360	108,520	111,776	115,129	118,583	122,141	125,805	129,579	133,466
Annual Property Insurance Premiums	59,475	61,259	63,097	64,990	66,940	68,948	71,016	73,147	75,341	77,601	79,929	82,327	84,797	87,341	89,961
Property Tax	116,000	119,480	123,064	126,756	130,559	134,476	138,510	142,665	146,945	151,354	155,894	160,571	165,388	170,350	175,460
Reserve for Replacements	54,000	55,620	57,289	59,007	60,777	62,601	64,479	66,413	68,406	70,458	72,571	74,749	76,991	79,301	81,680
Other Expenses:	48,664	50,124	51,628	53,176	54,772	56,415	58,107	59,851	61,646	63,495	65,400	67,362	69,383	71,465	73,609
TOTAL ANNUAL EXPENSES	$757,136	$779,850	$803,246	$827,343	$852,163	$877,728	$904,060	$931,182	$959,117	$987,891	$1,017,527	$1,048,053	$1,079,495	$1,111,880	$1,145,236
NET OPERATING INCOME	$768,437	$776,234	$783,960	$791,607	$799,166	$806,628	$813,983	$821,222	$828,335	$835,310	$842,137	$848,805	$855,300	$861,611	$867,725
DEBT SERVICE															
First Deed of Trust Annual Loan Payment	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278	$650,278
Second Deed of Trust Annual Loan Payment															
Third Deed of Trust Annual Loan Payment															
Other Annual Required Payment:															
Other Annual Required Payment:															
NET CASH FLOW	$118,159	$125,956	$133,682	$141,329	$148,888	$156,350	$163,705	$170,944	$178,057	$185,032	$191,859	$198,527	$205,022	$211,333	$217,447
Debt Coverage Ratio	1.18	1.19	1.21	1.22	1.23	1.24	1.25	1.26	1.27	1.28	1.30	1.31	1.32	1.32	1.33
Other (Describe)															

Deferred developer fee	$1,366,607	$1,248,448	$1,122,492	$988,809	$847,480	$698,592	$542,243	$378,538	$207,594	$29,537	$0	$0	$0
Cash flow	($118,159)	($125,956)	($133,682)	($141,329)	($148,888)	($156,350)	($163,705)	($170,944)	($178,057)	($29,537)	$0	$0	$0
	$1,248,448	$1,122,492	$988,809	$847,480	$698,592	$542,243	$378,538	$207,594	$29,537	$0	$0	$0	$0

WILLOW GREEN
15 YEAR RENTAL HOUSING OPERATING PRO FORMA

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	$2,936,448	$2,995,177	$3,055,080	$3,116,182	$3,178,506	$3,242,076	$3,306,917	$3,373,056	$3,440,517	$3,509,327	$3,579,514	$3,651,104	$3,724,126	$3,798,609	$3,874,581
Secondary Income	197,628	201,581	205,612	209,724	213,919	218,197	222,561	227,012	231,553	236,184	240,907	245,726	250,640	255,653	260,766
POTENTIAL GROSS ANNUAL INCOME	$3,134,076	$3,196,758	$3,260,693	$3,325,907	$3,392,425	$3,460,273	$3,529,479	$3,600,068	$3,672,070	$3,745,511	$3,820,421	$3,896,830	$3,974,766	$4,054,261	$4,135,347
Provision for Vacancy & Collection Loss	235,056	239,757	244,552	249,443	254,432	259,520	264,711	270,005	275,405	280,913	286,532	292,262	298,107	304,070	310,151
Rental Concessions	0														
EFFECTIVE GROSS ANNUAL INCOME	$2,899,020	$2,957,001	$3,016,141	$3,076,464	$3,137,993	$3,200,753	$3,264,768	$3,330,063	$3,396,664	$3,464,598	$3,533,890	$3,604,567	$3,676,659	$3,750,192	$3,825,196
EXPENSES															
General & Administrative Expenses	$ 64,915	$66,862	$68,868	$70,934	$73,062	$75,254	$77,512	$79,837	$82,232	$84,699	$87,240	$89,858	$92,553	$95,330	$98,190
Management Fee	141,508	145,753	150,126	154,630	159,269	164,047	168,968	174,037	179,258	184,636	190,175	195,880	201,757	207,809	214,044
Payroll, Payroll Tax & Employee Benefits	281,481	289,925	298,623	307,582	316,809	326,314	336,103	346,186	356,572	367,269	378,287	389,636	401,325	413,364	425,765
Repairs & Maintenance	149,023	153,494	158,099	162,841	167,727	172,759	177,941	183,279	188,778	194,441	200,274	206,283	212,471	218,845	225,411
Electric & Gas Utilities	30,369	31,280	32,218	33,185	34,181	35,206	36,262	37,350	38,471	39,625	40,813	42,038	43,299	44,598	45,936
Water, Sewer & Trash Utilities	322,708	332,389	342,361	352,632	363,211	374,107	385,330	396,890	408,797	421,061	433,693	446,703	460,104	473,908	488,125
Annual Property Insurance Premiums	160,000	164,800	169,744	174,836	180,081	185,484	191,048	196,780	202,683	208,764	215,027	221,477	228,122	234,965	242,014
Property Tax	262,856	270,742	278,864	287,230	295,847	304,722	313,864	323,280	332,978	342,967	353,256	363,854	374,770	386,013	397,593
Reserve for Replacements	100,800	103,824	106,939	110,147	113,451	116,855	120,360	123,971	127,690	131,521	135,467	139,531	143,717	148,028	152,469
Other Expenses:	31,820	32,775	33,758	34,771	35,814	36,888	37,995	39,135	40,309	41,518	42,763	44,046	45,368	46,729	48,131
TOTAL ANNUAL EXPENSES	$1,545,480	$1,591,844	$1,639,600	$1,688,788	$1,739,451	$1,791,635	$1,845,384	$1,900,745	$1,957,768	$2,016,501	$2,076,996	$2,139,306	$2,203,485	$2,269,589	$2,337,677
NET OPERATING INCOME	$1,353,540	$1,365,156	$1,376,541	$1,387,676	$1,398,541	$1,409,118	$1,419,384	$1,429,318	$1,438,897	$1,448,097	$1,456,894	$1,465,262	$1,473,174	$1,480,602	$1,487,519
DEBT SERVICE															
First Deed of Trust Annual Loan Payment	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714	$1,118,714
Second Deed of Trust Annual Loan Payment															
Third Deed of Trust Annual Loan Payment															
Other Annual Required Payment:															
Other Annual Required Payment:															
NET CASH FLOW	$234,826	$246,442	$257,827	$268,961	$279,827	$290,403	$300,669	$310,603	$320,182	$329,382	$338,179	$346,547	$354,459	$361,888	$368,804
Debt Coverage Ratio	1.21	1.22	1.23	1.24	1.25	1.26	1.27	1.28	1.29	1.29	1.30	1.31	1.32	1.32	1.33
Other (Describe)															

Deferred developer fee	$2,608,553	$2,373,727	$2,127,285	$1,869,458	$1,600,497	$1,320,670	$1,030,266	$729,597	$418,993	$98,811	$0	$0	$0
Cash flow	($234,826)	($246,442)	($257,827)	($268,961)	($279,827)	($290,403)	($300,669)	($310,603)	($320,182)	($98,811)	$0	$0	$0
	$2,373,727	$2,127,285	$1,869,458	$1,600,497	$1,320,670	$1,030,266	$729,597	$418,993	$98,811	$0	$0	$0	$0

WOODGLEN PARK
15 YEAR RENTAL HOUSING OPERATING PRO FORMA

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	$2,397,024	$2,444,964	$2,493,864	$2,543,741	$2,594,616	$2,646,508	$2,699,438	$2,753,427	$2,808,496	$2,864,666	$2,921,959	$2,980,398	$3,040,006	$3,100,806	$3,162,822
Secondary Income	55,056	56,157	57,280	58,426	59,594	60,786	62,002	63,242	64,507	65,797	67,113	68,455	69,824	71,221	72,645
POTENTIAL GROSS ANNUAL INCOME	$2,452,080	$2,501,122	$2,551,144	$2,602,167	$2,654,210	$2,707,294	$2,761,440	$2,816,669	$2,873,003	$2,930,463	$2,989,072	$3,048,853	$3,109,830	$3,172,027	$3,235,467
Provision for Vacancy & Collection Loss	183,906	187,584	191,336	195,163	199,066	203,047	207,108	211,250	215,475	219,785	224,180	228,664	233,237	237,902	242,660
Rental Concessions	263,615	258,343	253,176	248,112	243,150	238,287	233,521	228,851	224,274	219,788	215,393	211,085	206,863	202,726	198,671
EFFECTIVE GROSS ANNUAL INCOME	$2,004,559	$2,055,195	$2,106,632	$2,158,892	$2,211,994	$2,265,960	$2,320,811	$2,376,568	$2,433,254	$2,490,890	$2,549,499	$2,609,105	$2,669,730	$2,731,399	$2,794,136
EXPENSES															
General & Administrative Expenses	$ 72,191	$74,356	$76,587	$78,885	$81,251	$83,689	$86,199	$88,785	$91,449	$94,192	$97,018	$99,929	$102,926	$106,014	$109,195
Management Fee	100,778	103,801	106,915	110,122	113,426	116,829	120,334	123,944	127,662	131,492	135,437	139,500	143,685	147,995	152,435
Payroll, Payroll Tax & Employee Benefits	220,783	227,407	234,229	241,256	248,494	255,948	263,627	271,536	279,682	288,072	296,714	305,616	314,784	324,228	333,955
Repairs & Maintenance	103,051	106,142	109,326	112,606	115,984	119,464	123,048	126,739	130,542	134,458	138,491	142,646	146,926	151,333	155,873
Electric & Gas Utilities	26,523	27,319	28,138	28,982	29,852	30,747	31,670	32,620	33,598	34,606	35,645	36,714	37,815	38,950	40,118
Water, Sewer & Trash Utilities	197,302	203,221	209,318	215,597	222,065	228,727	235,589	242,657	249,936	257,435	265,158	273,112	281,306	289,745	298,437
Annual Property Insurance Premiums	63,305	65,204	67,160	69,175	71,250	73,388	75,589	77,857	80,193	82,598	85,076	87,629	90,257	92,965	95,754
Property Tax	144,144	148,469	152,923	157,510	162,236	167,103	172,116	177,279	182,598	188,076	193,718	199,529	205,515	211,681	218,031
Reserve for Replacements	69,600	71,688	73,839	76,054	78,335	80,685	83,106	85,599	88,167	90,812	93,537	96,343	99,233	102,210	105,276
Other Expenses:	37,130	38,244	39,391	40,573	41,790	43,044	44,335	45,665	47,035	48,446	49,900	51,397	52,939	54,527	56,162
TOTAL ANNUAL EXPENSES	$1,034,806	$1,065,851	$1,097,826	$1,130,761	$1,164,684	$1,199,624	$1,235,613	$1,272,681	$1,310,862	$1,350,188	$1,390,693	$1,432,414	$1,475,386	$1,519,648	$1,565,237
NET OPERATING INCOME	$969,753	$989,344	$1,008,806	$1,028,131	$1,047,311	$1,066,336	$1,085,198	$1,103,887	$1,122,392	$1,140,702	$1,158,806	$1,176,691	$1,194,344	$1,211,751	$1,228,899
DEBT SERVICE															
First Deed of Trust Annual Loan Payment	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416	$749,416
Second Deed of Trust Annual Loan Payment															
Third Deed of Trust Annual Loan Payment															
Other Annual Required Payment:															
Other Annual Required Payment:															
NET CASH FLOW	$220,337	$239,928	$259,390	$278,715	$297,895	$316,920	$335,782	$354,471	$372,976	$391,286	$409,389	$427,274	$444,927	$462,335	$479,483
Debt Coverage Ratio	1.29	1.32	1.35	1.37	1.40	1.42	1.45	1.47	1.50	1.52	1.55	1.57	1.59	1.62	1.64
Other (Describe)															

Deferred developer fee	$1,402,192	$1,181,855	$941,927	$682,537	$403,822	$105,927	$0	$0	$0	$0	$0	$0	$0
Cash flow	($220,337)	($239,928)	($259,390)	($278,715)	($297,895)	($105,927)	$0	$0	$0	$0	$0	$0	$0
	$1,181,855	$941,927	$682,537	$403,822	$105,927	$0	$0	$0	$0	$0	$0	$0	$0

4b

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action to approve material amendments to seven Land Use Restriction Agreements ("LURAs") for the following developments located in or around El Paso: Fonseca, Ltd., Prado, Ltd., NCDO Housing, Ltd., Western Whirlwind, Ltd., Cactus Rose, Ltd., Painted Desert Townhomes, and Whispering Sands Townhomes.

RECOMMENDED ACTION

WHEREAS, the Owners of seven related Developments, in or around El Paso, received an award of 9% Housing Tax Credits for each of the above-referenced Developments between the years of 1995 and 2003;

WHEREAS, each of the tax credit applications for these seven Developments received points and/or other preferences for having a Historically Underutilized Business ("HUB"), namely Investment Builders, Inc. ("IBI"), participate in the ownership of the Development;

WHEREAS, the LURAs each require that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall have an ownership interest and maintain regular, continuous, and substantial participation in the operation and ownership of the Development;

WHEREAS, all of these Developments are within their Compliance Periods, as defined in their respective LURAs;

WHEREAS, the Development Owner requests approval to amend all seven LURAs to replace the HUB requirements with Qualified Nonprofit Organization requirements for the remainders of the respective Compliance Periods;

WHEREAS, although it may have certain common public policy reasons underlying its use as a scoring criterion, and in several years the scoring criterion were interchangeable, the Qualified Nonprofit Organization is a different preference item for the tax credit program than a HUB, advancing distinct State and Federal policy initiatives;

WHEREAS, at the September 4, 2014 Board meeting, the Board considered changes to the rule in 10 TAC §10.407, which is out for public comment, to allow for a change in HUB designation under various exceptions, which this transfer would meet once the proposed purchaser meets the Department's standards for ownership transfers;

WHEREAS, without the proposed rule having become final, staff is constrained to present this with no recommendation [neutral]; and

WHEREAS, Board approval is required for material LURA amendments, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the requested LURA amendments for Fonseca, Ltd., Prado, Ltd., NCDO Housing, Ltd., Western Whirlwind, Ltd., Cactus Rose, Ltd., Painted Desert Townhomes, and Whispering Sands Townhomes are hereby **___________________**.

BACKGROUND

The HUB owner of each Development is Investment Builders, Inc. ("IBI"). IBI intends to sign a purchase and sale agreement to transfer its general partner interests in a larger portfolio of 25 Developments in the El Paso region to a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP"). The Owner reported that 18 of the 25 Developments do not require HUB participation. According to IBI, HACEP wants to purchase all or none of the portfolio and will do so only if these material LURA amendments and the subsequent ownership transfers are approved. While a LURA amendment and transfer of these Developments may be beneficial for the current and future Owner, neither has established that they cannot continue to comply with the LURA requirement for a HUB through another means (such as a partnership with a HUB through the remaining compliance period). In a letter dated June 20, 2014, the current owner's legal representative reiterated that HACEP "is not interested in forming a partnership or joint venture with a HUB" and that even if they were interested, "there are no existing HUBs in El Paso, Texas, that could serve as a substitute for IBI other than Tropicana Properties, Inc., which is an IBI competitor." Staff has asked for but not received documentation confirming this information. The transfers are subject to approval by the Department, which cannot be approved unless these LURA amendments are approved since transfer of these to a non-HUB would not comply with the requirements of the existing LURAs.

Staff evaluated each amendment request and based upon subsequent meetings and documentation provided by the Owner, determined that the requests may benefit the Developments and their tenants through the provision of additional supportive services, which would be added to the LURAs of each Development and additional financial capital to benefit all of the Developments as required for current and future capital improvement needs. The proposed nonprofit organization plans to provide additional supportive services to each of the Developments to include:

- Food pantry/common household items accessible to residents at least on a monthly basis
- Weekly character building program (i.e. teen dating violence, drug prevention, teambuilding, internet dangers, etc.)
- Annual Health Fair
- Quarterly health and nutritional courses
- Notary public services during regular business hours
- Annual income tax preparation (offered by an income tax prep service)
- Twice monthly onsite social events

Chapter 2306 of the Texas Government Code states that the first purpose of the Department is to assist local government in providing essential public services for their residents, which these amendment requests would do.

In addition, in support of this proposed amendment, the Owner emphasizes that HACEP is in a stronger financial position than the current HUB to fund capital needs of the Developments and plans on making repairs to the Developments in the immediate to near future to include roofing, cooling systems, water heaters, exterior building repairs, paint and minor interior repairs.

Each of the Developments was awarded tax credits in different years, and, therefore, there was a different emphasis on scoring points and the specifics of the HUB ownership requirement. For example, some LURAs require the HUB to be designated as the Managing General Partner within the ownership structure, while others require the HUB to hold an ownership interest of some sort. All the LURAs for these properties require material participation by the HUB in the development, operation, and ownership of the project. The policy to include HUB participation is a State policy initiative while the Qualified Nonprofit Organization preference is provided for in State and Federal statute. In this case, however, the State would not have received credit for the Qualified Nonprofit Organization participation because this is occurring so long after the initial award and issuance of 8609s. While both preferences are valued, they serve different purposes.

The Owner stated that, because the proposed underlying general partner/owner is owned and controlled by a nonprofit organized by the Housing Authority rather than owned by an individual, it is legally incapable of being organized as a HUB. The Owner provided a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that HACEP cannot legally organize a wholly-owned or wholly-controlled subsidiary or an affiliate that would qualify as a HUB, as a HUB is defined by law as a "for profit" entity. The legal opinion does not specify whether or not HACEP could form a partnership with a third-party HUB to meet the requirement in the LURA. However, from conversations with the Owner's legal representative, it appears that HACEP is not interested in such a partnership and desires full control of ownership of the Development. The Owner also contends that, because the general partner possesses many of the characteristics of a typical HUB through their Board composition, they should be approved as a replacement even though not legally certified as a HUB. The board of directors of the proposed general partners is composed of the same persons who serve as directors on the HACEP board. A legal opinion from Art Provenghi stating that the majority of the HACEP's Board of Commissioners are women and/or Hispanic was also provided. The Owner also stated that new owners will use contracting criteria that gives preference to HUBs.

The letter from the Owner also identifies previous similar ownership transfers approved by the Department. The transfers of the general partner interests from a HUB to nonprofit entities affiliated with HACEP for Saul Kleinfeld, Ltd. (#95024) and for Meadowbrook Townhomes (#02067) were approved in 2004 by the Executive Director at that time. Other similar transfers were administratively approved by the Director of Multifamily Finance Production in 2007. A copy of the approval letters was provided by the Owner. In 2009, the Executive Director approved a similar transfer for Cedar Oak Townhomes (#04070), but the approval letter states that the loss of the HUB points would not have negatively affected the award. Staff also found evidence of denials of such transfers over the years. In October 2007, the board heard a request to eliminate the HUB without adding a nonprofit replacement (Chaparral Townhomes #01005). This item was tabled and the owner subsequently found a replacement

HUB. In December 2007, the Board heard discussion on three Developments with this HUB issue. Preston Trace, #04105, requested to delete the HUB requirement and ultimately the owner found a new HUB. The original HUB of Freeport Oaks, #04255, and TownePark Fredericksburg II, #04260, lost its HUB status and a 90 day extension was granted wherein the Owner found a new HUB to participate in ownership. In May 2010, Brazos Landing, #01029, went before the board and requested the elimination of a HUB which was denied by the Board.

The rule for material LURA amendments (10 TAC §10.405(b)) which lays out a process for the amendment of a LURA was not in effect at the time of these prior requests as it was a rule first adopted by the Board on March 3, 2011. Staff did not find any record of similar transfers being approved since the rule has been in place. The last time the TDHCA Board approved a transfer from HUB to Non-Profit was on January 20, 2011, and was with respect to the Townhomes of Bay Forest. This transfer was approved as part of a NSP workout solution in order to maintain affordable housing of the development and prevent imminent foreclosure. Most recently, on September 18, 2013, a requested transfer of a HUB ownership requirement to a Non Profit for Sunset Arbor, #99126, was denied administratively. There is no specific provision in the rules regarding the substitution of a Non Profit for a HUB, and there is no provision in the rules to make an assessment that the composition of a Non Profit is like a HUB based solely on board composition.

The Owner has complied with 10 TAC §10.405(b) of the Asset Management rules adopted by the Board, given the appropriate notifications to the tenants and elected officials, and provided the opportunity for public input. All public hearings have been held, and there was minimal attendance and no negative comment on the proposed amendment request.

The attached table provides a summary of each Development's requirement. The current rule does not address the need for transfer from a HUB to a nonprofit. While the Owner originally stated in the request letters that the "proposed amendment will have no effect on the operation of [the Development] or its financial stability," after further discussion, it appears there will be an added benefit provided by HACEP in both supportive services and financial capacity. This request has prompted a policy discussion on the intent of HUB participation and whether this particular HUB has obtained all of the original benefits of HUB participation in the tax credit program through the development and operation of Developments. Staff has proposed and the Board adopted at the last meeting a draft rule which would allow a departing HUB to not have to be replaced by another HUB as follows:

(e) <u>Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it determines to sell its ownership interest after the issuance of 8609's, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:</u>
<u>(1) the selling HUB is acting of its own volition;</u>
<u>(2) the participation by the HUB has been substantive and meaningful, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and</u>
<u>(3) the proposed purchaser meets the Department's standards for ownership transfers.</u>

This rule is only proposed at the current time and out for public comment until October 20, 2014, and therefore, staff is not prepared to make an affirmative recommendation to amend a material component of the LURA without Board discussion and approval. Furthermore, staff's neutral recommendation for this request is not intended to reflect a position on the proposed rule.

#95026/Fonseca, Ltd.

Fonseca, Ltd. was approved during the 1995 competitive cycle to construct 14 new construction units in El Paso, Texas. The 15-year Federal Compliance Period has expired. However, the application received points at the time of application to extend the Compliance Period ten years beyond the Federal requirement, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2021 and at that point the HUB requirement will automatically expire.

The original HUB general partner, Investment Builders, Inc. ("IBI"), intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Fonseca, Ltd. to Paisano Fonseca, LLC. The sole member of Paisano Fonseca, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the original tax credit application for the Development had the option to propose a Qualified Nonprofit Organization instead of a HUB, which would have resulted in a score reduction of two points and that the application would have continued to be competitive and receive tax credits. The Owner indicates that there were only four applications from El Paso in the 1995 tax credit round, and all four applications were submitted by IBI.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing on June 13, 2014. The Department is not aware of comments at the public hearing.

#97089/Prado, Ltd.

Prado, Ltd. was approved during the 1997 competitive cycle to construct 64 new construction units in El Paso, Texas. The Federal 15-year compliance period expires in 2014; however, the application received points at the time of application review to extend this period and additional 10 years, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2024 and at that point the HUB requirement will automatically expire.

The original HUB general partner, Investment Builders, Inc. ("IBI"), intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Prado, Ltd. to Paisano Prado I, LLC. The sole member of Paisano Prado I, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the tax credit application for the Development would have lost five points if a HUB had not been proposed but states that the next application to be funded, which was not funded, was for a project from a HACEP affiliate, which did not have a HUB. The two projects were competing in the nonprofit set aside, and the LURA for Prado, Ltd. requires material participation by a Qualified Nonprofit Organization, in addition to a HUB managing general partner.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing on June 13, 2014. The Department is not aware of comments at the public hearing.

#98091/NCDO Housing, Ltd.
NCDO Housing, Ltd. was approved during the 1998 competitive cycle to construct 32 new construction units in El Paso, Texas. The letter from the Owner points out that the 15-year compliance period expires in 2015; however, the application received points at the time of application review to extend the Compliance Period 10 years beyond the Federal requirement, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2025 and at that point the HUB requirement will automatically expire.

The original HUB general partner, IBI NCDO Housing LP, LLC ("IBI NCDO Housing"), intends to sign a purchase and sale agreement to transfer the managing general partnership interest in NCDO Housing, Ltd. to Paisano NCDO I, LLC. The sole member of Paisano NCDO I, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the tax credit application for the Development would have lost five points if a HUB had not been proposed but states that only one other project was competing in the nonprofit set aside. Both projects were being developed by IBI. Neither the Owner nor the Department have been able to determine what the impact on the award would have been if the HUB points had not been claimed. The LURA for NCDO Housing, Ltd. currently requires material participation by a Qualified Nonprofit Organization, in addition to a HUB managing general partner.

The Owner held a public hearing on June 11, 2014. The only attendees were representatives of NCDO Housing, Ltd., HACEP and the property manager, LEDIC.

#01018/Western Whirlwind, Ltd.
Western Whirlwind, Ltd. was approved during the 2001 competitive cycle to construct 36 new construction units in Horizon City, Texas. The application proposed and received points for having a joint venture between a for-profit and a nonprofit general partner. However, on June 28, 2006, the Department's Board approved the for-profit co-general partner, IBI Western Whirlwind, LLC, a HUB, to take complete ownership and control of the general partner interest, and the requirement for a HUB to hold an ownership interest and maintain regular, continuous, and substantial participation in the development and operation of the project is reflected in the LURA, as amended. The letter from the Owner states that the 15-year compliance period will end in 2018; however, the application received points at the time of application review to extend the Compliance Period ten years beyond the Federal requirement, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2028 and at that point the HUB requirement will automatically expire.

IBI Western Whirlwind, LLC, the managing general partner, whose sole member is a HUB, has entered into a Purchase and Sale Agreement to transfer the managing general partnership interest in Western Whirlwind, Ltd. to Paisano Western Whirlwind, LLC. The sole member of Paisano Western Whirlwind, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB with no difference in scoring. For three points, the application could have selected one of the two mutually exclusive options of either having a HUB as Development Owner or controlling the Development Owner or having a joint venture between a for-profit organization and a Qualified Nonprofit Organization, in which the Qualified Nonprofit Organization materially participated in the project as one of the general partners. The application proposed to use a HUB instead of a Non-Profit. However, there is no provision in the rules to substitute a Non-Profit for a HUB.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing on June 12, 2014. The Owner reported that the primary questions were whether the tenants had to qualify with HACEP and if the leases were going to be affected.

#01119/Cactus Rose, Ltd.

Cactus Rose, Ltd. was approved during the 2001 competitive cycle to construct 26 new construction units in Anthony, Texas. The letter from the Owner states that the 15-year compliance period will end in 2017; however, the application received points at the time of application review to extend the Compliance Period 10 years beyond the Federal requirement, for a total of 25 years, as reflected in the LURA. The 25-year Compliance Period will end on 2027 and at that point the HUB requirement will automatically expire.

IBI Cactus Rose, LLC, the managing general partner, of which Investment Builders, Inc. ("IBI"), a HUB, is the sole member, intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Cactus Rose, Ltd. to Paisano Cactus Rose, LLC. The sole member of Paisano Cactus Rose, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB with no difference in scoring. For three points, the application could have selected one of the two mutually exclusive options of either having a HUB as Development Owner or controlling the Development Owner or having a joint venture between a for-profit organization and a Qualified Nonprofit Organization, in which the Qualified Nonprofit Organization materially participated in the project as one of the general partners. The application proposed to use a HUB instead of a nonprofit. However, there is no provision in the LURA or rules to substitute a Non-Profit for a HUB.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing on June 16, 2014. The Department is not aware of comments at the public hearing.

#02061/Painted Desert Townhomes

Painted Desert Townhomes was approved during the 2002 competitive cycle to construct 20 new construction units in Clint, Texas. The letter from the Owner points states that the 15-year compliance period will end in 2018; however, the application received points at the time of application review to extend the Compliance Period 25 years beyond the Federal requirement, for a total of 40 years, as reflected in the LURA. The 40-year Compliance Period will end on 2043 and at that point the HUB requirement will automatically expire.

IBI Painted Desert Townhomes, LLC, the managing general partner, of which Investment Builders, Inc. ("IBI"), a HUB, is the sole member, intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Painted Desert Townhomes, Ltd. to Paisano Painted Desert, LLC. The sole member of Paisano Painted Desert, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the award to the Development was made under the rural set-aside, and that the application for this Development had no competitors. Therefore, the award would have been made even if HUB points had not been claimed. The Owner also submitted a copy of the sheet from the application indicating that the application would have qualified for three points for either the HUB or a nonprofit. However, there is no provision in the LURA or rules to substitute a Non Profit for a HUB.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing on June 12, 2014. The Owner reported that the primary questions were whether the tenants had to qualify with HACEP and if the leases were going to be affected.

#03222/Whispering Sands Townhomes

Whispering Sands Townhomes was approved during the 2003 competitive cycle to construct 36 new construction units in Anthony, Texas. The letter from the Owner states that the 15-year compliance period will end in 2019 which was confirmed by staff. Therefore the HUB requirement will automatically expire in five years.

IBI Whispering Sands Townhomes, LLC, the managing general partner, of which Investment Builders, Inc. ("IBI"), a HUB, is the sole member, and intends to sign a purchase and sale agreement to transfer the managing general partnership interest in Whispering Sands Townhomes, Ltd. to Paisano Whispering Sands, LLC. The sole member of Paisano Whispering Sands, LLC is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation controlled by the Housing Authority of the City of El Paso ("HACEP").

The Owner also pointed out that the award to the Development was made under the rural set-aside, and that the application for this Development had no competitors. Therefore, the award would have been made even if HUB points had not been claimed. The Owner also submitted a copy of the sheet from the application indicating that the application would have qualified for three points for either the HUB or a nonprofit. However, there is no provision in the LURA or rules to substitute a Non Profit for a HUB.

Pursuant to 10 TAC §10.405(b)(4), the Owner held a public hearing on June 16, 2014. The Department is not aware of comments at the public hearing.

File #	Name	LURA Requirement	Point impact	Comments	Credit Period (First year)	Last Year of Extended Compliance Period	Departing Entity	Incoming Entity
95026	Fonseca, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall remain the Managing General Partner and must maintain regular, continuous, and substantial participation in the development, operation and ownership of the project	2 points loss for removing HUB	The Owner pointed out that the original tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB, which would have resulted in a score reduction of two points and that the application would have continued to be competitive and received tax credits. The Owner indicates that there were only four applications from El Paso in the 1995 tax credit round, and all four applications were submitted by IBI.	1997	2021	Investment Builders, Inc.	Paisano Fonseca, LLC
97089	Prado, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall remain the Managing General Partner and must maintain regular, continuous, and substantial participation in the development, operation and ownership of the project	5 points loss	The Owner pointed out that the tax credit application for the Development would have lost five points if a HUB had not been proposed but states that the next application to be funded, which was not funded, was for a project from a HACEP affiliate, which did not have a HUB. The two projects were competing in the nonprofit set aside, and the LURA for Prado, Ltd. requires material participation by a Qualified Nonprofit Organization, in addition to a HUB managing general partner.	1999	2023	Investment Builders, Inc.	Paisano Prado I, LLC
98091	NCDO Housing, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall remain the Managing General Partner and must maintain regular, continuous, and substantial participation in the development, operation and ownership of the project	5 points loss	The Owner pointed out that the tax credit application for the Development would have lost five points if a HUB had not been proposed but states that only one other project was competing in the nonprofit set aside. Both projects were being developed by IBI. Neither the Owner nor the Department have been able to determine what the impact on the award would have been if the HUB points had not been claimed. The LURA for NCDO Housing, Ltd. currently requires material participation by a Qualified Nonprofit Organization, in addition to a HUB managing general partner.	2000	2024	IBI NCDO Housing, LP, LLC	Paisano NCDO I, LLC
01018	Western Whirlwind, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest and must maintain regular, continuous, and substantial participation in the development, operation of the project	No point loss	went from NP at application to HUB via amendment. Now wants to go back to NP. The Owner pointed out that the tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB with no difference in scoring. For three points, the application could have selected one of the two mutually exclusive options of either having a HUB as Development Owner or controlling the Development Owner or having a joint venture between a for-profit organization and a Qualified Nonprofit Organization, in which the Qualified Nonprofit Organization materially participated in the project as one of the general partners. The application proposed to use a HUB instead of a nonprofit.	2003/2004	2028	IBI Western Whirlwind, LLC	Paisano Western Whirlwind, LLC
01119	Cactus Rose, Ltd.	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the project and must maintain regular, continuous, and substantial participation in the development and operation of the project	No point loss	The Owner also pointed out that the tax credit application for the Development could have proposed a Qualified Nonprofit Organization instead of a HUB with no difference in scoring. For three points, the application could have selected one of the two mutually exclusive options of either having a HUB as Development Owner or controlling the Development Owner or having a joint venture between a for-profit organization and a Qualified Nonprofit Organization, in which the Qualified Nonprofit Organization materially participated in the project as one of the general partners. The application proposed to use a HUB instead of a nonprofit.	2003	2027	IBI Cactus Rose, LLC	Paisano Cactus Rose, LLC
02061	Painted Desert Townhomes	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the project and must maintain regular, continuous, and substantial participation in the development and operation of the project	No point loss	Owner pointed out that the award to the Development was made under the rural set-aside, and that the application for this Development had no competitors.	2004	2043	IBI Painted Desert Townhomes, LLC	Paisano Painted Desert, LLC
03222	Whispering Sands Townhomes	Throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the project and must maintain regular, continuous, and substantial participation in the development and operation of the project	No point loss	Owner pointed out that the award to the Development was made under the rural set-aside, and that the application for this Development had no competitors. Does not appear accurate based on list posted on our website, but there would not have been a point difference had a nonprofit been proposed instead of a HUB.	2004/2005	2019	IBI Whispering Sands Townhomes, LLC	Paisano Whispering Sands, LLC

IBI entities - sole member is Investment Builders, Inc. (IBI), a HUB.

Paisano entities - sole member is Paisano Housing Redevelopment Corporation, a TX nonprofit corp. controlled by HACEP.

From: Frank S Ainsa
To: tim.irvine@tdhca.state.tx.us; tom.gouris@tdhca.state.tx.us; Cari Garcia (cari.garcia@tdhca.state.tx.us); Rosalio Banuelos (rosalio.banuelos@tdhca.state.tx.us); Barbara Deane (barbara.deane@tdhca.state.tx.us)
Cc: Ike Monty (imonty@ibitoday.com); belding57@gmail.com; Roy Lopez; Cichon, Gerald <gcichon@hacep.org> (gcichon@hacep.org); hmontoya@hacep.org; Tim Johnson (tjohnson@eplawyers.com); Juan H. Gil (jgil@eplawyers.com); Joshua Rhoads <jrhoads@eplawyers.com> (jrhoads@eplawyers.com); Lee Bass
Subject: FW: Applications to Amend LURAs
Date: Monday, September 08, 2014 1:59:09 PM
Attachments: Whispering Sands Townhomes Ltd.pdf
Painted Desert Townhomes Ltd.pdf
Cactus Rose Ltd.pdf
Fonseca Ltd.pdf
NCDO Housing Ltd.pdf
Prado Ltd.pdf
Western Whirlwind Ltd.pdf

Tim, Tom, Cari, Rosalio and Barbara:

Attached are the seven applications to amend project LURAs related to Whispering Sands Townhomes, Ltd., Painted Desert Townhomes, Ltd. Cactus Rose, Ltd., Fonseca, Ltd., NCDO Housing, Ltd., Prado, Ltd and Western Whirlwind, Ltd. that were submitted on May 27, 2014. The $17,500 fee has been paid. As all of you know, these applications were withdrawn from consideration by the TDHCA board at its July 31, 2014. However, in view of the action taken by the TDHCA board on the proposed Section 10.406 (e) to be published for public comment, both the referenced partnerships and the Housing Authority of the City of El Paso (HACEP) ask that the applications be reinstated for consideration by the TDHCA board at its next meeting on October 9, 2014.

Before the end of this week, I will also be submitting Purchase and Sale Agreements (PSAs) between the general partners of the referenced entities and proposed new general partner entities organized and sponsored by HACEP. The PSAs provide for the transfer of general partnership interests by the existing general partners to non – HUB general partner entities organized and sponsored by HACEP. I will asking that the proposed transfer of ownership also be approved by TDHCA.

Please confirm to me that the attached applications will be placed on the TDHCA board agenda for its meeting on October 9, 2014. If there are any additional documents that you want to be submitted, please let me know.

Regards,

Francis S. Ainsa Jr.

Ainsa Hutson, LLP

5809 Acacia Circle

El Paso, TX 79912

(915) 845-5300x507; (915) 845-7800 Fax

fain@acaciapark.com

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From: Frank S Ainsa
Sent: Tuesday, May 27, 2014 4:16 PM
To: tom.gouris@tdhca.state.tx.us; Cari Garcia (cari.garcia@tdhca.state.tx.us); Rosalio Banuelos (rosalio.banuelos@tdhca.state.tx.us)
Cc: Barbara Deane (barbara.deane@tdhca.state.tx.us); aprovenghi@hacep.org; Tim Johnson (tjohnson@eplawyers.com); Bob Blumenfeld; Ike Monty (imonty@ibitoday.com); belding57@gmail.com; 'Stan Waterhouse (swaterhouse@hacep.org)'; hmontoya@hacep.org
Subject: FW: Applications to Amend LURAs

Tom, Cari and Rosalio:

Attached please find the 7 applications to amend LURAs to substitute qualified nonprofit organizations for the HUBs in the referenced limited partnerships. The total fee of $17,500 is being sent to you by express mail.

Please let me know if and when you would like to discuss these applications.

Regards,

Francis S. Ainsa Jr.

Ainsa Hutson, LLP

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From: Lee Bass
Sent: Tuesday, May 27, 2014 3:56 PM
To: Frank S Ainsa
Subject: Applications to Amend LURAs

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Francis S. Ainsa Jr. Email: fain@acaciapark.com

July 7, 2014

Mr. Tim Irvine
Executive Director
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Cameron Dorsey
Deputy Executive Director of Multifamily Finance and Fair Housing
Ms. Cari Garcia
Director of Asset Management
Deputy Director
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221 East 11th Street
Austin, TX 78701

Re: Applications by Cactus Rose, Ltd., Fonseca, Ltd., NCDO Housing, Ltd. Painted Desert Townhomes, Ltd. Prado, Ltd., Western Whirlwind, Ltd., and Whispering Sands Townhomes, Ltd. to amend the LURAs applicable to these projects to delete the requirement that the managing general partner maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Irvine, Mr. Gouris, Mr. Dorsey, Ms. Garcia, Mr. Banuelos, and Ms. Deane:

With this letter, I will supplement the letter that I sent to you on June 20, 2014. This supplement is intended to respond to additional queries posed by Tom Gouris. I will restate each query and provide a response:

1. **Additional Supportive Services:** At our meeting on June 18, 2014, Stan Waterhouse, HACEP's Chief Operating Officer, indicated that HACEP would provide to the seven projects the following additional supportive services that are not being currently provided, as outlined below:

- Food pantry/common household items accessible to residents at least on a monthly basis
- Weekly character building program (i.e. teen dating violence, drug prevention, teambuilding, internet dangers, stranger danger, etc.)
- Annual Health fair
- Quarterly health and nutritional courses.
- Notary public services during regular business hours (i.e. qualifying PM)
- Annual income tax preparation (offered by an income tax prep service)
- Twice monthly onsite social events (i.e. potlucks, game night, sing-a-long, movie nights, birthday parties, holiday events, etc.)
- Senior Health Care Services

You have asked if HACEP will be willing to amend the LURAs to provide that the above described Supportive Services will be required to be provided to the seven referenced projects. Mr. Waterhouse has informed me that HACEP will agree to amend the LURAs as requested so long it has the right to discontinue providing a service if lack of attendance reasonably justifies discontinuation of the service, or if the service becomes cost prohibitive or if a reasonably qualified vendor cannot be found. In this event, HACEP will agree to propose a substitute supportive service to TDHCA for approval.

2. **Additional Property Tax Relief:** At our meeting on June 18, 2014, Stan Waterhouse, HACEP's Chief Operating Officer, discussed property taxes when HACEP is the owner of general partnership interests. Under V.A.T.C §23.21, affordable housing projects are appraised by the El Paso Central Appraisal District based on actual rentals received as opposed to fair market rental value. These results in a reduction in taxes compared to market rate projects. The reduction in appraised value reduces the taxes by approximately 50%. I am attaching El Paso CAD property reports on three representative HACEP projects to demonstrate that the El Paso CAD reduces the appraised value to a taxable value that is 50% of the appraised value. I have been advised by counsel to HACEP that its existing tax credit portfolio receives at least a 50% exemption from property taxes on this basis. However, some of HACEP's tax credit portfolio receives a greater exemption amount depending on certain factors and ownership

structures. There is a provision in the Texas Local Government Code (§392.005) that grants a full exemption to housing authorities for properties that are devoted to public purposes (i.e. public housing). There are also federal laws and interlocal agreements between HACEP and the local taxing authorities which afford HACEP exemptions from property taxes for its affordable housing developments. However, these particular provisions have generally been invoked only for developments which have federal public housing units, other affordable housing programs/services, or ownership structures, which is not the case here. HACEP's outside counsel anticipates a 50% property tax treatment for these properties, although there may be the possibility of additional exemptions applying.

3. **Availability of HUBs in El Paso, Texas**: Tom Gouris asked about the availability of existing HUBs in El Paso, Texas that could serve as a substitute for IBI other than Tropicana Properties, Inc., which is an IBI competitor. IBI has not been able to identify any person or persons who have the knowledge and/or desire to organize a HUB to own a general partnership interest in a tax credit project because of the regulatory burdens and long learning curve. In a perfect world, given enough time, IBI could possibly interest a qualified woman or minority to organize a HUB to own a general partnership interest in a tax credit project. However, in my judgment, I do not see it happening because, once potential owners realize the burdens, they look for less burdensome projects to own.

If you have any questions, do not hesitate to contact me.

Very truly yours,

Francis S. Ainsa Jr.

FSA/lb

cc: Investment Builders, Inc.
Housing Authority of the City of El Paso
Ms. Sarah Anderson

El Paso CAD

Property Search Results > 368942 WESTERN PELLICANO LTD for Year 2014

Property

Account

Property ID:	368942	Legal Description:	506 VISTA DEL SOL #138 LOT 82 (61232.00 SQ FT)
Geographic ID:	V89399950608200	Agent Code:	
Type:	Real		
Property Use Code:			
Property Use Description:			

Location

Address:	11973 PELLICANO DR EL PASO, TX	Mapsco:	
Neighborhood:	EAST SOCORRO ISD NORTH OF I-10	Map ID:	NEB249
Neighborhood CD:	512		

Owner

Name:	WESTERN PELLICANO LTD	Owner ID:	143891
Mailing Address:	% HACEP ACQUISITION CORPORATION PO BOX 9367 EL PASO, TX 79995-9367	% Ownership:	100.0000000000%
		Exemptions:	LIH

Values

(+) Improvement Homesite Value:	+	$0	
(+) Improvement Non-Homesite Value:	+	$467,369	
(+) Land Homesite Value:	+	$0	
(+) Land Non-Homesite Value:	+	$150,631	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	$0	$0
(+) Timber Market Valuation:	+	$0	$0
(=) Market Value:	=	$618,000	
(–) Ag or Timber Use Value Reduction:	–	$0	
(=) Appraised Value:	=	$618,000	
(–) HS Cap:	–	$0	
(=) Assessed Value:	=	$618,000	

Taxing Jurisdiction

Owner: WESTERN PELLICANO LTD
% Ownership: 100.0000000000%
Total Value: $618,000

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	CENTRAL APPRAISAL DISTRICT	0.000000	$618,000	$309,000	$0.00
CEP	CITY OF EL PASO	0.678378	$618,000	$309,000	$2,096.19
G01	EL PASO COUNTY	0.433125	$618,000	$309,000	$1,338.36
ISO	SOCORRO I.S.D.	1.274794	$618,000	$309,000	$3,939.11
SCC	EL PASO COMMUNITY COLLEGE	0.124359	$618,000	$309,000	$384.27
SHO	UNIVERSITY MEDICAL CENTER OF EL PASO	0.214393	$618,000	$309,000	$662.47
	Total Tax Rate:	2.725049			
				Taxes w/Current Exemptions:	$8,420.40
				Taxes w/o Exemptions:	$16,840.80

Improvement / Building

All improvmets valued at Income

Improvement #1:	Commercial	State Code:	B2	Living Area:	3382.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QLDA	892	1998	1691.0
MA1	UPPER FLOOR AREA	*		1998	1691.0
49W	SECURITY FENCING--WROUGHT IRON	*		1998	2479.0
45C	YARD PAVING--CONCRETE	*		1998	18316.0
45B	YARD PAVING--ASPHALT	*		1998	19286.0
50M	STAIRWAY--METAL	*		1998	158.0
46R	RETAINING WALL--ROCK	*		1998	2567.0
54S	STORAGE	*		1998	48.0
29B	BALCONY	*		1998	166.0
29P	PORCH	*		1998	166.0

Improvement #2:	Commercial	State Code:	B2	Living Area:	8402.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QLDA	892	1998	4201.0
MA1	UPPER FLOOR AREA	*		1998	4201.0
54S	STORAGE	*		1998	120.0
29P	PORCH	*		1998	425.0
29B	BALCONY	*		1998	425.0

Improvement #3:	Commercial	State Code:	B2	Living Area:	9301.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QLDA	892	1998	5168.0
MA1	UPPER FLOOR AREA	*			4133.0
54S	STORAGE	*		1998	240.0
29B	BALCONY	*		1998	392.0
29P	PORCH	*		1998	502.0

Improvement #4:	Commercial	State Code:	B2	Living Area:	5859.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QLDA	892	1998	3344.0
MA1	UPPER FLOOR AREA	*			2515.0
54S	STORAGE	*			71.0
29B	BALCONY	*		1998	226.0
29P	PORCH	*		1998	309.0
54S	STORAGE	*		0	84.0

Improvement #5:	Commercial	State Code:	B2	Living Area:	810.0 sqft	Value:	N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	PFDA	892	1998	810.0
60P	PEDESTRIAN CANOPY	*		1998	189.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	512824	APARTMENT AVG DISTRICT	1.4057	61232.00	0.00	0.00	$0	$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	$467,369	$150,631	0	618,000	$0	$618,000
2013	$467,369	$150,631	0	618,000	$0	$618,000
2012	$467,369	$150,631	0	618,000	$0	$618,000
2011	$474,105	$143,895	0	618,000	$0	$618,000
2010	$505,312	$112,666	0	617,978	$0	$617,978

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	5/2/1997 12:00:00 AM	S	Seller Statement	SHIELDS, LINDA A	WESTERN PELLIC/			

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Building and land detail information is not available prior to 2009.

Questions Please Call (915) 780-2000

Website version: 1.2.2.2

Database last updated on: 7/1/2014 8:36 PM

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El Paso CAD

Property Search Results > 350242 WESTERN BURGUNDY LTD for Year 2014

Property

Account

Property ID:	350242	Legal Description:	1 LE BARRON PARK ELY PT OF 1 (285.24' ON ST - 610.09' ON WLY -283.81' ON NLY- 628.49' ON ELY) (174241.57 SQ FT)
Geographic ID:	L21799900100125	Agent Code:	
Type:	Real		
Property Use Code:			
Property Use Description:			

Location

Address:	815 BURGUNDY DR EL PASO, TX	Mapsco:	
Neighborhood:	EASTSIDE--URBAN SOUTH OF I-10	Map ID:	SEA29
Neighborhood CD:	620		

Owner

Name:	WESTERN BURGUNDY LTD	Owner ID:	78417
Mailing Address:	% HOUSING AUTHORITY OF EL PASO 5300 E PAISANO DR EL PASO, TX 79905-2931	% Ownership:	100.0000000000%
		Exemptions:	UH

Values

(+) Improvement Homesite Value:	+	$0		
(+) Improvement Non-Homesite Value:	+	$1,146,517		
(+) Land Homesite Value:	+	$0		
(+) Land Non-Homesite Value:	+	$142,943	Ag / Timber Use Value	
(+) Agricultural Market Valuation:	+	$0		$0
(+) Timber Market Valuation:	+	$0		$0
(=) Market Value:	=	$1,289,460		
(–) Ag or Timber Use Value Reduction:	–	$0		
(=) Appraised Value:	=	$1,289,460		
(–) HS Cap:	–	$0		
(=) Assessed Value:	=	$1,289,460		

Taxing Jurisdiction

Owner: WESTERN BURGUNDY LTD
% Ownership: 100.0000000000%
Total Value: $1,289,460

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	CENTRAL APPRAISAL DISTRICT	0.000000	$1,289,460	$644,730	$0.00
CEP	CITY OF EL PASO	0.678378	$1,289,460	$644,730	$4,373.71
G01	EL PASO COUNTY	0.433125	$1,289,460	$644,730	$2,792.43
IYS	YSLETA I.S.D.	1.360000	$1,289,460	$644,730	$8,768.33
SCC	EL PASO COMMUNITY COLLEGE	0.124359	$1,289,460	$644,730	$801.78
SHO	UNIVERSITY MEDICAL CENTER OF EL PASO	0.214393	$1,289,460	$644,730	$1,382.26
	Total Tax Rate:	2.810255			
				Taxes w/Current Exemptions:	$18,118.56
				Taxes w/o Exemptions:	$36,237.11

Improvement / Building

All improvemets valued at income

Improvement #1: Commercial State Code: B2 Living Area: 3984.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1999	3984.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1999	128.0
45C	YARD PAVING--CONCRETE	*		1999	31926.0
49M	SECURITY FENCING--CONCRETE BLOCK	*		1999	3200.0
49C	SECURITY FENCING--CHAIN LINK	*		1999	1200.0
45B	YARD PAVING--ASPHALT	*		1999	62406.0
49W	SECURITY FENCING--WROUGHT IRON	*		1999	1698.0
49M	SECURITY FENCING--CONCRETE BLOCK	*		1999	8898.0

Improvement #2: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #3: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #4: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT

MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #5: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #6: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #7: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #8: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #9: Commercial State Code: B2 Living Area: 1221.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	PFDA	892	1998	1221.0
26S	SERVICE CANOPY	*		1998	1118.0

Improvement #10: Commercial State Code: B2 Living Area: 3964.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3964.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1998	128.0

Improvement #11: Commercial State Code: B2 Living Area: 3964.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3964.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1998	128.0

Improvement #12: Commercial State Code: B2 Living Area: 3964.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3964.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1998	128.0

Improvement #13: Commercial State Code: B2 Living Area: 3964.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3964.0
54S	STORAGE	*			64.0
26S	SERVICE CANOPY	*		1998	128.0

Improvement #14: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #15: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #16: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Improvement #17: Commercial State Code: B2 Living Area: 3336.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	892	1998	3336.0
54S	STORAGE	*			60.0
26S	SERVICE CANOPY	*		1998	160.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	520834	APARTMENT BELOW AVG DISTRICT	3.7705	164244.35	0.00	0.00	$0	$0
2	520824	APARTMENT AVG DISTRICT	0.2296	10000.00	0.00	0.00	$0	$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	$1,146,517	$142,943	0	1,289,460	$0	$1,289,460
2013	$1,146,517	$142,943	0	1,289,460	$0	$1,289,460
2012	$1,146,517	$142,943	0	1,289,460	$0	$1,289,460
2011	$1,146,513	$142,943	0	1,289,456	$0	$1,289,456
2010	$1,166,699	$142,940	0	1,309,639	$0	$1,309,639

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	11/14/1997 12:00:00 AM	L	CAD/Other	NORTH LOOP COF	WESTERN BURGU	3277	1297	

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Building and land detail information is not available prior to 2009.

Questions Please Call (915) 780-2000

Website version: 1.2.2.2

Database last updated on: 7/1/2014 8:38 PM

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El Paso CAD

Property Search Results > 22926 WESTERN REDD ROAD LTD for Year 2014

Property

Account

Property ID:	22926	Legal Description:	22 WEST HILLS #5 SELY PT OF 42 (297.16' ON ST- 208.55' ON SWLY-283.61' ON NWLY- 248.69' ON NELY)(65340.24 SQ FT)
Geographic ID:	W145999002204250	Agent Code:	
Type:	Real		
Property Use Code:			
Property Use Description:			

Location

Address:	610 REDD RD EL PASO, TX	Mapsco:	
Neighborhood:	WESTSIDE EAST OF I-10	Map ID:	NWC118
Neighborhood CD:	110		

Owner

Name:	WESTERN REDD ROAD LTD	Owner ID:	517601
Mailing Address:	% HACEP ACQUISITION CORPORATION PO BOX 9367 EL PASO, TX 79995-9367	% Ownership:	100.0000000000%
		Exemptions:	UH

Values

(+) Improvement Homesite Value:	+	$0		
(+) Improvement Non-Homesite Value:	+	$440,247		
(+) Land Homesite Value:	+	$0		
(+) Land Non-Homesite Value:	+	$160,083	Ag / Timber Use Value	
(+) Agricultural Market Valuation:	+	$0		$0
(+) Timber Market Valuation:	+	$0		$0
(=) Market Value:	=	$600,330		
(–) Ag or Timber Use Value Reduction:	–	$0		
(=) Appraised Value:	=	$600,330		
(–) HS Cap:	–	$0		
(=) Assessed Value:	=	$600,330		

Taxing Jurisdiction

Owner: WESTERN REDD ROAD LTD
% Ownership: 100.0000000000%
Total Value: $600,330

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	CENTRAL APPRAISAL DISTRICT	0.000000	$600,330	$300,165	$0.00
CEP	CITY OF EL PASO	0.678378	$600,330	$300,165	$2,036.25
G01	EL PASO COUNTY	0.433125	$600,330	$300,165	$1,300.09
IEP	EL PASO I.S.D.	1.235000	$600,330	$300,165	$3,707.04
SCC	EL PASO COMMUNITY COLLEGE	0.124359	$600,330	$300,165	$373.28
SHO	UNIVERSITY MEDICAL CENTER OF EL PASO	0.214393	$600,330	$300,165	$643.53
	Total Tax Rate:	2.685255			
				Taxes w/Current Exemptions:	$8,060.19
				Taxes w/o Exemptions:	$18,120.39

Improvement / Building

All improvmets valued at income

Improvement #1: Commercial State Code: B2 Living Area: 6188.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	692	1997	3094.0
MA1	UPPER FLOOR AREA	*			3094.0
29B	BALCONY	*			1605.0
49C	SECURITY FENCING--CHAIN LINK	*		1997	3060.0
49W	SECURITY FENCING--WROUGHT IRON	*		1997	730.0
45B	YARD PAVING--ASPHALT	*		1997	23010.0
49M	SECURITY FENCING--CONCRETE BLOCK	*		1997	213.0
45C	YARD PAVING--CONCRETE	*		1997	5752.0
50M	STAIRWAY--METAL	*		1997	118.0

Improvement #2: Commercial State Code: B2 Living Area: 8030.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	692	1997	4015.0
MA1	UPPER FLOOR AREA	*			4015.0

Improvement #3: Commercial State Code: B2 Living Area: 11853.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	QNDA	692	1997	6881.0
MA1	UPPER FLOOR AREA	*			4972.0

Improvement #4: Commercial State Code: B2 Living Area: 610.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	PFDA	692	1997	610.0
60P	PEDESTRIAN CANOPY	*			180.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	110924	APARTMENT AVG DISTRICT	1.5000	65340.00	0.00	0.00	$0	$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	$440,247	$160,083	0	600,330	$0	$600,330
2013	$440,247	$160,083	0	600,330	$0	$600,330
2012	$440,247	$160,083	0	600,330	$0	$600,330
2011	$474,227	$126,106	0	600,333	$0	$600,333
2010	$862,401	$126,106	0	988,507	$0	$988,507

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	12/13/1995 12:00:00 AM	S	Seller Statement	INVESTMENT SUL	WESTERN REDD F	2987	1752	

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Information relating to 2014 should be considered a "work in progress". Prior year data is informational only and does not necessarily replicate the values certified to the tax office.

Building and land detail information is not available prior to 2009.

Questions Please Call (915) 780-2000

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AINSA HUTSON, LLP
ATTORNEYS AT LAW
5809 Acacia Circle · El Paso, Texas 79912
Tel: (915) 845-5300 · Fax: (915) 832-3547

Francis S. Ainsa Jr. Email: fain@acaciapark.com

June 20, 2014

Mr. Tim Irvine
Executive Director
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Cameron Dorsey
Deputy Executive Director of Multifamily Finance and Fair Housing
Ms. Cari Garcia
Director of Asset Management
Deputy Director
Mr. Rosalio Banuelos
Asset Manager
Ms. Barbara Deane
General Counsel
Texas Department of Housing and Community Affairs
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Applications by Cactus Rose, Ltd., Fonseca, Ltd., NCDO Housing, Ltd. Painted Desert Townhomes, Ltd. Prado, Ltd., Western Whirlwind, Ltd., and Whispering Sands Townhomes, Ltd. to amend the LURAs applicable to these projects to delete the requirement that the managing general partner maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Irvine, Mr. Gouris, Mr. Dorsey, Ms. Garcia, Mr. Banuelos, and Ms. Deane:

With this letter, I will reiterate the matters that we discussed during our meeting on June 18, 2014. In addition to all of you, the following individuals were also present at the meeting: Gerald Cichon, Chief Executive Officer of the Housing Authority of the City of El Paso ("HACEP"), Stan Waterhouse, Chief Operating Officer of HACEP, Ike J. Monty, President of Investment Builders, Inc. ("IBI"), Sarah Anderson, affordable housing consultant to HACEP, and the undersigned legal counsel to IBI and its subsidiaries.

For the record, I requested the meeting so that the HACEP representatives and the IBI representatives could discuss the TDHCA staff's concerns regarding the proposed amendments to the LURAs applicable to the referenced projects.

I will briefly summarize the arguments that were advanced by the IBI and the HACEP representatives for supporting the proposed amendments:

1. **Public Policy applicable to HUBs**: The public policy of the State of Texas to utilize HUBs in state contracting opportunities has been met with respect to the seven referenced projects and the substitution of a Qualified Nonprofit Organization controlled by HACEP will be better for the residents than retaining the current HUBs.

2. **Additional Supportive Services**: HACEP, through the substitute general partners that it controls, will furnish the following additional supportive services that are not being currently provided to the seven referenced projects:

- Food pantry/common household items accessible to residents at least on a monthly basis
- Weekly character building program (i.e. teen dating violence, drug prevention, teambuilding, internet dangers, stranger danger, etc.)
- Annual Health fair
- Quarterly health and nutritional courses.
- Notary public services during regular business hours (i.e. qualifying PM)
- Annual income tax preparation (offered by an income tax prep service)
- Twice monthly onsite social events (i.e. potlucks, game night, sing-a-long, movie nights, birthday parties, holiday events, etc.)
- Senior Health Care Services

3. **HACEP's Financial Strength**: Over the long terms of the extended compliance periods, HACEP is in a much stronger financial position than the current HUBs to fund capital needs of the projects. HACEP's Audit Report for the years ended June 30, 2013, and June 30, 2012, is attached.

4. **HACEP's physical needs assessment:** HACEP has conducted inspections of the referenced projects including 25% of the interior units. Attached is an estimate by project totaling $1,281,765. The repairs include roofing, cooling systems, water heaters, exterior

building repairs and paint and minor interior repairs. These repairs vary from immediate to near future. HACEP has reserved these funds and they will be available for improvements subsequent to closing the transaction. Replacement reserves are available in addition to HACEP's reserves.

5. **Availability of HUBs in El Paso, Texas**: HACEP has indicated that it is not interested in forming a partnership or joint venture with a HUB with respect to any of the seven referenced projects. However, even if HACEP was interested, there are no existing HUBs in El Paso, Texas that could serve as a substitute for IBI other than Tropicana Properties, Inc., which is an IBI competitor. IBI has not been able to identify any person or persons who have the knowledge and/or desire to organize a HUB to own a general partnership interest in a tax credit project because of the regulatory burdens and long learning curve.

Both IBI and HACEP ask that you reconsider your recommendation that the TDHCA board not approve the proposed amendments to the LURAs and affirmatively recommend that good cause exists to approve the proposed amendments.

If you have any questions, do not hesitate to contact me.

Very truly yours,

Francis S. Ainsa Jr.

FSA/lb

cc: Investment Builders, Inc.
Housing Authority of the City of El Paso
Ms. Sarah Anderson

HOUSING AUTHORITY OF THE CITY OF EL PASO, TEXAS
IBI Acquisitions
Estimated Physical Needs Assessment
June 19, 2014

Community	Year Placed in Service	No. Units		Amount
Canyon Square	2011 / 2012	104	$	19,937
Desert Villas	2010 / 2011	94		13,485
Arrowhead Place	2002	24		34,731
Cactus Rose	2002	26		42,720
Fonesca	1997	14		24,297
NCDO I	2000	32		58,972
NCDO II	2001	16		10,240
Notre Dame Hills	2000	8		8,677
Patriot Hills	2001	22		29,927
Prado I	1999	64		120,748
Prado II	2000	16		10,778
Santa Lucia	2001	36		49,040
Sunshine Pass	2003	36		116,004
Western Whirlwind	2003	36		110,163
Whispering Sands	2004	36		76,005
Mission del Valle	2003	16		21,322
Mission Pass	2002 / 2003	36		36,571
Mountain Heights	2002	31		27,523
Tierra Socorro	2000	64		94,336
Hillside Senior Comm.	2000	25		74,696
Desert Breeze	2005	36		64,810
Geronimo	2003 / 2004	22		107,797
Painted Desert	2003 / 2004	20		38,514
Spanish Creek	2008 / 2009	136		78,100
Woodchase	2008 / 2009	128		12,370
	TOTALS	1078	$	1,281,765

FONSECA, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Fonseca, Ltd. ("Fonseca") to amend the LURA to delete the requirement that the managing general partner, Investment Builders, Inc. ("IBI") maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Fonseca under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Fonseca desires to amend the LURA encumbering the property located at 627 Fonseca Drive, El Paso, Texas, to delete the requirement that the managing general partner, IBI, maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

2. **Reason for the Requested Change:** IBI and Paisano Fonseca, LLC ("Paisano Fonseca") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI has agreed to sell and assign its managing general partnership interest in Fonseca to Paisano Fonseca. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI is a for profit corporation owned by Ike J. Monty and is a HUB. Paisano Fonseca is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Fonseca is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Cactus Rose cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Fonseca asserts that good cause exists to approve the requested amendment for the following reasons:

(a) An attempt has been made to determine if Fonseca could have been structured with either a Qualified Nonprofit Organization or a HUB with no difference in scoring. One document was located. It is the 1995 Recommendations from TDHCA staff for awards under the General Set Aside. Four El Paso projects were recommended for awards of tax credits: Fonseca, Ltd., Western Redd Road, Ltd., Western Yarbrough, Ltd. and Saul Kleinfeld. All four projects were developed by IBI. The LURA pertaining to Fonseca, Ltd. shows that the project is required to have a HUB during the compliance period. However, the QAP indicates that IBI could have chosen a qualified nonprofit instead of a HUB. The 1995 QAP gave 5 points for using a HUB and 3 points for using a qualified nonprofit. (See Exhibit B). If IBI had elected to use a qualified nonprofit, its score would have been decreased by only 2 points. Given the scores of the other three projects, Fonseca, Ltd. would still have been competitive at 83 points. Additionally, Ike J. Monty and Cynthia Bast both recollect that the four listed projects were the only applications from El Paso in the 1995 round. Unfortunately, the submission logs for 1995 have not been located to confirm this point but Ike Monty feels strongly that his recollection is accurate. I would also refer you to the other attachment to my transmittal email, which is labeled IBI Portfolio TDHCA letters. The first relevant letter is dated August 20, 2004 from Edwina P. Carrington, Executive Director of TDHCA to Rudolf Montiel, P.E. Executive Director of HACEP. Ms. Carrington granted HACEP's request to substitute Affordable Housing Saul Kleinfeld, LLC (a HACEP entity) for the general partner in Saul Kleinfeld, Ltd. Other HACEP entities were approved to replace the original general partner in the other five named entities. Saul Kleinfeld had a HUB and no qualified nonprofit, just like ownership structure of Fonseca. The point is that TDHCA has already approved the substitution of an HUB with a HACEP entity in a project that is identical to Fonseca.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American, or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Fonseca cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Fonseca and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Fonseca, will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Fonseca or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period has already expired.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Fonseca requests that the proposed amendment be approved by TDHCA.

Very truly yours,

Fonseca, Ltd.

By: Investment Builders, Inc.,
General Partner

By: ________________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

(C) EXHIBIT 216: Label as EXHIBIT 216, evidence that a HUB, which has conducted business as such, has existed for at least one year and has been certified by the General Services Commission, and is either the project owner or has the *controlling interest* in the project owner. (5 points)

(5) PARTICIPATION OF LOCAL TAX EXEMPT ORGANIZATIONS

(A) EXHIBIT 217: Label as EXHIBIT 217, evidence that the subject development has significant participation by a qualified non profit entity with substantial experience in the development and management of affordable housing. To qualify under this section, a non profit entity must have existed for at least 24 months prior to the date of the application with respect to the subject development, and must either be the project owner or hold the *controlling interest* in the project owner. Additional information to be provided with respect to the non profit entity shall include a schedule of properties owner (whether directly or indirectly) years of ownership, addresses of properties, number of units in the properties, and the percentage of direct or indirect ownership of each property. (3 points)

(B) [redacted] evidence that property owner has an executed [redacted]cal tax exempt organization for the provision of special supportive services that would not otherwise be available to the tenants. [redacted]

(i) the duration of the service agreement,

(ii) the accessibility and appropriateness of the service to the tenants,

(iii) the experience of the service provider, and

(iv) the importance of the service in enhancing the tenants standard of living. The supportive service will be included in the Land Use Restrictive Covenants ([redacted])

(6) TENANT POPULATIONS WITH SPECIAL HOUSING NEEDS

(A) This criterion applies exclusively to elderly projects located in areas that are not served by RECDS. In addition, the project

ALL-STATE LEGAL
EXHIBIT
13

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

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[1] US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

[2] HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

[3] The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

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4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

NOTICE OF PUBLIC HEARING

May 29, 2014

All tenants residing in Fonseca Apartments
627 Fonseca Drive
El Paso, Texas 79905

Sterling Corporate Tax Credit Fund IV, L.P.
c/o Ms. Laurie S. Amster
111 Great Neck Rd.
Great Neck, NY 11021

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Naomi Gonzalez
6044 Gateway East, Ste. 818
El Paso, Texas 79905

Mayor Oscar Leeser
300 North Campbell
El Paso, Texas 79901

Please take notice that Fonseca, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Fonseca Apartments. The hearing will take place at the following time and location:

Friday, June 13, 2014
5:30 p.m.
Community Room
Fonseca Apartments
627 Fonseca Drive
El Paso, Texas 79905

Proposed Amendment:

Fonseca, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and maintain ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.

Background Information:

- The Fonseca Apartments are owned by Fonseca, Ltd., a Texas limited partnership.

- The amendment is being proposed by Investment Builders, Inc. ("IBI"), which is the current managing general partner of Fonseca, Ltd. a Texas limited partnership.

- IBI has entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Fonseca, LLC, a Texas limited liability company, which is a subsidiary of Paisano Housing Redevelopment Corporation ("Paisano Housing").

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Fonseca, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Fonseca, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Fonseca, LLC will make presentations regarding why the amendment is being proposed. Tenants of the Fonseca Apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

PRADO, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Prado , Ltd. ("Prado ") to amend the LURA to delete the requirement that the managing general partner, Investment Builders, Inc. ("IBI") maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Prado under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Prado desires to amend the LURA encumbering the property located at 151 S. Prado Road, El Paso, Texas, to delete the requirement that the managing general partner, Investment Builders, Inc. ("IBI") maintain its ownership in and status as a HUB during the compliance period, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization that materially participates in the operation of the project during the compliance period.

2. **Reason for the Requested Change:** IBI and Paisano Prado I, LLC ("Paisano Prado") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI has agreed to sell and assign its managing general partnership interest in Prado to Paisano Prado. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI is a for profit Texas corporation owned by Ike J. Monty and is a HUB. Paisano Prado is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Prado is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano NCDO cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Prado asserts that good cause exists to approve the requested amendment for the following reasons:

(a) An attempt has been made to determine if Prado could have been structured with either a Qualified Nonprofit Organization or a HUB with no difference in scoring. Three documents were located: the 1997 LIHTC Application Submission Log, the 1997 Ad Hoc Committee Recommendation List show projects that were awarded tax credits and the 1997 Ad Hoc Committee Recommendation List showing the projects that did not receive an award. Two El Paso projects were competing in the nonprofit set aside. Prado, which was being developed by IBI, and Los Jardines, which was being developed by Paisano Housing Redevelopment Corp., a subsidiary of HACEP. The LURA pertaining to Prado shows that the project is required to have a HUB and a qualified nonprofit during the compliance period. The 1997 QAP gave 5 points for using a HUB. If IBI had not used a HUB, its score would have been reduced by 5 points (78 to 73). This would have given Los Jardines the highest score (77). However, Los Jardines was being developed by a Paisano Housing, which is a qualified nonprofit owned by HACEP. By operation of law, HACEP entities cannot qualify as HUBs, which tells me that HACEP was not proposing to use a HUB in its application. Thus, even if Los Jardines was awarded credits, the project would not have had a HUB and, most important, if TDHCA approves this request the HACEP entity that would have received the award will be the replacement for the HUB. In addition to the letter from Edwina P. Carrington to Rudolf Montiel, P.E. granting HACEP's request to substitute Affordable Housing Saul Kleinfeld, LLC (a HACEP entity) for the general partner in Saul Kleinfeld, Ltd, there are still more instances where TDHCA has approved requests to substitute a HACEP entity for a HUB. Please see the letter dated December 31, 2004 from Ms. Carrington to Ms. Richardson approving the substitution of Affordable Housing Meadowbrook, LLC (a HACEP entity) for the IBI HUB. Also please see the letter dated January 8, 2007 from Ms. Robbye Meyer to Vince Dodds approving the replacement of the IBI HUB in Western Redd Road, Ltd. and Western Yarbrough, Ltd. with an Affordable Housing entity owned by HACEP. Finally, please see the letter dated December 30, 2009 from Mr. Michael Gerber to Ms. Richardson approving the IBI HUB with HAC Cedar Oak, Inc., which is an entity owned by HACEP. In short, it appears that TDHCA has not had an issue with replacing an IBI HUB with a HACEP owned entity when requested to do so. Please see Exhibit D attached.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Prado cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Prado and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Prado will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Prado or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period expires in 2014.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Prado requests that the proposed amendment be approved by TDHCA.

Very truly yours,

Prado, Ltd.

By: Investment Builders, Inc.,
General Partner

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

Prado

(4) SPONSOR CHARACTERISTICS

(A) "EXHIBIT 210: Label as EXHIBIT 210, evidence that the ownership entity, general partner, general contractor or its principals have a record of successfully constructing or developing residential/commercial property. Evidence must be in the form of the AIA Document A111 - Standard Form of Agreement Between Owner & Contractor, the AIA Document G704 - Certificate of Substantial Completion, IRS Form 8609, Development Agreements and Partnership Agreements, HUD Form 9822, or other appropriate documentation verifying that the ownership entity, general partner, general contractor or their principals have the required experience. (NOTE: The names on the forms and agreements must tie back to the ownership entity, general partner, general contractor and their respective principals as listed in the application.) *Property Owners in noncompliance with any of the aforementioned programs, but which are not barred from having an Application recommended by §50.4(f), or which have had a continuing pattern of defaults and foreclosures are ineligible to claim the points for this item* (10 points). The term "successfully" is defined as acting in a capacity as the general contractor or developer of;

(i) at least 100 multifamily residential units or comparable commercial property (i.e., dormitory and hotel/motel); or

(ii) at least 35 multifamily residential units or comparable commercial property if the project applying for credits is a Rural Project."

(B) EXHIBIT 211: Label as EXHIBIT 211, evidence that the HUB has been certified by the General Services Commission and is the Project Owner or Controls the Project Owner. With respect to the filing of an Application and the development, operation and ownership of a Project, the historically underutilized person or persons whose ownership interests comprise a majority of a corporation, partnership, joint venture or other business entity, must maintain this majority and must demonstrate regular, continuous, and substantial participation in the operation and management activities of the entity. Likewise, with regard to a sole proprietorship, the individual who comprises the sole proprietorship must demonstrate regular, continuous, and substantial participation in the development, operation and ownership of the Project. The Department shall require evidence of regular, continuous and substantial participation and this evidence shall include, but not limited to, the agreement to personally guarantee the interim construction loan secured (and all other guarantees to the equity investor) relative to the development of a Project by the person or persons upon whose purported ownership interest(s) and participation form the basis for which the designation of a HUB is being claimed. Any such guarantee wherein an Affiliate, partner and or Beneficial Owner of the guarantor agrees to indemnify, in whole or in part, the guarantor from the liability arising from the guarantee, shall not constitute said evidence. The Department shall, during and after the Application Round, monitor those individuals upon whose purported ownership interest(s) and participation form the basis for which the designation of HUB is being claimed and may require the submission of any additional documentation as required to verify said evidence. To qualify for these points, in addition to the certification from the General Services Commission, the historically underutilized person or persons whose ownership interest(s) form the basis of the HUB designation must provide the necessary loan and syndication guarantees to develop the Project. The Department's goal is to have substantive participation by those individuals upon whose purported ownership interest(s) and participation form the basis for which the designation as a HUB is claimed. A determination by the Department that there has been a material misrepresentation as to such participation or that insufficient evidence has been provided to substantiate such participation will be final and points awarded for HUB participation will be withdrawn accordingly. (5 points)

(5) PARTICIPATION OF LOCAL TAX EXEMPT ORGANIZATIONS.

EXHIBIT 212: Label as EXHIBIT 212, evidence that the Property owner has an executed agreement with a Local Tax Exempt Organization for the provision of special supportive services that would not otherwise be available to the tenants. The supportive services will be evaluated based upon the following:

(A) the duration of the service agreement,

(B) the accessibility and appropriateness of the service to the tenants,

(C) the experience of the service provider, and

(D) the importance of the service in enhancing the tenants standard of living. The supportive service will be included in the LURA. (Up to 5 points)

ALL-STATE LEGAL® EXHIBIT D

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

1831

TEXAS
DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

WWW.TDHCA.STATE.TX.US

RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

August 30, 2004

Rudolf Montiel, P.E.
Housing Authority of the City of El Paso
5300 East Paisano Drive
El Paso, Texas 79905

Re:

Development Owner	Development	HTC No.
Saul Kleinfeld, Ltd.	Saul Kleinfeld Apartments	95024
Western Pebble Hills, Ltd.	Western Pebble Hills Apartments	96067
Western Pellicano, Ltd.	Western Pellicano Apartments	96068

Dear Mr. Montiel:

A letter from Locke Liddell & Sapp LLP, dated August 25, 2004, requested approval from the Department for the replacement of the general partner of each of the Development Owners named above. The replacement general partners would be affiliates of the Housing Authority of the City of El Paso, as follow:

Development	HTC No.	New General Partner
Saul Kleinfeld Apartments	95024	Affordable Housing Saul Kleinfeld, LLC
Western Pebble Hills Apartments	96067	Affordable Housing Western Pebble Hills, LLC
Western Pellicano Apartments	96068	Affordable Housing Western Pellicano, LLC

Your request is granted.

Sincerely,

Edwina P. Carrington

Edwina P. Carrington
Executive Director

MFP/BS
cc: Ruth Cedillo, Deputy Executive Director

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3266

TEXAS
DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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RICK PERRY
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EDWINA P. CARRINGTON
Executive Director

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Elizabeth Anderson, Chair
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C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

December 31, 2004

Ms. Christine R. Richardson
Locke Liddell & Sapp LLP
100 Congress Avenue, Suite 300
Austin, Texas 78701-4042

Re: Meadowbrook Townhomes, Ltd. (the Development Owner)
Meadowbrook Townhomes (the Development)
Housing Tax Credit Development No. 02067

Dear Ms. Richardson:

Your letter of December 13, 2004 requested approval to replace the general partner of the development owner named above. Under the request, Affordable Housing Meadowbrook, LLC (AHM) would replace IBI Meadowbrook, LLC, an organization whose sole member is Investment Builders Inc., an Historically Underutilized Business. AHM is a wholly-owned instrumentality of HACEP Acquisition Corp., a for-profit organization that is, itself, a wholly-owned instrumentality of the Housing Authority of the City of El Paso.

Your request is granted. This letter will be forwarded to our Portfolio Management and Compliance Division.

Sincerely,

Edwina P. Carrington

Edwina P. Carrington
Executive Director

MFP/BS
cc: Ruth Cedillo, Deputy Executive Director

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Rick Perry
GOVERNOR

Michael Gerber
EXECUTIVE DIRECTOR

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogany
C. Kent Conine
Sonny Flores
Gloria Ray
Norberto Salinas

January 8, 2007

Mr. Vince Dodds
Chief Executive Officer
The Housing Authority of the City of El Paso
5300 East Paisano Drive
El Paso, Texas 79905-2931

Re:	Western Redd Road	HTC No. 95027	Western Carolina	HTC No. 97025
	Western Yarbrough	HTC No. 95028	Western Burgundy	HTC No. 97088
	~~Western Gallagher~~	~~HTC No. 96070~~	Lee Seniors	HTC No. 98093
	Western Crosby	HTC No. 97023	Western Eastside Seniors	HTC No. 99097

Dear Mr. Dodds:

Your letters of December 22, 2006 requested approval for changes that have been made in the ownership structure of the development owner of each development named above. As indicated by the letters and accompanying documents, the name that follows each development name below is the name of the organization that is now the general partner of the owner. Each entity below is wholly owned and controlled by Paisano Housing Redevelopment Corp., a wholly owned and controlled affiliate of The Housing Authority of the City of El Paso.

Western Redd Road, HTC No. 95027
Affordable Housing Western Redd Road, LLC

Western Yarbrough, HTC No. 95028
Affordable Housing Western Yarbrough, LLC

Western Gallagher, HTC No. 96070
Affordable Housing Western Gallagher, LLC

Western Crosby, HTC No. 97023
Affordable Housing Western Crosby, LLC

Western Carolina, HTC No. 97025
Affordable Housing Western Carolina, LLC

Western Burgundy, HTC No. 97088
Affordable Housing Western Burgundy, LLC

Lee Seniors, HTC No. 98093
Affordable Housing Western Lee Elderly, LLC

Western Eastside Seniors, HTC No. 99097
Affordable Housing Eastside Elderly, LLC

Your request is granted. This letter will be forwarded to our Portfolio Management and Compliance Division.

Sincerely,

Robbye Meyer
Director of Multifamily Finance Production

MFP/bs

Cc: Patricia Murphy, Manager of Compliance

RECEIVED
JAN 09 2007
COMPLIANCE

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Rick Perry
GOVERNOR

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Gloria Ray, *Vice Chair*
Leslie Bingham Escareño
Tom H. Gann
Lowell A. Keig
Juan S. Muñoz, Ph.D.

December 30, 2009

Christine Richardson
Locke , Lord, Bissell & Liddell, LLP
100 Congress Avenue, Suite 300
Austin, Texas 78701-2748

Re: Cedar Oak Townhomes (the Development) El Paso
Cedar Oak Townhomes, Ltd. (the Development Owner)
Housing Tax Credit Development No. 04070 / 060250

Dear Ms. Richardson:

The Texas Department of Housing and Community Affairs received your letter of December 14, 2009. The letter requested approval for a change in the ownership structure of the development owner named above. The structure would change by replacing the current general partner, IBI Cedar Oak Townhomes, LLC, with HAC Cedar Oak, Inc. HAC Cedar Oak, Inc is an instrumentality of the Housing Authority of the City of El Paso.

Additionally, you have requested a waiver of the requirement to replace the Historically Underutilized Business (HUB) general partner with a non-HUB. The replacement of IBI Cedar Oak Townhomes with a non-HUB results in the loss of HUB points; however, this would not have negatively affected the award.

Your requests are granted. This letter will be forwarded to our Compliance and Asset Oversight Division and to the Real Estate Analysis Division.

Thank you for your letter.

Sincerely,

Michael Gerber
Executive Director

MFP/eh

Cc: Patricia Murphy, Chief of Compliance and Asset Oversight
Audrey Martin, Manager of Real Estate Analysis

Texas Department of Housing and Community Affairs

www.tdhca.state.tx.us

Rick Perry
Governor

Michael Gerber
Executive Director

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C. Kent Conine, *Chair*
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Leslie Bingham Escareño
Tom H. Gann
Lowell A. Keig
Juan S. Muñoz, Ph.D.

December 30, 2009

Christine Richardson
Locke , Lord, Bissell & Liddell, LLP
100 Congress Avenue, Suite 300
Austin, Texas 78701-2748

Re: North Mountain Village (the Development) El Paso
North Mountain Village, Ltd. (the Development Owner)
Housing Tax Credit Development No. 05060

Dear Ms. Richardson:

The Texas Department of Housing and Community Affairs received your letter of December 14, 2009. The letter requested approval for a change in the ownership structure of the development owner named above. The structure would change by replacing the current general partners, IBI North Mountain Village, LLC and TMC North Mountain Village, LLC, with HAC North Mountain, Inc. HAC North Mountain, Inc is an instrumentality of the Housing Authority of the City of El Paso.

Additionally, you have requested a waiver of the requirement to replace the Historically Underutilized Business (HUB) general partner with a non-HUB. The replacement of TMC North Mountain Village, LLC with a non-HUB results in the loss of HUB points; however, this would not have negatively affected the award.

Your requests are granted. This letter will be forwarded to our Compliance and Asset Oversight Division and to the Real Estate Analysis Division.

Thank you for your letter.

Sincerely,

Michael Gerber
Executive Director

MFP/ch

Cc: Patricia Murphy, Chief of Compliance and Asset Oversight
Audrey Martin, Manager of Real Estate Analysis

221 East 11th • P. O. Box 13941 • Austin, Texas 78711-3941 • (800) 525-0657 • (512) 475-3800

Printed on recycled paper

NOTICE OF PUBLIC HEARING

May 29, 2014

All tenants residing in the Prado Apartments
151 South Prado Road
El Paso, Texas 79907

Midland Corporate Tax Credit XII LP
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Midland Mortgage Investment Corporation
for itself and as agent for
Midland Affordable Housing Group
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St.
El Paso, Texas 79901

Representative Naomi Gonzalez
6044 Gateway East, Suite 818
El Paso, Texas 79905

Mayor Oscar Leeser
300 North Campbell
El Paso, Texas 79901

Please take notice that Prado, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Prado Apartments. The hearing will take place at the following time and location:

Friday, June 13, 2014
5:30 p.m.
Public Room
Prado Apartments
151 South Prado Road
El Paso, Texas 79907

Proposed Amendment:

Prado, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization.

THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.

Background Information:

- The Prado Apartments are owned by Prado, Ltd., a Texas limited partnership.

- The amendment is being proposed by Investment Builders, Inc. ("IBI"), which is the current managing general partner of Prado, Ltd. a Texas limited partnership.

- The co-general non-profit partner is TVP Non-Profit Corporation, a Texas nonprofit corporation ("TVP").

- IBI and TVP have entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Housing Redevelopment Corporation ("Paisano Housing") and TVP will assign its general partnership interest to AHV Prado, LLC, a Texas limited liability company ("AHV Housing").

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization but is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Prado, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and AHV Housing will make presentations regarding why the amendment is being proposed. Tenants of the Prado Apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

NCDO HOUSING, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by NCDO Housing, Ltd. ("NCDO") to amend the LURA to delete the requirement that the managing general partner, IBI NCDO Housing LP, LLC ("IBI NCDO Housing") maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by NCDO under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: NCDO desires to amend the LURA encumbering the property located at 5250 Wren Avenue, El Paso, Texas, to delete the requirement that the managing general partner, IBI NCDO Housing maintain its ownership and its status as a HUB during the compliance period, and to substitute a requirement that during the remainder of the compliance period, the managing general partner be a Qualified Nonprofit Organization that materially participates in the operation of the project.

2. **Reason for the Requested Change:** IBI NCDO Housing and Paisano NCDO I, LLC ("Paisano NCDO") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI NCDO Housing has agreed to sell and assign its managing general partnership interest in NCDO to Paisano NCDO. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI NCDO Housing is a for profit Texas limited liability company whose sole member is IBI, which is a HUB. Paisano NCDO is a Texas limited liability company. Its sole member is

Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano NCDO is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano NCDO cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: NCDO asserts that good cause exists to approve the requested amendment for the following reasons:

(a) An attempt has been made to determine if NCDO could have been structured with either a Qualified Nonprofit Organization or a HUB with no difference in scoring. Two documents were located: the 1998 Low Income Tax Credit Application Submission Log and the 1998 LIHTC Allocation List. Two El Paso projects were competing in the nonprofit set aside: NCDO Housing, Ltd., and Santa Lucia Housing, both of which were being developed by IBI. The LURA pertaining to NCDO shows that the project is required to have a HUB and a qualified nonprofit during the compliance period. The 1998 QAP gave 5 points for using a HUB. If IBI had not used a HUB, its score would have been reduced by 5 points. However, this would not have impacted the award because only IBI was competing in the nonprofit set aside in El Paso. Reference should be made to the letters from TDHCA approving the substitution of the IBI HUB with an entity owned by HACEP. You have indicated that scoring information for these projects is either not available or does not show the effect on scoring of not claiming points for a HUB. My client does not have any records or information showing the effect on scoring if no HUB points had been claimed. See Exhibit C attached hereto.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian Pacific American, Native American or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano NCDO cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano NCDO and Paisano Housing are composed of the same persons who serve as directors on the HACEP board.

The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano NCDO will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of NCDO or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period expires in 2015.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, NCDO requests that the proposed amendment be approved by TDHCA.

NCDO Housing, Ltd.

By: Investment Builders, Inc.
General Partner

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

NCDO Housing

(vi) at least 35 multifamily residential units or comparable commercial property if the project applying for credits is a Rural Project; or

(vii) Property Owners in noncompliance with HUD, TxRD, HOME, or LIHTC, but which are not barred from having an Application recommended by §49.4(f), or which have had a continuing pattern of defaults and foreclosures are ineligible to claim the points for this item.

10 10

(B) EXHIBIT 211: Label as EXHIBIT 211, evidence that the HUB has been certified by the General Services Commission and is the Project Owner or Controls the Project Owner. With respect to the filing of an Application and the development, operation and ownership of a Project, the historically underutilized person or persons whose ownership interests comprise a majority of a corporation, partnership, joint venture or other business entity, must maintain this majority and must demonstrate regular, continuous, and substantial participation in the operation and management activities of the entity. Likewise, with regard to a sole proprietorship, the individual who comprises the sole proprietorship must demonstrate regular, continuous, and substantial participation in the development, operation and ownership of the Project. The Department shall require evidence of regular, continuous and substantial participation and this evidence shall include, but not limited to, the agreement to personally guarantee the interim construction loan secured (and all other guarantees to the equity investor) relative to the development of a Project by the person or persons upon whose purported ownership interest(s) and participation form the basis for which the designation of a HUB is being claimed. Any such guarantee wherein an Affiliate, partner and or Beneficial Owner of the guarantor agrees to indemnify, in whole or in part, the guarantor from the liability arising from the guarantee, shall not constitute said evidence. The Department shall, during and after the Application Round, monitor those individuals upon whose purported ownership interest(s) and participation form the basis for which the designation of HUB is being claimed and may require the submission of any additional documentation as required to verify said evidence. To qualify for these points, in addition to the certification from the General Services Commission, the historically underutilized person or persons whose ownership interest(s) form the basis of the HUB designation must provide the necessary loan and syndication guarantees to develop the Project. The Department's goal is to have substantive participation by those individuals upon whose purported ownership interest(s) and participation form the basis for which the designation as a HUB is claimed. A determination by the Department that there has been a material misrepresentation as to such participation or that insufficient evidence has been provided to substantiate such participation will be final and points awarded for HUB participation will be withdrawn accordingly.

5 5

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(C) the experience of the service provider, and

(D) the importance of the service in enhancing the tenants standard of living. The supportive service will be included in the LURA.

Up to 5 5

EXHIBIT

ALL-STATE LEGAL

C

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

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1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

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4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

NOTICE OF PUBLIC HEARING

May 29, 2014

All tenants residing in NCDO Housing
5250 Wren Avenue
El Paso, Texas 79907

Northeast Community Development Org.
c/o Dr. Gustavo Martinez, President
4756 Excalibur Drive
El Paso, Texas 79902

Midland Corporate Tax Credit V LP
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Marisa Marquez
1444 Montana, Ste. 100
El Paso, Texas 79902

Mayor Oscar Leeser
300 North Campbell
El Paso, Texas 79901

Please take notice that NCDO Housing, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the NCDO Housing Apartments. The hearing will take place at the following time and location:

Wednesday, June 11, 2014
5:30 p.m.
Community Room
NCDO Housing
5250 Wren Avenue
El Paso, Texas 79907

Proposed Amendment:

NCDO Housing, Ltd. is proposing that the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits (the "LURA") be amended to remove the requirement that the managing general partner must be a HUB and maintain ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.

Background Information:

- The NCDO Housing Apartments are owned by NCDO Housing, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI NCDO Housing LP, LLC, ("IBI"), which is the current managing general partner of NCDO Housing, Ltd. a Texas limited partnership.

- The co-general non-profit partner is Northeast Community Development Organization, a Texas nonprofit corporation ("NCDO").

- IBI and NCDO have entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano NCDO I, LLC, a Texas limited liability company, which is a subsidiary of Paisano Housing Redevelopment Corporation ("Paisano Housing").

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its ownership and HUB and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano NCDO I, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from NCDO Housing, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano NCDO I, LLC will make presentations regarding why the amendment is being proposed. Tenants of the NCDO Housing Apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

WESTERN WHIRLWIND LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Western Whirlwind, Ltd. ("Western Whirlwind") to amend the LURA to delete the requirement that the managing general partner, IBI Western Whirlwind, LLC ("IBI Western Whirlwind") maintain its status as a HUB during the compliance period and substantially participate in the operation of the project, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period and substantially participate in the operation of the project.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Western Whirlwind under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Western Whirlwind desires to amend the LURA encumbering the property located at 131 E. Lake Drive, Horizon City, Texas, to delete the requirement that the managing general partner, IBI Western Whirlwind, maintain its status as a HUB during the compliance period and substantially participate in the operation of the project and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period and substantially participate in the operation of the project.

2. **Reason for the Requested Change:** IBI Western Whirlwind and Paisano Western Whirlwind, LLC ("Paisano Western Whirlwind") have entered into a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI has agreed to sell and assign its managing general partnership interest in Western Whirlwind to Paisano Western Whirlwind. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI Western Whirlwind is a for profit Delaware limited liability company whose sole member is IBI, which is a HUB. Paisano Western Whirlwind is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Western Whirlwind is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Western Whirlwind cannot be legally organized as a HUB. This scoring during the application process is not

3. **Good Cause for the Requested Amendment**: Western Whirlwind asserts that good cause exists to approve the requested amendment for the following reasons:

(a) Western Whirlwind was originally owned by IBI Western Whirlwind, a for profit entity, and Santa Lucia Community Development Corporation (SLCDO"), a qualified nonprofit organization. In 2006, SLCDO was allowed by TDHC to withdraw as a general partner and IBI Western Whirlwind, LLC, was allowed to become the sole general partner. The original LURA did not require that a HUB own an interest in the project or be a general partner. Nonetheless, IBI was a HUB although no points were claimed for that status. When TDHCA permitted SLCDO to withdraw, it required that the LURA be amended to provide that a HUB must maintain an ownership in and substantially participate in the operation of the project. Thus, because there was no HUB in the original ownership structure, IBI and Paisano Western Whirlwind are requesting an amendment that would return to ownership to resemble the original structure. Please see attached Exhibit E.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Western Whirlwind cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano

Western Whirlwind and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Western Whirlwind will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Western Whirlwind or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period expires in 2018.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

Very truly yours,

Western Whirlwind, Ltd.

By: IBI Western Whirlwind, LLC

By: Investment Builders, Inc.,
Sole Member

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

TEXAS
DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

Texas Department of Housing and Community Affairs

Housing Tax Credit Program
U.S. Mailing Address: P.O. Box 13941, Austin, Texas 78711-3941
Private Carrier Delivery: 507 Sabine, Suite 400 Austin, TX 78701
Telephone: (512) 475-3340 Telecopier: (512) 475-0764

June 28, 2006

NOTICE OF BOARD DECISION RE: AMENDMENT REQUEST

To: Rick Morrow

HTC No. 01018, Western Whirlwind

Summary of Request: The owner requests approval for the for-profit co-general partner, IBI Western Whirlwind, LLC, a Historically Underutilized Business (HUB) to take complete ownership and control of the general partner interest. As proposed, the existing nonprofit co-general partner, Santa Lucia Community Development Organization, would withdraw from the ownership organization. In the application, the applicant qualified for three points under either of two mutually exclusive options: (1) operating the development as a joint venture between a for-profit and a nonprofit general partner, or (2) participation of a HUB in the ownership. The applicant chose to obtain the points for the joint venture instead of the HUB.

Governing Law:	§2306.6712, Texas Government Code. The code indicates that material alterations include any modification considered significant by the Board.
Owner:	Western Whirlwind, Ltd.
General Partner:	IBI Western Whirlwind, LLC (IBI); Santa Lucia Community Development Organization (SLCDO)
Developers:	Investment Builders Development Company, Inc.; SLCDO
Principals/Interested Parties:	Ike Monty (IBI); SLCDO
Syndicator:	MMA Financial, LLC
Construction Lender:	Midland Mortgage Investment Corporation
Permanent Lender:	Midland Affordable Housing Group Trust
Other Funding:	NA
City/County:	Horizon City/El Paso
Set-Aside:	Rural/Prison Communities (General Population)
Type of Area:	Rural
Type of Development:	New Construction
Population Served:	General Population
Units:	36 HTC units
2001 Allocation:	$267,524
Allocation per HTC Unit:	$7,431
Prior Board Actions:	7/01 – Approved award of tax credits
Underwriting Reevaluation:	The remaining principal would have sufficient financial resources to be acceptable as the sole general partner.
Staff Recommendation:	**Staff recommends approving the request with the stipulation to be included in an amendment to the LURA that the remaining and now, sole, general partner would continue to be a qualified HUB throughout the compliance period. The requested modifications would not materially alter the development in a negative manner and would not have adversely affected the selection of the application in the application round.**

THIS REQUEST WAS APPROVED AT THE BOARD MEETING OF JUNE 26, 2006. THE APPROVAL WILL BE CONFIRMED BY THE MINUTES AS APPROVED AND RECORDED IN A SUBSEQUENT BOARD MEETING.

Ben Sheppard

Ben Sheppard
Multifamily Finance Production

ALL-STATE LEGAL
EXHIBIT
E

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

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1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

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4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

NOTICE OF PUBLIC HEARING

May 29, 2014

All tenants residing in Western Whirlwind
131 E. Lake Drive
Horizon City, Texas 79928

Midland Corporate Tax Credit XVII LP
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Midland Special Limited Partner, Inc.
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Mary Gonzalez
1200 Santos Sanchez
Socorro, TX 79927

Mayor Walter Miller
14999 Darrington Road
Horizon City, Texas 79928

Please take notice that Western Whirlwind, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Western Whirlwind apartments. The hearing will take place at the following time and location:

Thursday, June 12, 2014
7:30 p.m.
Community Room
Western Whirlwind
131 E. Lake Drive
Horizon City, Texas 79928

Proposed Amendment:

Paisano Housing, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and maintain its ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.

Background Information:

- The Western Whirlwind apartments are owned by Western Whirlwind, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI Western Whirlwind, LLC ("IBI"), which is the sole managing general partner of Western Whirlwind, Ltd., a Texas limited partnership.

- IBI has entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Western Whirlwind, LLC.

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, IBI must maintain its ownership in the project, its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Western Whirlwind, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Western Whirlwind, Ltd.. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Western Whirlwind will make presentations regarding why the amendment is being proposed. Tenants of Western Whirlwind and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

CACTUS ROSE, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Cactus Rose, Ltd. ("Cactus Rose") to amend the LURA to delete the requirement that the managing general partner, IBI Cactus Rose, LLC ("IBI Cactus Rose") maintain its status as a HUB and an ownership interest in the project during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Cactus Rose under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Cactus Rose desires to amend the LURA encumbering the property located at 225 Poplar, Anthony, Texas to delete the requirement that Investment Builders, Inc., the sole member of the managing general partner, IBI Cactus Rose, maintain its status as a HUB and hold an ownership interest in the project, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the remainder of the compliance period, and materially participate in the operation of the project.

2. **Reason for the Requested Change:** IBI Cactus Rose, Paisano Cactus Rose, LLC ("Paisano"), and AHV Cactus Rose, Inc. intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI Cactus Rose has agreed to sell and assign its managing general partnership interest in Cactus Rose to Paisano Cactus Rose. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI Cactus Rose is a for profit Delaware limited liability company whose sole member is IBI, which is a HUB. Paisano Cactus Rose is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Cactus Rose is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Cactus Rose cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Cactus Rose asserts that good cause exists to approve the requested amendment for the following reasons:

(a) Under the QAP in effect when the application for credits was filed for Cactus Rose, the developer of Cactus Rose could have structured ownership of Cactus Rose with either a Qualified Nonprofit Organization or a HUB with no difference in scoring. Cactus Rose was a rural set aside project and had no competitors. In short, the developer would have been awarded credits for Cactus Rose even if a HUB had not been used in the ownership structure. Please refer top Exhibit A, which is page 30 from the 2001 LIHTC Application Submission Procedures Manuel. Exhibit A shows that the same number of points could be claimed regardless of whether a HUB or a Qualified Nonprofit Organization was used in the ownership of Cactus Rose.

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American, or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Cactus Rose cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Cactus Rose and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Cactus Rose, will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Cactus Rose or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period will end in 2017.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Cactus Rose requests that the proposed amendment be approved by TDHCA.

Very truly yours,

Cactus Rose, Ltd.

By: IBI Cactus Rose, LLC
General Partner

By: Investment Builders, Inc.,
Sole Member

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

 Cactus Rose

(K) The Project is comprised entirely of fourplexes and Town Homes. To qualify for these points the development must be on contiguous property under common ownership, management, and Control and must have a density of no more than 16 Units per acre. None of the residential buildings may share common roofs with other buildings. None of the residential buildings may have an exterior door that opens onto a breezeway or hallway that serves other units or buildings (5 points). 5 5

(L) Exhibit 205. For developments which involve rehabilitation of existing units, evidence that a majority of the development's residential Units are vacant and uninhabitable at the time the Application is submitted. Such evidence must be in the form of a letter and report from the local municipal authority citing substantial code violations. To qualify for these points, the Applicant or its Affiliates must not have owned a significant interest in, or have had Control of the Project during the period in which such Units were rendered uninhabitable (4 points). 4 0

(M) Exhibit 206. Evidence from the local municipal authority stating that the Project fulfills a need for additional affordable rental housing as evidenced in a local Consolidated Plan, Comprehensive Plan, other or local planning document. If the municipality does not have such a planning document, then a letter from the local municipal authority stating that there is no local plan and that the city supports the Project must be submitted (5 points). 5 5

(N) The Project consists of not more than 36 Units and is not a part of, or contiguous to, a larger Project. A Project may not receive points for this characteristic if it would otherwise qualify as a Rural Project (5 points). 5 0

(O) Exhibit 207. Evidence that the proposed Project is partially funded by a HOPE VI grant from HUD. The Project must have already received the commitment from HUD. Submission of a HOPE VI application to HUD does not qualify a Project for these points. Evidence shall include a copy of the commitment letter from HUD indicating the HOPE VI grant terms and grant award amount (5 points). 5 0

(4) Sponsor Characteristics. Projects may only receive points for one of the two criteria listed in subparagraphs (A) and (B) of this paragraph:

(A) EXHIBIT 208. Evidence that a HUB, as certified by the General Services Commission, is the Project Owner or Controls the Project Owner. With respect to the filing of an Application and the development, operation and ownership of a Project, the historically underutilized person or persons whose ownership interests comprise a majority of a corporation, partnership, joint venture or other business entity, must maintain this majority and must demonstrate regular, continuous, and substantial participation in the operation and management activities of the entity. Likewise, with regard to a sole proprietorship, the individual who comprises the sole proprietorship must demonstrate regular, continuous, and substantial participation in the development, operation and ownership of the Project. The Department shall, during and after the Application Round, monitor those individuals whose purported ownership interest(s) and participation form the basis upon which the designation of HUB is being claimed and may require the submission of additional documentation as required to verify said evidence. The Department's goal is to have substantive participation by those individuals whose purported ownership interest(s) and participation form the basis which the designation as a HUB is claimed. A determination by the Department that there has been a material misrepresentation as to such participation or that insufficient evidence has been provided to substantiate such participation will be final and points awarded for HUB participation will be withdrawn accordingly. The following documentation must be provided to qualify for these points: 3 3

(i) certification from the General Services Commission that the Person is a HUB; and

(ii) evidence of regular, continuous and substantial participation. This evidence shall include, but not be limited to, the agreement to personally guarantee the interim construction loan secured relative to the development of a Project (and to personally provide all other guarantees to the equity investor) by the person or persons whose purported ownership interest(s) and participation form the basis upon which the designation of a HUB is being claimed. Any such guarantee wherein an Affiliate, partner and or Beneficial Owner of the guarantor agrees to indemnify, in whole or in part, the guarantor from the liability arising from the guarantee, shall not constitute said evidence (3 points).

ALL-STATE LEGAL EXHIBIT A

(B) Exhibit 209. Joint Ventures with Qualified Nonprofit Organizations. Evidence that the Project involves a joint venture between a forprofit organization and a Qualified Nonprofit Organization. The Qualified Nonprofit Organization must be materially participating in the Project as one of the General Partners, but is not required to have Control, to receive these points. However, projects without Control will not be eligible for the nonprofit set-aside. Such evidence must be in the form of an executed partnership agreement between the organizations participating in the joint venture. The partnership agreement must clearly identify the percentage interest of each organization.(3 points) 3 0

(5) Exhibit 210. Project Provides Supportive Services to Tenants. Evidence that the Project Owner has an executed agreement with a for profit organization or a tax-exempt entity for the provision of special supportive services for the tenants. The service provider must be an existing organization qualified by the Internal Revenue Service or other governmental entity. The provision of supportive services will be included in the LURA (up to 5 points, depending upon the services committed in accordance with subparagraph (B) of this paragraph). 5 5

(A) Both documents described in clauses (i) and (ii) of this subparagraph must be submitted for the service provider to be considered under this exhibit.

(i) A fully executed contract between the service provider and the Applicant that establishes that the services offered provide a benefit that would not be readily available to the tenants if they were not residing in the development.

(ii) A copy of the service provider's Articles of Incorporation or comparable chartering document.

(B) The supportive services contract will be evaluated using the criteria described in clauses (i) through (v) of this subparagraph. The contract must clearly state the:

(i) Cost of Services to the Project Owner. The cost shown in the contract must also be included in the Project's operating budget and proforma. The costs must be reasonable for the benefit derived by the tenants. Services for which the Project Owner does not pay, will not receive a point for this item (1 point).

(ii) Availability of Services - The services must be provided on site or with transportation provided to offsite locations. (1 point).

(iii) Duration of Contract - A commitment to provide the services for not less than five years or an option to renew the contract annually for not less than five years must be provided (1 point).

(iv) Experience of Service Provider - The Department will evaluate the experience of the organization as well as the professional and educational qualifications of the individuals delivering the services (1 point).

(v) Appropriateness - Services must be appropriate and provide a tangible benefit in enhancing the standard of living of a majority of low-income tenants (1 point).

(6) Tenant Populations With Special Housing Needs. Projects may receive points under as many of the subparagraphs as apply, in accordance with the terms of those subparagraphs.

(A) This criterion applies to elderly Projects which provide significant facilities and services specifically designed to meet the physical and social needs of the residents. Significant services may include congregate dining facilities, social and recreation programs, continuing education, welfare information and counseling, referral services, transportation and recreation. Other attributes of such Projects include providing hand rails along steps and interior hallways, grab bars in bathrooms, routes that allow for barrier-free travel, lever type doorknobs and single lever faucets. All multistory buildings (two or more floors) must be served by an elevator. Individual Units shall not be multistory. Elderly Projects must not contain any Units with three or more bedrooms. Such a Project must conform to the Federal Fair Housing Act and must be a Project which meets the definition of Qualified Elderly Project (10 points). 10 0

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

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1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

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4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

NOTICE OF PUBLIC HEARING

May 29, 2014

All tenants residing in Cactus Rose
225 Poplar Street
Anthony, Texas 79821

Midland Corporate Tax Credit XIV LP
Midland Special Limited Partner, Inc.
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Joseph E. Moody
5675 Woodrow Bean, Transmountain Dr., Ste. 12
El Paso, Texas 79924

Mayor Lee Vela
401 Wildcat Dr.
Anthony, Texas 79921

Please take notice that Cactus Rose, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Cactus Rose apartments. The hearing will take place at the following time and location:

Monday, June 16, 2014
5:30 p.m.
Community Room
225 Poplar Street
Anthony, Texas 79821

Proposed Amendment:

Cactus Rose, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and maintain ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.

Background Information:

- The Cactus Rose apartments are owned by Cactus Rose, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI Cactus Rose, LLC ("IBI"), which is the sole managing general partner of Cactus Rose Townhomes, Ltd., a Texas limited partnership.

- IBI has have entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Cactus Rose, LLC, a Texas limited liability company, which is a subsidiary of the Paisano Housing Redevelopment Corporation.

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its ownership in the project, its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Cactus Rose, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Cactus Rose, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Cactus Rose, LLC will make presentations regarding why the amendment is being proposed. Tenants of the Cactus Rose apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

PAINTED DESERT TOWNHOMES, LTD.
7400 Viscount Blvd., Ste. 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Painted Townhomes, Ltd. ("Painted Desert") to amend the LURA to delete the requirement that the managing general partner, IBI Painted Desert Townhomes, LLC ("IBI Painted Desert") maintain its status as a HUB during the compliance period, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Painted Desert under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Painted Desert desires to amend the LURA encumbering the property located at 12682 Rio Negro Drive, Clint, Texas, to delete the requirement that the managing general partner, IBI Painted Desert, maintain its ownership and status as a HUB during the compliance period, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period and substantially participate in the operation of the project.

2. **Reason for the Requested Change:** IBI Painted Desert and Paisano Painted Desert, LLC ("Paisano Painted Desert") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI Painted Desert has agreed to sell and assign its managing general partnership interest in Painted Desert to Paisano Painted Desert. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI Painted Desert is a for profit Delaware limited liability company whose sole member is IBI, which is a HUB. Paisano Painted Desert is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Painted Desert is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Painted Desert cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Painted Desert asserts that good cause exists to approve the requested amendment for the following reasons:

(a) The award to Painted Desert Townhomes was made under the rural set aside. The award would have been made even if HUB points had not been claimed because Painted Desert's records indicate that there were no competitors. (See Exhibit G attached hereto).

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Painted Desert cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Painted Desert and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Painted Desert, will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Painted Desert or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period will end in 20.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Painted Desert requests that the proposed amendment be approved by TDHCA.

Painted Desert Townhomes, Ltd.

By: IBI Painted Desert Townhomes, LLC
General Partner

By: Investment Builders, Inc.,
Sole Member

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

(xiv) Greater than 75% masonry on exterior (3 points); 3 —

(G) The proposed Development provides housing density of no more than 42 Units per acre for multi-story elderly or urban infill Developments and no more than 24 Units per acre for all other Developments, as follows:

(i) 34 Units per acre or less for multi-story elderly or urban infill developments, or 16 Units or less per acre for all other Developments (6 points); or 6 —

(ii) 35 to 38 Units per acre for multi-story elderly or urban infill developments, or 17 to 20 Units per acre for all other Developments (4 points); or 4 —

(iii) 39 to 42 Units per acres for multi-story elderly or urban infill developments, 21 to 24 Units per acre for all other Developments (2 points). 2 —

(H) Exhibit 206. The Development is an existing Residential Development without maximum rent limitations or set-asides for affordable housing. If maximum rent limitations had existed previously, then the restrictions must have expired at least one year prior to the date of Application to the Department (4 points). 4 —

(I) The Development is a mixed-income development comprised of both market rate Units and qualified tax credit Units. To qualify for these points, the project must be located in a submarket where the average rents based on the number of bedrooms for comparable market rate units are at least 10% higher on a per net rentable square foot basis than the maximum allowable rents under the Program. Additionally, excluding 4-bedroom Units, the proposed rents for the market rate units in the project must be at least 5% higher on a per net rentable square foot basis than the maximum allowable rents under the Program. The Market Study required by subsection (e)(12)(B) of this section must provide an analysis of these requirements for each bedroom type shown in proposed unit mix. Points will be awarded to Development's with a Unit based Applicable Fraction which is no greater than:

(i) 80% (8 points); or, 8 —

(ii) 85% (6 points); or, 6 —

(iii) 90% (4 points); or 4 —

(iv) 95% (2 points). 2 —

(J) Exhibit 207. Evidence that the proposed historic Residential Development has received an historic property designation by a federal, state or local Governmental Entity. Such evidence must be in the form of a letter from the designating entity identifying the Development by name and address and stating that the Development is: 6 —

(i) listed in the National Register of Historic Places under the United States Department of the Interior in accordance with the National Historic Preservation Act of 1966;

(ii) located in a registered historic district and certified by the United States Department of the Interior as being of historic significance to that district;

(iii) identified in a city, county, or state historic preservation list; or

(iv) designated as a state landmark (6 points).

(K) The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger Development (5 points). 5 5

(L) Exhibit 208. Evidence that the proposed Development is partially funded by a HOPE VI, Section 202 or Section 811 grant from HUD. The Project must have already received the commitment from HUD. Submission of a HOPE VI, Section 202 or Section 811 grant application to HUD does not qualify a Development for these points. Evidence shall include a copy of the commitment letter from HUD indicating the HOPE VI, Section 202 or Section 811 grant terms and grant award amount (5 points). 5 —

(5) Sponsor Characteristics. Developments may only receive points for one of the two criteria listed in subparagraphs (A) and (B) of this paragraph. To satisfy the requirements of subparagraphs (A) or (B), a copy of an agreement between the two partnering entities must be provided which shows that the nonprofit organization or HUB will hold an ownership interest in and materially participate (within the meaning of the Code §469(h)) in the development and operation of the Development throughout the Compliance Period and clearly identifies the ownership percentages of all parties (3 points maximum for subparagraphs (A) and (B) of this paragraph). 3 3

ALL-STATE LEGAL®
EXHIBIT
G

(A) Exhibit 209. Evidence that a HUB, as certified by the Texas Building and Procurement Commission (formerly General Services Commission), has an ownership interest in and materially participates in the development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission (formerly General Services Commission) that the Person is a HUB and is valid through July 31, 2002 and renewable after that date. ☒

(B) Exhibit 210. Joint Ventures with Qualified Nonprofit Organizations. Evidence that the Development involves a joint venture between a for profit organization and a Qualified Nonprofit Organization. The Qualified Nonprofit Organization must be materially participating in the Development as one of the General Partners (or Managing Members), but is not required to have Control, to receive these points. However, Developments without Control will not be eligible for the nonprofit set-aside. ☐

(6) Exhibit 211. Development Provides Supportive Services to Tenants. Evidence that the Development Owner has an executed agreement with a for profit organization or a tax-exempt entity for the provision of special supportive services for the tenants. The service provider must be an existing organization qualified by the Internal Revenue Service or other governmental entity. The provision of supportive services will be included in the LURA (up to 7 points, depending upon the services committed in accordance with subparagraph (B) of this paragraph, plus two additional points pursuant to clause (vi) of subparagraph (B) of this paragraph). Acceptable services are described in subparagraphs (C) through (E) of this paragraph.

(A) Both documents described in clauses (i) and (ii) of this subparagraph must be submitted for the service provider to be considered under this exhibit.

(i) A fully executed contract, not more than 6 months old from the first day of the Application Acceptance Period between the service provider and the Applicant that establishes that the services offered provide a benefit that would not be readily available to the tenants if they were not residing in the Development.

(ii) A copy of the service provider's Articles of Incorporation or comparable chartering document.

(B) The supportive services contract will be evaluated using the criteria described in clauses (i) through (vi) of this subparagraph. The contract must clearly state the:

(i) Cost of Services to the Development Owner. The cost shown in the contract must also be included in the Development's operating budget and proforma. The costs must be reasonable for the benefit derived by the tenants. Services for which the Development Owner does not pay, will not receive a point for this item, except in the event that a supportive service provider is able to provide services with funds they receive from other sources. Evidence of the provider's other funding source(s) enabling the provision of service to the tenants of the proposed Development must be provided (1 point). 1 1

(ii) Availability of Services - The services must be provided on site or with transportation provided to offsite locations (1 point). 1 1

(iii) Duration of Contract - A commitment to provide the services for not less than five years or an option to renew the contract annually for not less than five years must be provided (1 point). 1 1

(iv) Experience of Service Provider - The Department will evaluate the experience of the organization as well as the professional and educational qualifications of the individuals delivering the services (1 point). 1 1

(v) Appropriateness - Services must be appropriate and provide a tangible benefit in enhancing the standard of living of a majority of low-income tenants (1 point). 1 1

(vi) Coordination with tenant services provided through housing programs – An extra two points will be awarded for services that are provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points). 2 —

(7) Tenant Characteristics – Populations with Special Needs Housing & Rent and Income Levels. Developments may receive points under as many of the subparagraphs as apply, in accordance with the terms of those subparagraphs.

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

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which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

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6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

NOTICE OF PUBLIC HEARING

May 29, 2014

All tenants residing in Painted Desert Townhomes
12682 Rio Negro Drive
Clint, Texas 79836

SunAmerica Housing Fund 1099
c/o Tara Holleran
3850 Rocking J Road
Round Rock, Texas 78664

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Mary Gonzalez
1200 Santos Sanchez
Socorro, TX 79927

Mayor Dale T. Reinhardt
200 N. San Elizario Road
Clint, Texas 79836

Please take notice that Painted Desert Townhomes, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Painted Desert Townhomes Apartments. The hearing will take place at the following time and location:

Thursday, June 12, 2014
5:30 p.m.
Community Room
Painted Desert Townhomes
12682 Rio Negro Drive
Clint, Texas 79836

Proposed Amendment:

Painted Desert Townhomes, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and maintain ownership in the project, and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Non Profit Organization.

THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.

Background Information:

- The Painted Desert Townhomes are owned by Painted Desert Townhomes, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI Painted Desert Townhomes, LLC ("IBI"), which is the current managing general partner of Painted Desert Townhomes, Ltd. a Texas limited partnership.

- IBI has entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Painted Desert, LLC, a Texas limited liability company, which is a subsidiary of Paisano Housing Redevelopment Corporation ("Paisano Housing").

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, which is 25 years, IBI must maintain its owner in the project, its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Painted Desert, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Painted Desert Townhomes, Ltd. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Painted Desert, LLC will make presentations regarding why the amendment is being proposed. Tenants of the Painted Desert Townhomes Apartments and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

WHISPERING SANDS TOWNHOMES, LTD.
7400 Viscount Blvd., Suite 109
El Paso, TX 79925

May 27, 2014

Texas Department of Housing and Community Affairs
Mr. Tom Gouris
Deputy Executive Director for Housing Programs
Mr. Rosalio Banuelos
Asset Manager
P.O. Box 13941
221 East 11th Street
Austin, TX 78701

Re: Application by Whispering Sands Townhomes, Ltd. ("Whispering Sands") to amend the LURA to delete the requirement that the managing general partner, IBI Whispering Sands Townhomes, LLC ("IBI Whispering Sands") maintain its status as a HUB during the compliance period, as extended, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

Dear Mr. Gouris and Mr. Banuelos:

This is an application by Whispering Sands under 10 Texas Administrative Code Rule §10.405(b). The following information is being supplied to comply with the Rule:

1. **Description of the Requested Change**: Whispering Sands desires to amend the LURA encumbering the property located at 500 Omar Street, Anthony, Texas, to delete the requirement that the managing general partner, IBI Whispering Sands maintain its ownership in and status as a HUB during the compliance period, and to substitute a requirement that the managing general partner be a Qualified Nonprofit Organization during the compliance period, as extended.

2. **Reason for the Requested Change:** IBI Whispering Sands and Paisano Whispering Sands, LLC ("Paisano Whispering Sands") intend to sign a Purchase and Sale Agreement (the "PSA"). Under the PSA, IBI Whispering Sands has agreed to sell and assign its managing general partnership interest in Whispering Sands to Paisano Whispering Sands. The transfer of the general partnership interest is subject to the approval of the Texas Department of Housing and Community Development ("TDHCA"). Further, the transaction is also subject to the approval by TDHCA of the amendment described in paragraph 1 above.

IBI Whispering Sands is a for profit Delaware limited liability company whose sole member is IBI, which is a HUB. Paisano Whispering Sands is a Texas limited liability company. Its sole member is Paisano Housing Redevelopment Corporation ("Paisano Housing"), a Texas nonprofit corporation, which is controlled by the Housing Authority of the City of El Paso ("HACEP"). Paisano Housing is a Qualified Nonprofit Organization. HACEP is a unit of local government that operates on a nonprofit basis. Even though Paisano Whispering Sands is a Texas limited liability company, the fact that it is owned and controlled by Paisano Housing renders it legally incapable of being organized as HUB. Attached is a legal opinion from Art Provenghi, Legal Counsel to HACEP, confirming that Paisano Whispering Sands cannot be legally organized as a HUB.

3. **Good Cause for the Requested Amendment**: Whispering Sands asserts that good cause exists to approve the requested amendment for the following reasons:

(a) The award made to Whispering Sands was made under the rural set aside. The award would have been made even if HUB points had not been claimed because Whispering Sands' records indicate that there were no competitors. (See Exhibit F attached hereto).

(b) HUBs are business entities, the majority ownership of which is owned by persons who are African American, Hispanic American, Asian, Pacific American, Native American, or women of any ethnicity. The public purpose behind the creation of HUBs is to provide individuals who qualify to own HUBs with certain public contracting opportunities that have been historically unavailable to them. In Texas, this concept is embodied in 34 TAC 20.13 which provides that each state agency must make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the State of Texas Disparity Study.

Even though Paisano Whispering Sands cannot be organized as a HUB, it possesses many of the characteristics of a HUB. For example, the boards of directors of both Paisano Whispering Sands and Paisano Housing are composed of the same persons who serve as directors on the HACEP board. The HACEP board members are primarily individuals who could qualify to own a HUB (i.e. Hispanic Americans and women) (See attached legal opinion of Art Provenghi). Further, Paisano Housing and its subsidiary, Paisano Whispering Sands, will use the same contracting criteria (preference to HUBs) that are used by state agencies. This is particularly pertinent to housing because contractors are continuously needed for repairs and renovations to housing units.

(c) This proposed amendment will have no effect on the operation of Whispering Sands or its financial stability. HACEP, through its subsidiaries, already owns general partnership interests in various LIHTC projects and has a proven track record showing compliance with all regulatory requirements.

(d) The 15 year compliance period will end in 2019.

(e) The necessity for this amendment could not have been reasonably foreseen at the time of the application was filed because this transaction was not being discussed or even contemplated at that time.

For the reasons set forth above, Whispering Sands requests that the proposed amendment be approved by TDHCA.

Very truly yours,

Whispering Sands Townhomes, Ltd.

By: IBI Whispering Sands Townhomes, LLC,
General Partner

By: Investment Builders, Inc.,
Sole Member

By: ______________________
Ike J. Monty, President

cc: Mr. Francis S. Ainsa Jr.
Mr. Art Provenghi
Mr. Tim Johnson

Whispering Sands

	Points Requested by Applicant: Pre-Application	Application
(5) Sponsor Characteristics. Developments may only receive points for one of the three criteria listed in subparagraphs (A) through (C) of this paragraph. To satisfy the requirements of subparagraphs (A) or (B) of this paragraph, a copy of an agreement between the two partnering entities must be provided which shows that the nonprofit organization or HUB will hold an ownership interest in and materially participate (within the meaning of the Code §469(h)) in the development and operation of the Development throughout the Compliance Period and clearly identifies the ownership percentages of all parties (3 points maximum for one of subparagraphs (A) through (C) of this paragraph).	3	3

(A) Evidence that a HUB, as certified by the Texas Building and Procurement Commission (formerly General Services Commission), has an ownership interest in and materially participates in the development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission (formerly General Services Commission) that the Person is a HUB at the close of the Application Acceptance Period. Evidence will need to be supplemented, either at the time the Application is submitted or at the time a HUB certification renewal is received by the Applicant, confirming that the certification is valid through July 31, 2003 and renewable after that date.

(B) Joint Ventures with Qualified Nonprofit Organizations. Evidence that the Development involves a joint venture between a for profit organization and a Qualified Nonprofit Organization. The Qualified Nonprofit Organization must be materially participating in the Development as one of the General Partners (or Managing Members), but is not required to have Control, to receive these points. However, to also be eligible for the Nonprofit Set-Aside, as further described in §49.7 of this title, the Qualified Nonprofit Organization must have Control.

(C) The proposed Development involves the rehabilitation of existing Units, or on- or off-site replacement of Units, that are owned by a Public Housing Authority, and which Units, or replacement Units, will continue to be owned by a partnership Controlled by said Public Housing Authority or its nonprofit affiliate as evidenced by a partnership agreement showing the Control by the said Public Housing Authority. A Housing Finance Agency is not considered to be a Public Housing Authority for purposes of this exhibit.

	Pre-Application	Application
(6) Developments Targeting Tenant Populations of Individuals with Children. The Rent Schedule of the Application must show that 50% or more of the Units in the Development have more than 2 bedroom (1 point).	1	1

	Pre-Application	Application
(7) Development Provides Supportive Services to Tenants. Points may be received under both subparagraphs (A) and (B) of this paragraph.	2	2

(A) An Applicant will receive points for coordinating their tenant services with those services provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points).

EXHIBIT F

ALL-STATE LEGAL®

Housing Authority of the City of El Paso

Mr. Rosalio Banuelos
Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, Texas 78701

I am legal counsel for the Housing Authority of the City of El Paso (HACEP). I have been asked by staff of the Texas Department of Housing and Community Affairs (TDHCA) to provide a legal opinion addressing how the stakeholders in and management control of HACEP and its affiliates mirror the majority ownership of a HUB. This issue has arisen as part of a request submitted by HACEP and its affiliates to be approved by TDHCA to replace a HUB as a general partner in a number of low income housing tax credit apartments in El Paso County.

We have set forth our opinion in a separate letter addressing why HACEP and its affiliates cannot meet the legal definition of a HUB. However, as addressed in this letter, HACEP's stakeholders and controlling management do mirror a HUB. A HUB is an entity "in which 51 percent or more of the assets and interest[s] . . . are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management." TEX. GOV'T CODE ANN. § 2161.001(2)(A) and (C). An "economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including, but not limited to, Hispanic Americans and women." *Id.* § 2161.001(3).

HACEP is a unit of local government which operates on a nonprofit basis. Furthermore, HACEP and its affiliates own, operate, manage and develop low income housing exclusively within El Paso County, Texas. As a unit of government HACEP is effectively owned by the citizens of El Paso, Texas and the residents it serves. In that regard, HACEP's "owners" would, if HACEP were a for-profit entity, qualify as a HUB because the population of El Paso and HACEP's programs are predominately Hispanic or Latino. Specifically, El Paso County is 81.2 percent Hispanic/Latino[1] and HACEP's largest program, its public housing program, is 98 percent Hispanic/Latino.[2] The vast majority of residents in all of HACEP's various housing programs are Hispanic/Latino.[3] In addition, a majority of HACEP's Board of Commissioners,

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1 US Census Bureau, State and County Quick Facts for El Paso County, Texas (data as of 2012) [http://quickfacts.census.gov/qfd/states/48/48141.html visited February 18, 2014].

2 HACEP Public Housing Resident Characteristics Report as of January 31, 2014. The HACEP Public Housing program serves approximately 6,000 households.

3 The residents in HACEP's Housing Choice Voucher (HCV) program, which serves approximately 4,800 households, are 93 percent Hispanic/Latino.

which is vested with the highest level of managerial control over the organization, are women and/or Hispanic/Latino. This has been the case for many years in the past and for the current Board of Commissioners.

The term "economically disadvantaged," unfortunately, describes both the citizens of El Paso County in general and the residents of HACEP's housing programs. El Paso County is consistently designated one of the very poorest urban counties in the United States.[4] The poverty rate in El Paso County stands at 28.7 percent.[5] The median household income in El Paso County is $36,699, about 25 percent below the statewide median income level.[6] The household incomes of the residents of HACEP programs is much lower that the El Paso County figure, as 95 percent of HACEP's public housing residents have household incomes of less than $25,000 per year.[7] In fact, 62 percent of HACEP's public housing residents have annual household incomes of $10,000 per less. The average annual income of residents in HACEP's other large program, the HCV program, is $10,225. Over 90 percent of HACEP's overall program residents are considered to have very- or extremely-low incomes, meaning they have household incomes below 30 percent of the median household income level.[8]

In view of the foregoing, it is my legal position that while HACEP cannot technically qualify as a HUB because of its governmental and nonprofit legal status, its effective ownership and ultimate management control consists of well above 51 percent which is attributable to Hispanic/Latino individuals and women who would be categorized as "economically disadvantaged individuals" under applicable law pertaining to HUBs.

Sincerely,

Art Provenghi

Legal Counsel

Housing Authority of the City of El Paso

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4 University of Texas at Austin, College of Liberal Arts Report: "Poverty in Texas" (3rd Edition, February 2014) (noting El Paso is the sixth poorest county in the United States) [http://texaspolitics.laits.utexas.edu/12_2_0.html, visited February 18, 2014].

5 http://www.laits.utexas.edu/txp_media/html/pov/features/ten_counties/slide1.html.

6 US Census Bureau, State and County Quick Facts for El Paso County, Texas, supra.

7 HACEP Public Housing Resident Characteristics Report as of January 31, 2014.

8 90 percent of HCV Residents are very- or extremely-low income.

<u>NOTICE OF PUBLIC HEARING</u>

May 29, 2014

All tenants residing in
Whispering Sands Townhomes
500 Omar Street
Anthony, Texas 79821

MMA Financial Affordable Housing Fund
IV, Ltd.
MMA Special Limited Partners, Inc.
c/o Boston Financial
101 Arch Street, 14th Floor
Boston, MA 02110

Senator Jose Rodriguez
100 North Ochoa St., Ste. A
El Paso, Texas 79901

Representative Joseph E. Moody
5675 Woodrow Bean, Transmountain Dr.,
Ste. 12
El Paso, Texas 79924

Mayor Lee Vela
401 Wildcat Dr.
Anthony, Texas 79921

Please take notice that Whispering Sands Townhomes, Ltd. will hold a public hearing to receive comments on a proposed amendment to the Declaration of Land Use Restrictive Covenants for Low Income Housing Credits ("LURA") applicable to the Whispering Sands Townhomes. The hearing will take place at the following time and location:

Wednesday, June 16, 2014
7:30 p.m.
Community Room
Whispering Sands Townhomes
500 Omar Street
Anthony, Texas 79821

Proposed Amendment:

Whispering Sands Townhomes, Ltd. is proposing that the LURA be amended to remove the requirement that the managing general partner must be a HUB and to substitute a requirement that that managing general partner be a Qualified Nonprofit Organization or be controlled by a Qualified Nonprofit Organization.

<u>THE PROPOSED AMENDMENT WILL NOT AFFECT ANY TENANT'S CURRENT LEASE TERMS.</u>

Background Information:

- The Whispering Sands Townhomes are owned by Whispering Sands Townhomes, Ltd., a Texas limited partnership.

- The amendment is being proposed by IBI Whispering Sands Townhomes, LLC ("IBI"), which is the current managing general partner of Whispering Sands Townhomes, Ltd., a Texas limited partnership.

- IBI has entered into a Purchase and Sale Agreement ("PSA") under which IBI will assign its general partnership interest to Paisano Whispering Sands, LLC, a Texas limited liability company, which is a subsidiary of Paisano Housing Redevelopment Corporation.

- IBI is a Historically Underutilized Business ("HUB").

- The LURA requires that, during the compliance period, IBI must maintain its ownership in the project, its HUB status and remain as the managing co-general partner.

- Paisano Housing is a Qualified Nonprofit Organization and is the sole member of Paisano Whispering Sands, LLC. Paisano Housing is not a HUB and cannot legally be reorganized as a HUB.

At the hearing, a representative from Whispering Sands Townhomes, Ltd.. will accept written and oral comments on the proposed amendment. At the hearing, representatives of IBI and Paisano Whispering Sands Townhomes, LLC will make presentations regarding why the amendment is being proposed. Tenants of Whispering Sands and the officials named above are encouraged to participate in the hearing process. Written comments from those who cannot attend the hearing in person may be provided by noon on June 13, 2014 to Ms. Maria Espinoza by hand delivery at the address given above or by sending the written comments to her by Fax (915) 594-0434. Individuals who require auxiliary aids or services for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least two (2) days before the hearing so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Ms. Maria Espinoza at (915) 594-2141 at least three (3) days before the hearing so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Maria Espinoza al siguiente número (915) 594-2141 a por lo menos tres días antes de la junta para hacer los preparativos apropiados.

4c

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action regarding an appeal of staff decision under 10 TAC §10.902(a)(7) related to the denial of a change to the Land Use Restriction Agreement ("LURA") for Sabine Park Apartments in Orange (File No 96134)

RECOMMENDED ACTION

WHEREAS, Sabine Park Apartments received an award of 9% Housing Tax Credits in 1996 to rehabilitate 200 multifamily units reserved for family households in Orange;

WHEREAS, ownership of Sabine Park Meadows (the "Property"), a 200 unit, 100% rent restricted property, originally constructed in 1941 and rehabilitated with tax credits in 1996, was transferred to Pine Oak Partners, LLC in August 2010, at which time occupancy was in the low 80% range;

WHEREAS, a material LURA amendment was considered and denied at the July 11, 2013 Board meeting with a recommendation by the Board to authorize and direct staff to work with the Owner to develop and present to the Board a comprehensive and well documented solution to preserve long term affordability for all of the units;

WHEREAS, during that six month period, the Department concurred it would not enforce the low income eligibility requirement for up to 62 of the total units located in buildings not within the Federal compliance period;

WHEREAS, the Owner has not been able to achieve occupancy of more than approximately 25 of the 62 units, at any given time, over the 12 month period and the Development has continued to struggle financially with occupancy and retention due to various local economic factors;

WHEREAS, the Owner has requested an extended period during which the Department would not enforce low income eligibility requirements during a four year period during which the Development would incrementally come back into full compliance with the LURA; and

WHEREAS, the Owner has not established that this proposal is the only or best solution or even that it would be effective at stabilizing the Property and preserving affordable housing units, and the Owner has not developed a comprehensive and properly documented solution to preserve affordability over the remaining extended use period of 19 years (through 2033);

NOW, therefore, it is hereby

RESOLVED, that the requested appeal is denied.

BACKGROUND

Sabine Park Apartments is a 200 unit multifamily development originally built by the local Public Housing Authority in 1941 (72 years old). In 1996, Three Rivers Development, Inc. was awarded housing tax credits for the rehabilitation of the Development and elected to set aside sixty (60) units at 50% AMGI and one hundred and forty (140) units at 60% AMGI. The credit period for this development began in 1998 for 27 buildings and 1999 for the remaining 13 buildings. In addition to these income restrictions, the original owner agreed to extend the (State) Compliance and Affordability Periods an additional five (5) years for a total of 20 and 35 years, respectively. The rehabilitation was generally successful and the development was operating at profitable level for several years. On August 23, 2010, the Development was purchased by Pine Oak Partners, LLC, its current owner. At the time of purchase, the occupancy rate was in the low 80% range. By December 2011occupancy had dropped to 55% with the sharpest drop occurring November of 2011.

On March 21, 2013, the Development Owner requested a LURA amendment to remove the income restriction for 50% of the total units (100 units). However, because some of the buildings with vacant units were still within the Federal compliance period, the Development Owner revised this request on May 25, 2013 asking for a temporary LURA amendment for the portion of the Development that was outside of the Federal Compliance Period (27 buildings/62 vacant units). Although not fully substantiated by back up documentation, the Owner opined that there was a market demand in the area for households whose income exceeded the 60%AMI limit and therefore, during this period, the units could be leased to over-income households in the area, thereby relieving the financial distress and providing the possibility to create a long term affordability plan for the Development. At the July 11, 2013 Board Meeting, the Board approved staff's recommendation to work with the Owner for a period of up to six months, which could be extended an additional six months by Executive Director approval, in which income restrictions would not be enforced under the following parameters:

- The LURA remains in effect, but the Department will not enforce the income eligibility requirement for up to 62 of the total units in the buildings beyond the Federal compliance;
- The accommodation does not extend to any building (BIN) still within its compliance period;
- Any lease to an above income household during the accommodation period must provide that it is not renewable and that the tenant may be required to vacate at the end of its lease term so that the Owner may revert to leasing to income eligible households upon the expiration of this period (*the Board added the requirement to comply with all leasing laws regarding non-renewal or lease and eviction*).
- All available units will continue during the accommodation period to be marketed to income eligible households and subject to monitoring by the Department.

Over the last fourteen (14) month period the Development Owner has provided monthly reports documenting the occupancy trends and detailing their marketing efforts; some of which included additional security at the property and the opening of an onsite child care facility. The monthly reports included operating statements, description of marketing efforts, and a Prospect Information and Details Report. The Prospect Information and Details Report detailed prospective tenant information, monthly traffic and leased summary, income qualification summary, number in household, estimated income of household, qualification status, and final result of effort.

A summary of the monthly reports from July to December provided the following information:

- There were 125 prospects
- There were 108 new leases
- 70 (65%) of the new leases were rented to renters at 50% AMI
- 24 (22%) of the new leases were rented to renters at 60% AMI
- 14 (13%) of the new leases were rented to renters at Market rate

At various times throughout this period, staff has communicated with the Owner the concern that the eligibly 62 units were not being occupied by market rate households and, of even more concern, the fact that a high number of both low income and market rate households do not remain at the Development for the entire 12 month lease period. This, in staff's opinion, indicates a lack of demand for market rate units and an issue with resident retention at the Development.

On February 25, 2014 an onsite monitoring review was conducted. At the time of the review, the Board approved accommodation had expired and therefore, all units were to be in compliance with the LURA. A monitoring letter was sent on April 17, 2014 outlining all noncompliance issues and providing a corrective action period until July 16, 2014. On February 27, 2014, a Uniform Physical Condition Standards ("UPCS") Inspection was conducted. The inspection resulted in violations of UPCS protocols and the Owner was given until June 5, 2014, to provide documentation of corrections to the cited issues. According to Compliance staff, both inspection and monitoring review are open and there are uncorrected issues of non-compliance identified.

On September 11, 2014, staff met with the Owner to discuss the status of the Development. The Owner informed staff that the daycare was no longer in place at the Development because they were unable to get enough children so the provider cancelled contract. He also clarified that the prior management agent, Asset Plus, terminated their contract abruptly in March which led to the Owner self managing the Development over the last seven month period. Prior to the meeting, staff learned that the Development listed on the market for sale. At the meeting, staff communicated concerns regarding the lack of documentation to support the Owner's request and lack of progress by the Owner in developing a comprehensive plan that would address the long term affordability of the property. Staff advised the Owner that the original approved accommodation period had expired without Executive Director approval for an extension and should comply with the LURA in full effect.

On September 11, 2014, the Owner submitted a revised proposal requesting an extension of the Board approved accommodation period as follows.

- For the next 12 month period, allow the project to lease up to 35 units to over-income tenants;
- For the following 12 month period, allow the project to lease up to 30 units to over-income tenants;
- For the following 12 month period, allow the project to lease up to 25 units to over-income tenants;
- For the following 12 month period, allow the project to lease up to 20 units to over-income tenants; and
- Thereafter, all units would be subject to the LURA.

Staff considered this proposal and, based on the lack of support documentation that this plan would be successful or assist the development beyond providing a band-aid approach, recommends denial of the request.

Pine Oaks Partners, LLC
1215 Durham Drive
Houston, TX 77007

Januray 9, 2014

Timothy Irvine, Executive Director
Texas Departments of Housing and Community Affairs
211 East 11th Street
Austin, Texas 78711-3911

Re: TDHCA Project 96-134 - "Sabine Park Apartments", 200 Units, Orange, Texas
Request for Extension of July 2013 Motion

Dear Mr. Irvine:

Please accept this letter as confirmation of our request to extend for six (6) months the time allowed under the provisions of the Board Motion granted on July 11, 2013, within which Staff and Owner may work to develop and present to the Board a comprehensive and well documented solution to preserve long-term affordability for all units within the above project (the "Property"). A copy of the Notice of Board Decision is attached for your reference.

Since July 11, 2013, the Property has had the opportunity to lease up to 62 total units to tenants outside the eligibility requirements of the LURA. We are requesting an additional six months to operate under those modified guidelines and within which to work with Staff to develop a mutually agreeable program under which the Property may continue to operate within its market area with economic viability and sustainability.

In the time since the adoption of that temporary program, almost 15% of the visitors to the Property have been over-income tenant prospects. Only two of those over-income prospects decided not to rent an apartment at the Property, based upon its location. The other over-income tenant prospects proceeded to lease an apartment, citing the rental structure and proximity to work as their primary reasons for doing so. We have written a total of 17 leases to over-income tenants. Four of those have moved out, one due to a canceled job, one because of domestic issues, and two because the Property lacked regular security officers at the time. Since that unfortunate loss of two tenants, we have hired two off-duty City of Orange Police Officers who regularly patrol. Today we have 13 over-income tenants living at the Property.

The presence of these tenants has helped us stabilize collection income; these tenants have also acted as role models for other tenants.

We have pursued a variety of strategies to improve the economics of the Property since this past July, including increased marketing, diversified marketing methods, reduction of our rental structure to offer a very desirable rental alternative to our competition, and improvement of the product we deliver to new tenants. We have also improved our response to tenant work orders and we are pleased to report that the independently operated day care center on the Property grounds has opened and is providing services to children of our tenants and others in the community.

Unfortunately, our collections are still not sufficient to cover operating costs and routine capital costs. We need additional time to achieve stability and sustainability.

We request the extension of the program outlined in the Motion to complete the process contemplated by the Board to help the Property achieve viability and still operate within the original LURA guidelines. Please recall that this extension was provided for in the terms of the Motion and requires only Executive Director approval. Finally, we are pleased to report that, effective January 1, 2014, all buildings and all units at the Property are now beyond the Federal Compliance Period.

Very truly yours,

Pine-Oaks Partners, LLC, a Texas limited liability company
By Sterling Oaks Group, LLC, Its Manager
By Corinthian Real Estate, Inc., Manager

By ______________________________
Bradley B. Jones, President

cc: Cari Garcia

Kent Bedell, TDHCA Asset Manager

Bill Lee

Texas Department of Housing and Community Affairs
Housing Tax Credit Program
U.S. Mailing Address: P.O. Box 13941, Austin, Texas 78711-3941
Private Carrier Delivery: 221 East 11th Street, Austin, Texas 78701
Telephone: (512) 475-3340 Telecopier: (512) 475-1895

To: Mr. Brad Jones

NOTICE OF BOARD DECISION RE: AMENDMENT REQUEST HEARD 07/11/13

HTC No. 96134

Sabine Park Apartments is a 200 unit multifamily development originally built by the local Public Housing Authority in 1941 (72 years old). In 1996, Three Rivers Development, Inc. was awarded housing tax credits for the rehabilitation of the Development. On August 23, 2010, Three Rivers Development, Inc. sold the property to Pine Oak Partners, LLC.

On March 21, 2013, the Development Owner requested a material LURA amendment to remove the income restriction for 50% of the total units (100 units). After several meetings with staff, the Development Owner submitted a revised amendment request on May 25, 2013 and requested a temporary LURA amendment for the portion of the Development that is outside of the Federal Compliance Period (27 buildings). This amendment would lift the income restrictions for vacant units in the 27 buildings for a limited period of time. Staff approval of this temporary amendment is conditioned on the requirement that the Owner continue to income certify all 200 units at the property and that the Department would continue to include these unrestricted income units in all monitoring reviews and physical inspections of the Development.

Staff recommended that the Board authorizes and direct staff to work with the Owner for a period of up to six months (which may be extended an additional six months by Executive Director approval) to develop and present to this Board a comprehensive and well documented solution to preserve long term affordability for all of the units under the following parameters:

- The LURA remains in effect, but the Department will not enforce the income eligibility requirement for up to 62 of the total units in the buildings beyond the Federal compliance;
- The accommodation does not extend to any building (BIN) still within its compliance period;
- Any lease to an above income household during the accommodation period must provide that it is not renewable and that the tenant may be required to vacate at the end of its lease term so that the Owner may revert to leasing to income eligible households upon the expiration of this period (*the Board added the requirement to comply with all leasing laws regarding non-renewal or lease and eviction*).
- All available units will continue during the accommodation period to be marketed to income eligible households and subject to monitoring by the Department.

Development Name: Sabine Park Apartments
City: Orange
Owner: Pine Oak Partners, LLC
Principals/Interested Parties: Bill Lee, Consultant
Units: 200
Year of Allocation: 1996
Financial Analysis: Market study analysis reviewed.

Staff Recommendation:	**Staff recommended denial of the original request and approval to work with Owner for temporary period during which time income restrictions will not be enforced in buildings beyond the Federal compliance period.**

THE REQUEST ABOVE WAS APPROVED, WITHOUT PENALTIES, AT THE BOARD MEETING OF JULY 11, 2013. THE APPROVAL WILL BE CONFIRMED BY THE MINUTES AS APPROVED AND RECORDED IN A SUBSEQUENT BOARD MEETING.

Cari Garcia

Cari Garcia, Director of Asset Management

NS

From:	Brad Jones
To:	Kent Bedell
Cc:	Jana Barnes; Cari Garcia (cari.garcia@tdhca.state.tx.us)
Subject:	Sabine Park, Orange, Texas
Date:	Sunday, June 08, 2014 1:15:53 PM
Attachments:	Sabine Park - Move-Out Status Report 6-6-14.xlsx May 31 Rent Roll Detail.pdf image001.png
Importance:	High

Dear Kent,

Please accept this email as a status report regarding Sabine Park.

First, I am sending a more detailed version of the Move-Out Status Report which was sent to you on May 26. In the process of working with Jana to prepare the original report, I realized Jana had additional information regarding the tenants that you and your team may find of interest. I asked her to provide that information on this revised Move-Out Report. Under "Additional Notes", we have identified specific reasons why tenants moved out. Of the 98 tenants that moved out between July 1, 2013 and April 30, 2014, the most common reasons are as follows:

1. Loss of job or reduced hours: 12 tenants
2. Drug or alcohol problems: 12 tenants
3. Relocation to a new neighborhood or living situation: 10 tenants
4. Illness or death: 3 tenants
5. Domestic violence: 3 tenants
6. Loss of housing voucher: 2 tenants
7. All other known reasons: 5 tenants
8. No known reason: 51 tenants.

We are seeing improvement in property operations. As May came to a close, our collections totaled $63,000 and our occupancy was 70%. Attached is a copy of the May 31, 2014 Rent Roll. In the next week or two, however, our occupancy will decline because of several evictions, but we anticipate being able to back-fill the evicted tenants with new tenants before the end of the month. Our retention of good tenants is also improving, but we are still plagued by tenants that just don't pay rent. With delinquent rent totaling $16,322 at the end of May, we will be filing as many as 10 evictions in the next few days. Other observations are as follows:

1. We have created a new operating budget and we are working hard to operate within that budget. We have cut costs wherever possible. Without a third-party manager, both Jana and I can monitor costs more closely. The general partners are still having to contribute additional capital every month to keep things going, but most of those dollars are being used for make-ready costs and deferred property maintenance.
2. The economy in Orange is improving slightly. We are seeing a few more tenant prospects because of new jobs in the oil and gas industry.
3. We are also seeing stronger demand from Over-Income prospects.
4. We have identified our best marketing tools. The Asset Plus strategy was to walk around with flyers and send out direct-mailing to other apartments. Those methods didn't work. We are improving our traffic and therefore our leasing because we are running a constant advertisement in the local newspaper, we run regular entries in Craigslist, and we now participate in "Apartment Guide" on the Internet. We receive many more telephone calls today than we did several months ago.
5. Our rental rates are still the most affordable in the market area. Our tenant profile, whether low income or Over-Income, wants an inexpensive but respectable place to live. They are not interested in two-tone paint or stainless steel hardware and doorknobs – just a livable place at a good price.

As we discussed recently, we now understand that our initial request for a permanent modification to the LURA for the property is difficult for your Department and the Board to approve for a variety of reasons. Today we believe a temporary solution, over a period of several years, will allow the property to achieve financial stability for several reasons:

1. We believe that the development of new tax credit properties in the market area has come to an end.

2. Sabine Park has found its niche in the marketplace, which is to be the most affordable apartment project.

3. The economy in this area is stabilizing and, provided the oil and gas industries do not decline, there should be some employment growth potential.

The key to success for Sabine Park is to maintain its market position and increase its occupancy with an improving tenant profile. If we have the ability to lease to interested Over-Income tenants, we can achieve steady occupancy growth which will offset the lower rental structure we have adopted in order to be competitive. Therefore, in lieu of the original proposed amendment , we propose the following modification to the LURA:

- For the next 12 months, allow the project to lease up to 45 units to over-income tenants.

- For the following 12 months, allow the project to lease up to 35 units to over-income tenants.

- For the following 12 months, allow the project to lease up to 25 units to over income tenants.

- For a final period of 12 months, allow the project to lease up to 15 units to over income tenants.

- Thereafter, all units would be subject to the LURA.

Please recall that as of January 1, 2014, the 15 year federal compliance period for all buildings at the property has expired.

I would be happy to meet with you and other TDHCA staff members at any time to discuss this revised proposal.

Regards,

Pine-Oaks Partners, LLC

by Sterling Oaks Group, LLC

by Corinthian Real Estate, Inc.

by Bradley B Jones, CEO

Corinthian
Real Estate LLC

Bradley B. Jones, CEO

1215 Durham

Houston, TX 77007

Office: 713-622-4600

Cell: 713-907-4860

Fax: 713-622-4601

From: Brad Jones [mailto:bjones@corinthianre.com]
Sent: Wednesday, September 17, 2014 4:51 PM
To: Tom Gouris
Cc: Cari Garcia (cari.garcia@tdhca.state.tx.us); Kent Bedell; Jana Barnes; Adam Barker; Antonio Zuniga
Subject: Sabine Park, Orange, Texas
Importance: High

Dear Tom,

I wanted to follow up with you with respect to our meeting last week.

We are ready to work with you and your team to finalize a proposal to the Board for a tapering of the over-income privilege, for consideration by the Board at their meeting on October 9, 2014. We will accept your request that the first 12 months be 35 units of allowed over-income tenants rather than 45. For the proposed wind-down of the over-income program, we request the following:

1. For the next 12 months, up to 35 units to over-income tenants.

2. For the following 12 months, up to 30 units to over-income tenants.

3. For the following 12 months, up to 25 units to over-income tenants.

4. For the final period of 12 months, up to 20 units to over-income tenants. The program would come to an end at that time.

5.

We would very much like to be on the October agenda. We are receiving a regular stream of over-income persons interested in renting apartments at Sabine Park. Employers in Orange are hiring workers who have come to us seeking housing. These employers include DuPont, Bechtel, and Investa Refinery. We would like the opportunity to lease to these individuals in order to increase our occupancy and economic viability.

Best regards,

Pine-Oaks Partners, LLC

by Sterling Oaks Group, LLC

by Corinthian Real Estate, Inc.

by Bradley B Jones, CEO

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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GOVERNOR

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J. Mark McWatters
Robert D. Thomas

September 22, 2014

Writer's direct phone # 512.475.0577
Email: cari.garcia@tdhca.state.tx.us

Mr. Bradley B. Jones
Pine-Oaks Partners, LLC
2100 West Logs South, Suite 1145
Houston, Texas 77027
Via E-mail: bjones@corinthianre.com

RE: SABINE PARK APARTMENTS, TDHCA #96134 – REQUEST FOR LURA AMENDMENT EXTENSION

Dear Mr. Jones:

The Texas Department of Housing and Community Affairs received your revised request dated June 8, 2014, to modify the Land Use Restriction Agreement ("LURA") for the above-referenced Development. The request proposed a continuation of the Board's action from the July 11, 2013, Board meeting, wherein the Board approved continued work between the Development Owner and Department staff, for a period of up to six months (unless otherwise extended for an additional six months by the Executive Director) in an effort to develop and present to the Board a comprehensive and well documented solution to preserve long term affordability for all of the units. That approval contained the following parameters:

- The LURA would remain in effect, but the Department would not enforce the income eligibility requirement for up to 62 units in the buildings beyond the Federal compliance period;
- The accommodation did not extend to any building (BIN) still within the Federal compliance period;
- Any lease to an above income household during the accommodation period must provide that it is not renewable and that the tenant may be required to vacate at the end of its lease term so that the Owner may revert to leasing to income eligible households upon the expiration of this period (Owner was required to comply with all leasing laws regarding non-renewal or lease and eviction); and
- All available units would continue during the accommodation period to be marketed to income eligible households and subject to monitoring by the Department.

In January 2014 the approved accommodation period expired. You submitted a request for Executive Director approval of an additional six month period. However, between January and September, information provided did not support such an extension. During the accommodation period, you have provided monthly reports detailing the move-in activity at the property. These reports reflected some market rate occupancy over the six month period but also identified issues with ongoing retention of existing residents and newly occupied units (in all income bands). Market rate occupancy in the approved 62 units has never been achieved; and the current market rate occupancy of 23 units is at or near an all time high. All buildings are now outside of the Federal compliance period. However, in accordance with the LURA, there is an additional five year compliance period (total of 20 years for all buildings).

You propose that the accommodation should continue for another four years at the following rate until such a time when the Development Owner will resume full responsibility for compliance with the LURA. The proposal is that:

- For the next 12 month period, allow the project to lease up to 35 units to over-income tenants;
- For the following 12 month period, allow the project to lease up to 30 units to over-income tenants;
- For the following 12 month period, allow the project to lease up to 25 units to over-income tenants;
- For the following 12 month period, allow the project to lease up to 20 units to over-income tenants; and
- Thereafter, all units would be subject to the LURA.

On September 19, 2014, Executive staff met to discuss the material amendments to be presented to the October 9, 2014 TDHCA Board meeting. In this meeting, your proposal was discussed and a decision was made to deny the proposal for a LURA amendment. This letter will serve as notice of the decision and direction to continue to comply with the LURA in effect. All over-income households must be replaced by income eligible households upon expiration of their existing lease.

Pursuant to the Texas Administrative Code, Title 10, Part 1, §10.902(a)(7), this decision may be appealed. The Development Owner must file its appeal in writing with the Department not later than seven (7) calendar days after the date the Department notifies the Development Owner of the decision subject to appeal. Please refer to the above references for additional information regarding the appeal process.

Should you have any questions, please contact me directly at 512-475-0577 or via email.

Sincerely,

Cari Garcia

Cari Garcia
Director of Asset Management

Pine-Oaks Partners, LLC

1215 Durham Drive
Houston, TX 77007

September 23, 2014

Cari Garcia
Director of Asset Management
Texas Department of Housing and Community Affairs
221 E. 11th St.
Austin, TX 78711

Re: Sabine Park Apartments; TDHCA No. 96134; Request for LURA Amendment Extension

Dear Ms. Garcia:

We received your letter dated September 22, 2014 by email this afternoon.

Please accept this letter as notification that Pine-Oaks Partners, LLC, as the owner of the captioned apartment property, desires to appeal the decision of the Executive Committee on September 19, 2014, declining to accept the proposal for a continuing, but declining, program to allow Sabine Park Apartments to lease to over-income tenants. We would like this issue presented to the Board at its meeting on October 9, 2014. We will provide whatever information and documentation you may need in order to submit this issue to the Board on that date.

Sincerely,
Pine-Oaks Partners, LLC
By Sterling Oaks Group, LLC, its manager
By Corinthian Real Estate, Inc.

By: ________________________
Bradley B. Jones, CEO

5a

14000

Trinity Oaks Apartments

Sulphur Springs

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under of the Department's Program Rules

RECOMMENDED ACTION

WHEREAS, a 2014 Competitive Housing Tax Credit Application was submitted for Trinity Oaks Apartments (#14000), located in Sulphur Springs, Texas, by the Full Application Delivery Deadline;

WHEREAS, the Application received 11 points under §11.9(d)(2) of the 2014 Qualified Allocation Plan ("QAP") related to Commitment of Development Funding by Local Political Subdivision and was subsequently awarded an allocation of Housing Tax Credits ("HTC");

WHEREAS, the Applicant was issued an HTC Commitment notice conditioned, in part, on receiving a firm commitment of funds from an eligible Local Political Subdivision by September 15, 2014, in order to retain the 11 points;

WHEREAS, the Applicant did not deliver to the Department a firm commitment of funds from an eligible Local Political Subdivision by the required deadline;

WHEREAS, staff issued a revised scoring notice on September 24, 2014, rescinding the 11 points under §11.9(d)(2); and

WHEREAS, the Applicant appealed the scoring notice on September 30, 2014, and requested an extension to the deadline by which to provide the firm commitment of funds from an eligible Local Political Subdivision;

NOW, therefore, it is hereby,

RESOLVED, the Applicant's appeal of the scoring notice of Trinity Oaks Apartments and extension request (#14000) are hereby denied.

BACKGROUND

A 2014 competitive HTC Application was submitted for Trinity Oaks Apartments, located in Sulphur Springs, rural region 4. Points were requested under §11.9(d)(2) of the 2014 Qualified Allocation Plan ("QAP"), related to Commitment of Development Funding by Local Political Subdivision, and a letter from the City of Sulphur Springs indicating receipt of an application for funding was submitted to substantiate the points. Section 11.9(d)(2) of the QAP states that, "The Applicant must provide evidence in the Application that an application or request for the development funds has been submitted in the form of an acknowledgement from the applicable city or county. The acknowledgement must also state that a final decision with regard to the awards of such funding is expected to occur no later than September 1. A firm commitment of funds is required by Commitment or points will be lost." In response to an administrative deficiency, the Applicant submitted an additional letter from the City of Sulphur Springs, dated June 23, 2014, stating that a final decision regarding funding would be made in August 2014.

On July 9, 2014, staff issued a scoring notice for Trinity Oaks Apartments, in which 11 points were awarded under scoring item. The Application was awarded an allocation of Housing Tax Credits on July 31, 2014, and HTC Commitment notice was issued shortly thereafter. This Commitment was conditioned on, among other things, receiving a firm commitment of funds from an eligible Local Political Subdivision by September 15, 2014, pursuant to §1.9(d)(2) of the QAP. When the executed Commitment notice was returned to the Department, it did not include such a firm commitment. A revised scoring notice was issued on September 24, 2014, rescinding the 11 points.

The appeal indicates that while the City of Sulphur Springs is committed to providing funding to Trinity Oaks Apartments, it is unwilling to provide the firm commitment until it has had an opportunity to review the Department's underwriting report. However, there is no provision in the rule that allows for the firm commitment of funds to be submitted after the deadline due to the lack of an underwriting report, and at no time during the review process did the Applicant indicate that a final decision with respect to funding would be dependent upon the publication of an underwriting report. In addition, staff could accept a commitment of funds that was conditioned upon the HTC award and/or the publication of the underwriting report. However, no such commitment was submitted by the deadline.

The appeal also includes a request for an extension to the firm commitment deadline; no provision exists to provide such an extension. Therefore, staff recommends denial of the appeal.

Great Parks. Great People.

Sulphur Springs

Mayor John Sellers
Mayor Pro Tem Freddie taylor
Councilman Clay Walker
Councilman Oscar Aguilar
Councilwoman Emily Glass
Councilwoman Kayla Price

Marc Maxwell, City Manager
Gale Roberts, City Secretary

Councilman Craig Johnson

February 27, 2014

Mr. Dan Allgeier
Trinity Oaks Housing, LTD
Lakewood Property Management, LLC
4925 Greenville Ave., Suite 1305
Dallas, Texas 75206

Dear Mr. Allgeier,

I am in receipt of Trinity Oaks Housing, LTD, loan application in the amount of $111,000. The City of Sulphur Springs will take this under advisement and respond as soon as possible.

Please contact me with any questions or if I can be of further support at 903.885.7541.

Sincerely,

Marc Maxwell
City Manager

MF RCVD Tue 6/24/2014 3:53 PM-LC

City of Sulphur Springs TEXAS

Mayor John Sellers
Mayor Pro Tem Freddie taylor
Councilman Clay Walker
Councilman Oscar Aguilar
Councilwoman Emily Glass
Councilwoman Kayla Price

Marc Maxwell, City Manager
Gale Roberts, City Secretary

Councilman Craig Johnson

June 23, 2014

Mr. Dan Allgeier
Trinity Oaks Housing, LTD
Lakewood Property Management, LLC
4925 Greenville Ave., Suite 1305
Dallas, Texas 75206

Dear Mr. Allgeier,

You have requested an update of the status of your loan application. A final decision has not been made regarding funding. I expect a final decision regarding funding in August 2014.

Please contact me with any questions or if I can be of further support at 903.885.7541.

Sincerely,

Marc Maxwell
City Manager

LAKEWOOD PROPERTY MANAGEMENT, LLC

4925 Greenville Ave., Ste. 1305
Dallas, Texas 75206
Phone 214-277-4839

September 30, 2014

Ms. Katherine Saar
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Trinity Oaks Apartments
Sulphur Springs, Texas
#14000

Dear Ms. Saar:

We wish to appeal the scoring notice for the Competitive Housing Tax Credit Application #14000 for housing tax credits. The Agency reduced our score by 11 points because we were not able to provide a satisfactory commitment of local funds from the City of Sulphur Springs by the deadline of August 15, 2014.

The City remains willing to provide local funding for this project in the amount and with the terms provided in the application, however they wish to review TDHCA's underwriting report before issuing any commitment. The underwriting report has not been completed. When the City has the opportunity to review this report we will be able to provide the requirement commitment.

We request an extension of time to provide this commitment to 10 business days beyond the date the TDHCA underwriting report is available for review.

Sincerely,

Trinity Oaks Housing, Ltd.
By Dan Allgeier, Member
LPM Trinity Oaks, LLC, general partner
dan@lakewoodmanagement.com

We do not discriminate against persons with disabilities
This institution is an equal opportunity provider and employer

14004

Northwest Apartments

Georgetown

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

OCTOBER 9, 2014

Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under of the Department's Program Rules

RECOMMENDED ACTION

WHEREAS, a 2014 Competitive Housing Tax Credit Application was submitted for Northwest Apartments (#14004), located in Georgetown, Texas, by the Full Application Delivery Deadline;

WHEREAS, Georgetown, Texas is a municipality that has more than twice the state average of units per capita supported by Housing Tax Credits;

WHEREAS, staff identified that the Application was submitted with a resolution that did not meet the requirements of §11.3(b) of the 2014 Qualified Allocation Plan ("QAP"), or §2306.6703(a)(4) of Texas Government Code ("Statute") thus making the application ineligible;

WHEREAS, the Application was terminated on September 23, 2014;

WHEREAS, the Applicant has timely appealed the termination;

NOW, therefore, it is hereby,

RESOLVED, the Applicant's appeal of the termination of Northwest Apartments (#14004) is hereby denied.

BACKGROUND

A 2014 competitive housing tax credit application was submitted for Northwest Apartments, located in Georgetown, urban region 7. Pursuant to §11.3(b) of the QAP, "if a proposed Development is located in a municipality…that has more than twice the state average of units per capita supported by Housing Tax Credits,...the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development."

Although the Application for Northwest Apartments was submitted timely and contained a resolution (no. 012814-H) from the City of Georgetown approving the proposed application, the resolution did not specifically cite §2306.6703(a)(4) as required by both the QAP and Statute. The QAP requires that "such approval must include a resolution adopted by the Governing Body of the municipality or county, as applicable, setting forth a written statement of support, specifically citing Texas Government Code, §2306.6703(a)(4) in the text of the actual adopted resolution, and authorizing an allocation of Housing Tax Credits for the Development." Statute states that an application in a place with twice the state average of units per capita supported by Housing Tax Credits is ineligible for consideration "unless the applicant (A) has obtained prior approval of the development from the governing body of the appropriate municipality or county containing the development; and (B) has included in the application a written statement of support from that governing body referencing this section and authorizing an allocation of housing tax credits for the development." Because these requirements were not met, staff determined that the Application was ineligible and issued a termination letter on September 23, 2014.

The appeal included a letter from the City of Georgetown dated February 24, 2014, supporting the proposed application; however, this does not meet the requirement of §11.3(b) of the QAP, that the written support be in the form of a resolution. Furthermore, the letter did not contain the required reference to Statute. The appeal argues that because the resolution submitted with the application contained a reference to a rule, it should meet the requirements of Texas Government Code §2306.6703(a)(4), specifically that the statement "reference[s] this section." However, the rule mentioned in the resolution is not only obscure (referencing a section in the 2012 Qualified Allocation Plan) but also is not the required reference to statute.

Staff recommends denial of the appeal.

HVM 2014 Georgetown, Ltd.
P O Box 190
Burnet, Texas 78611
(512) 756-6809

September 26, 2014

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: HVM 2014 Georgetown, Ltd., owner
Northwest Apartments
TDHCA #14004

Dear Mr. Irvine:

This is a formal appeal of the termination notice received on September 23, 2014 (attachment A) for the above referenced application. This appeal addresses the one item listed on the deficiency notice received on September 18, 2014 (attachment B). We strongly disagree with the staff determination of termination for the following stated reasons.

Attached please find a copy of the TX Government Code ANN. 2306.6703. This is the "state statute" in question (attachment C). The code states; if the development is located in a municipality that has more than twice the state average of units per capita supported by housing tax credits, the development should obtain a "Written Statement" of support from the governing body *referencing* this section and *authorizing* an allocation of housing tax credits for the development. In this statute nowhere does it require a "Resolution" from the City rather, a "Written Statement". We understand that TDHCA has added the requirement for the Resolution in the QAP. The Resolution required by TDHCA was submitted with the original application (attachment D).

Please find attached a "Written Statement" of support in the form of a letter directly from the City of Georgetown dated February 24, 2014 (attachment E). This letter states that they (the City of Georgetown) are aware of the fact that the City has more than twice the state average of units per capita supported by Housing Tax Credits and, that they understand that fact could potentially disqualify HVM 2014 Georgetown, Ltd from receiving tax credits. This letter is very specific of their support for the reasons as listed in the State Statute. The Resolution also references to the State Statute. However, the City referenced the QAP number as the location of this requirement. In the City's desire to assist, and provide all the documentation needed for receiving an allocation for this application in a timely manner, they used a prior resolution template they inadvertently had used in 2012. This of course resulted in a difference of numbers only, *not* the intent of the letter or resolution.

When we approached the City in September concerning the deficiency we had received, they immediately wrote a letter explaining their mistake and their intention (attachment E). Also, please find attached for your reference, a letter from the City showing their support of this appeal dated September 25, 2014 (attachment F).

In addition to this request for appeal, when reading the deficiency letters wording, and the termination letters wording, we have found a discrepancy when compared to the actual state statute. It does not use the wording "specifically cite Texas Government Code 2306.6704(a)(4)". What it does say is, a "Written Statement" of support from that governing body "Referencing" this section. We believe we have submitted exactly what the state statute requires and have met the rule.

The City of Georgetown has taken full responsibility for the typing error on the original resolution and has stated that they had used this same template for other Tax Credit applications in the past, and those applications have been issued awards.

To sum up our appeal, we feel that the original Support Letter and Resolution provided by the City of Georgetown have stayed true to the spirit and rule of the State Statute and TDHCA's QAP. We feel this application should be able to move forward with the much needed rehabilitation of this 100% occupied Rural Development property.

We respectfully request a favorable ruling on this issue on appeal. This does not raise policy issues and therefore, we believe that it is more appropriately handled at your level. That being said, should you decide that you cannot rule in our favor at this juncture, we reserve the right to appeal at the next board meeting.

We thank you for your consideration and concern for this project. Should you require further information, please do not hesitate to contact myself, or Mr. Dennis Hoover (ext. 212) (dennishoover@hamiltonvalley.com) directly.

Respectfully,

Kim Youngquist
Development Coordinator
Hamilton Valley Management, Inc.
(512) 756-6809 ext. 218
KYoungquist@hamiltonvalley.com

Attachments

CC: Dennis Hoover
Claire Palmer
file

Attachment A

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

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Leslie Bingham-Escareño
Tom H. Gann
J. Mark McWatters
Robert D. Thomas

September 23, 2014

Writer's direct phone # 512-475-1676
Email: jean.latsha@tdhca.state.tx.us

Mr. Dennis Hoover
HVM 2014 Georgetown, Ltd.
PO Box 190
Burner, TX 78611

RE: TERMINATION OF HTC APPLICATION #14004, NORTHWEST APARTMENTS, GEORGETOWN, TEXAS

Dear Mr. Hoover:

Pursuant to §11.3(b) of the 2014 Qualified Allocation Plan ("QAP"), if a proposed Development is located in a municipality that has more than twice the state average of units per capita supported by Housing Tax Credits ("HTC"), the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development. The approval must include a resolution adopted by the appropriate Governing Body stating support for the Development, specifically citing §2306.6703(a)(4) of the Texas Government Code and authorizing an allocation of Housing Tax Credits for the Development. The required resolution must be submitted by the Full Application Delivery Date, which was February 28, 2014.

The Application for Northwest Apartments was submitted timely and did contain a resolution (no. 012814-H) from the City of Georgetown approving the proposed application. However, the resolution did not specifically cite §2306.6703(a)(4) of the Texas Government Code. An Administrative Deficiency was issued to the Applicant on September 18, 2014, requesting information on how the resolution met the requirements of the QAP and statute. Within the allowed response time the Applicant submitted a letter from the City of Georgetown stating that an older version of the resolution had been mistakenly used and that the earliest a new resolution could be approved would be October 14, 2014. Therefore, the application is hereby terminated.

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the 2014 Uniform Multifamily Rules. Should you choose to appeal this decision, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. The Executive Director may respond not later than fourteen (14) calendar days after the date of actual receipt of the appeal by the

Department. If you are not satisfied with the decision of the Executive Director, you may file a further appeal with the Governing Board of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2014 Uniform Multifamily Rules for full instruction on the appeals process.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at jean.latsha@tdhca.state.tx.us.

Sincerely,

Jean M. Latsha
Director of Multifamily Finance

Attachment B

Kim Youngquist

From:	Liz Cline <liz.cline@tdhca.state.tx.us>
Sent:	Thursday, September 18, 2014 2:57 PM
To:	Dennis Hoover; Kim Youngquist
Subject:	14004 Application - 9% HTC Application Deficiency Notice for Northwest Apartments
Importance:	High

In the course of the Department's **Eligibility/Selection/Threshold** review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(A) of the 2014 Uniform Multifamily Rules has been identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Issues initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

Twice the State Average Per Capita: Pursuant to 2(a)(7) §11.3(b) of the 2014 QAP, a resolution adopted by the Governing Body of the municipality containing the Development must set forth a written statement of support and must specifically cite Texas Government Code §2306.6703(a)(4) in the text of the actual adopted resolution. Please clarify how the submitted resolution is eligible.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear under separate cover.

All deficiencies must be corrected or clarified by 5 pm CST on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiencies remain unresolved, the application will be treated in accordance with §10.201(7)(A) of the 2014 Uniform Multifamily Rules.

All documentation should be submitted as a whole using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

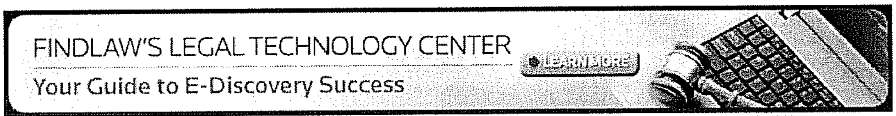
All applicants should review §§11.1(b) and 10.2(b) of the 2014 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

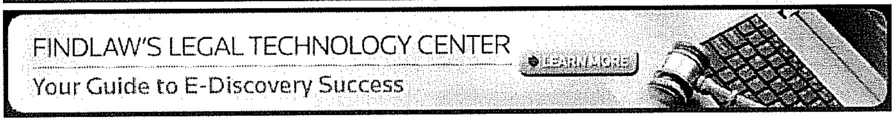
****All deficiencies must be corrected or clarified by 5 pm on September 25, 2014. Please respond to this email as confirmation of receipt****

About TDHCA
The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Liz Cline

Attachment C





TEX GV. CODE ANN. § 2306.6703 : Texas Statutes - Section 2306.6703: INELIGIBILITY FOR CONSIDERATION

Search TEX GV. CODE ANN. § 2306.6703 : Texas Statutes - Section 2306.6703:

INELIGIBILITY FOR CONSIDERATION

Search by Keyword or Citation

Search

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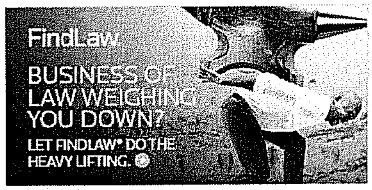

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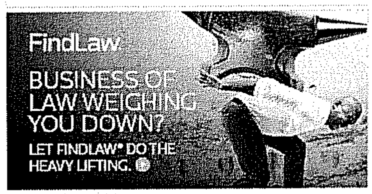

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THOMSON REUTERS

(a) An application is ineligible for consideration under the low income housing tax credit program if:

(1) at the time of application or at any time during the two-year period preceding the date the application round begins, the applicant or a related party is or has been:

(A) a member of the board; or

(B) the director, a deputy director, the director of housing programs, the director of compliance, the director of underwriting, or the low income housing tax credit program manager employed by the department;

(2) the applicant proposes to replace in less than 15 years any private activity bond financing of the development described by the application, unless:

(A) the applicant proposes to maintain for a period of 30 years or more 100 percent of the development units supported by housing tax credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the area median income, adjusted for family size; and

(B) at least one-third of all the units in the development are public housing units or Section 8 project-based units;

(3) the applicant proposes to construct a new development that is located one linear mile or less from a development that:

(A) serves the same type of household as the new development, regardless of whether the developments serve families, elderly individuals, or another type of household;

(B) has received an allocation of housing tax credits for new construction at any time during the three-year period preceding the date the application round begins; and

(C) has not been withdrawn or terminated from the low income housing tax credit program; or

(4) the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds, unless the applicant:

(A) has obtained prior approval of the development from the governing body of the appropriate municipality or county containing the development; and

(B) has included in the application a written statement of support from that governing body referencing this section and authorizing an allocation of housing tax credits for the development.

(b) Subsection (a)(3) does not apply to a development:

(1) that is using:

(A) federal HOPE VI funds received through the United States Department of Housing and Urban Development;

Attachment D

RESOLUTION NO. 012814-H

A Resolution of the City Council of the City of Georgetown, Texas approving a Housing Tax Credit Program proposal with HVM 2014 Georgetown, Ltd., for the development named Northwest Apartments located at 1623 E. Northwest Boulevard; and declaring an effective date

Whereas, HVM 2014 Georgetown, Ltd. has proposed to acquire and rehabilitate an existing, 24-unit USDA-subsidized multi-family apartment complex known as Northwest Apartments, 1623 E. Northwest Boulevard in the City of Georgetown, Williamson County, to continue to provide for affordable rental housing within the City;

Whereas, HVM 2014 Georgetown, Ltd. intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2014 Housing Tax Credits Program funds for Northwest Apartments;

Whereas, pursuant to §50.8(2)(A), Texas Administrative Code, HVM 2014 Georgetown, Ltd. acknowledges that the City of Georgetown has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds;

Be it therefore resolved that:

The City of Georgetown hereby approves of the proposed application for the rehabilitation of Northwest Apartments and has voted specifically to authorize an allocation of Housing Tax Credits for this development.

Adopted and approved by the City Council of the City of Georgetown on the 28th day of January 2014.

ATTEST:

Jessica Brettle
Jessica Brettle
City Secretary

THE CITY OF GEORGETOWN:

George Garver
George Garver
Mayor

APPROVED AS TO FORM:

Bridget Chapman
City Attorney

Resolution Number: 012814-H Page 1 of 1
Description: Northwest Apartments Tax Credit Resolution
Date Approved: 1/28/2014

Attachment E

DOWNTOWN & COMMUNITY SERVICES
CITY OF GEORGETOWN

GEORGETOWN TEXAS EST. 1848

February 24, 2014

Dennis Hoover
HVM 2014 Georgetown, Ltd
P O Box 190
Burnet, Texas 78611

Re: Northwest Apartments, HVM 2014 Georgetown, Ltd. (Owner)
Property located at 1623 E. Northwest Blvd., TX 78628

Dear Mr. Hoover,

On behalf of the City of Georgetown, we support your application for Multi-Family Tax Credits with the Texas Department of Housing and Community Affairs (TDHCA) during the 2014 cycle. We understand the funds will be used for the rehabilitation of the existing 24 unit Family housing development named Northwest Apartments.

The Georgetown City Council is aware of the fact that the municipality of Georgetown, Texas has more than twice the state average of units per capita supported by Housing Tax Credits at this time, and that this fact could potentially disqualify HVM 2014 Georgetown, Ltd. (Owner) from receiving tax credits. However, we support the development of Northwest and authorize an allocation of Housing Tax Credits for this development. You will receive written approval of this development from the City of Georgetown City Council in the form of a resolution that was approved at the regular City Council meeting on January 28, 2014.

Georgetown has a strong need for affordable housing, so we are very interested in this development for the families in our City. Inquiries are regularly received from potential apartment renters, and your proposed development will help fulfill our need for additional affordable rental housing.

Georgetown is an incorporated town in Williamson County. It is located in census tract 48491020114. The zoning designation of 3.29 acres of the Porter Survey, located at 1623 Northwest Boulevard is Multifamily (MF). This area is depicted in the attached zoning map. For all allowed uses within this district, please refer to Table 5.01.020 of the Georgetown Unified Development Code. An apartment use is allowed by right within MF.

Adequate city water, sewer and electric are currently available to the property line and site. Fire protection is provided by the City of Georgetown and garbage collection is provided by Texas Disposal Services as a sub-contractor. The property is not located in a flood zone and is in Zone X.

The City has long recognized the need for affordable rental housing and is very supportive of your efforts. We look forward to working with you on this endeavor.

Sincerely,

Laurie Brewer
Assistant City Manager

enclosure

Attachment E

GEORGETOWN TEXAS EST 1848

DOWNTOWN & COMMUNITY SERVICES
CITY OF GEORGETOWN

September 26, 2014

Kim Youngquist
HVM 2014 Georgetown, Ltd
P O Box 190
Burnet, Texas 78611

Re: Northwest Apartments, HVM 2014 Georgetown, Ltd. (Owner)
Low-Income Housing Tax Credit Resolution deficiency

Dear Ms. Youngquist,

In reviewing the resolution that the Georgetown City Council approved on January 28, 2014, it appears that an older version of the required language for the resolution was accidentally used. As Georgetown has been above the two times limit for a number of years, City Council reviews a number of requests and in this instance, and older template was used.

The reference to Texas Government Code §2306.6703(a)(4) was inadvertently omitted from the text of the resolution. The staff report and presentation made by staff to City Council was clear that the approval of the resolution was needed because within the city limits, Georgetown has more than twice the state average of units per capita supported by housing tax credits or private activity bonds.

Due to our City Council cycle, the earliest City Council could approve a new resolution would be October 14, 2014. If the Texas Department of Housing & Community Affairs needs further clarification on the error, please feel free to forward them my contact information.

Sincerely,

Jennifer C. Bills

Jennifer C. Bills, AICP, LEED AP
Housing Coordinator

816 S. Main Street | P.O. Box 409 | Georgetown, Texas 78627-0409 | (512) 930-8477 | (512) 930-8445 (fax)
housing.georgetown.org | jennifer.bills@georgetown.org

Attachment F

Planning and Development Department
City of Georgetown

EST. 1848
GEORGETOWN
TEXAS

September 25, 2014

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Northwest Apartments, HVM 2014 Georgetown, Ltd. ("Applicant")
TDHCA #14004

Dear Mr. Irvine:

This Letter is to formally support the appeal of the Termination of Application Number 14004 Northwest Apartments, Georgetown, Texas (the "Project"). This Application was terminated based on an error made by the City of Georgetown when it drafted its resolution supporting the application, specifically the portion of the resolution required when the Project is located in a municipality that has twice the state average of units per capita. I now understand that the language in the 2014 Qualified Allocation Plan ("QAP") has been amended to specifically require that the City Resolution contain a reference to Section 2306.6703(a)(4). However, when the City of Georgetown passed its resolution on January 28, 2014, we inadvertently used an older resolution form and accidently referenced an older QAP rather than the statute. We used this same template in the past and now see that it incorrectly referenced the QAP rather than statute as well. While not excusing the error, I am sure you can understand how we made this simple inadvertent error. It does not diminish the fact that the Council specifically recognized the two time per capita issue and voted to approve the Project.

This inadvertent mistake was the fault of the City and not the Applicant. This Project has much City and community support. The Resolution that was submitted in the original application had passed without opposition and the City continues to strongly support this much needed rehabilitation Project.

We have placed this action item on the October 14, 2014 City Council Docket and plan to issue a corrected resolution at that time. On behalf of the City of Georgetown, I urge you to reconsider this termination and allow the Applicant to proceed with this Project.

Sincerely,

Jennifer C. Bills

Jennifer C. Bills, AICP, LEED AP
Housing Coordinator

5b

BOARD ACTION REQUEST
REAL ESTATE ANALYSIS
October 9, 2014

Presentation, Discussion, and Possible Action on Timely Filed Appeals of Underwriting Rules

RECOMMENDED ACTION

WHEREAS, 2014 Competitive Housing Tax Credit Applications were submitted by the Housing Authority of the City of El Paso ("HACEP") for Haymon Krupp (#14127), Sherman Plaza (#14128), Westfall Baines (#14129) and Tays Apartments (#14130);

WHEREAS, the total of the tax credits requested on the four Applications of exceeded the $3 million limit of housing tax credits that can be awarded to one Applicant (or Affiliate of an Applicant) in a single program year;

WHEREAS, staff published underwriting reports for Haymon Krupp, Sherman Plaza, and Westfall Baines on July 23, 2014, with recommended tax credit amounts equal to those requested by the Applicant in the original Applications;

WHEREAS, staff published an underwriting report for Tays Apartments on July 23, 2014, with a recommended tax credit amount limited by the Applicant's request as modified by the Applicant without Department request or approval in violation of the rules regarding administrative deficiencies;

WHEREAS, staff published an addendum to the underwriting report for Tays Apartments on July 25, 2014, reflecting correctly the request by the Applicant in the original Application and recommending a tax credit amount limited by eligible basis;

WHEREAS, the Applicant appealed all four underwriting reports on July 28, 2014, citing that the Underwriter failed to identify and correct errors made by the Applicant on the original development cost schedules;

WHEREAS, staff published addenda to each report on August 11, 2014, after correcting errors made by the Applicant and also correcting other identified errors made by staff, including the amount of the credit request on Tays;

WHEREAS, the addendum to the Haymon Krupp underwriting report did not change the tax credit award recommendation;

WHEREAS, the second addendum to the Tays underwriting report included a recommended tax credit amount that was no longer limited by eligible basis but by the amount requested in the original Application;

WHEREAS, the addenda to the Westfall Baines and Sherman Plaza underwriting reports indicate that the Applications are financially infeasible;

WHEREAS, on August 18, 2014, Applicant has appealed all four revised underwriting reports;

WHEREAS, staff's reviews of the appeals dated August 18, 2014, resulted in no change to the recommendations indicated in the addenda published on August 11, 2014; and

WHEREAS, upholding staff recommendation to deny the appeals for Haymon Krupp (#14127), Sherman Plaza (#14128), Westfall Baines (#14129), and Tays (#14130) will result in 2014 9% tax credit allocations to Haymon Krupp (#14127) and Tays (#14130).

NOW, therefore, it is hereby

RESOLVED, the appeals for Haymon Krupp (#14127), Sherman Plaza (#14128), Westfall Baines (#14129) and Tays Apartments (#14130) are hereby denied.

BACKGROUND

The Housing Authority of the City of El Paso ("HACEP") filed four Competitive 9% Housing Tax Credit Applications on February 28, 2014, three of which were filed under the At-Risk Set-Aside and all of which propose conversion of public housing developments in its portfolio under the rental assistance demonstration ("RAD") program of the U. S. Department of Housing and Urban Development ("HUD"). The three At-Risk Applications, Haymon Krupp, Tays, and Westfall Baines, were submitted with annual housing tax credit requests of $800,000, $1,355,000, and $875,000, respectively, and totaling $3,030,000. The Application for Sherman Plaza (a new construction Application) indicated an annual housing tax credit request of $1,500,000 making the Applicant's total tax credits requested equal to $4,530,000. Texas Government Code §2306.6711(b) and §11.4(a) of the 2014 Qualified Allocation Plan ("QAP") limit the amount of housing tax credits that can be awarded to one Applicant (or Affiliate of an Applicant) in a single program year to $3,000,000, a provision commonly referred to as the "$3 million cap." Therefore, should staff have found that each of these Applications was, in and of itself, eligible for the amount of credit that was originally requested, staff could only have recommended two Applications for award as a third recommendation would have caused a violation of the QAP and statute. It is staff's belief that the Applicants (HACEP) realized this after Application submission and therefore attempted to reduce the original credit requests and/or awards in order to avoid such a violation and be in a position to potentially be recommended for awards for three separate Applications (specifically the three At-Risk Applications). Staff has consistently not allowed this type of change after Application submission as it can have a detrimental effect on other Applicants and is inconsistent with the Department's rules regarding the administrative deficiency process.

The first attempt by the Applicant to reduce the total credit request was attempted to be couched as being response to such an administrative deficiency on another matter from the program staff for Application #14130, Tays Apartments ("Tays"). In that response the Applicant provided some requested information but also provided certain unresponsive and unrequested information (a revised development cost schedule and other exhibits) indicating a reduction in their credit request. The narrative submitted with the deficiency response did not call attention to this reduction, nor to the revisions that led to it, namely lower financing costs and developer fees and an alteration of the applicable fraction. Therefore, these revisions were not immediately detected by Department staff, and the reduced credit request, although now included in the Application file as part of the deficiency response, was never indicated on any of the application logs that were posted on the Department's website.

Subsequently, the Real Estate Analysis ("REA") staff published underwriting reports on the Applicant's four transactions on July 23, 2014. REA staff recommended the Applicant's full credit request on three of the four Applications; the recommendation for the fourth Application, #14130 Tays Apartments, indicated that the Applicant requested a lesser amount of credit than was reflected on the posted application log, since their review was based on the Applicant's revised exhibits. In researching the discrepancy between the Applicant's credit request listed in the initial underwriting report and the Applicant's original credit request listed in the application logs, program staff determined that the Applicant's reduced credit request should be disallowed because it had not been provided in response to a staff request in accordance with the rule regarding administrative deficiencies. Note that even had the changes to the development costs (the lower financing costs and developer fees) been submitted in response to a request by program staff, the revised credit request would still have been disallowed (or at minimum revised by staff), as an alteration of the applicable fraction by the Applicant resulted in an inaccurate calculation of credits supported by eligible basis. Program staff then informed REA staff that, for purposes of their review, the credit request for Tays should not be based on the unrequested exhibits that indicated reductions in costs and an incorrect applicable fraction.

Upon learning that the revised development cost schedule on Tays was not allowed by program staff, REA staff amended the underwriting report based on the original development cost schedule recommending a credit amount limited by eligible basis. The recommended credit amount was less than the Applicant's original credit request, but higher than the revised request. With the revised REA recommendation on Tays, the total credit recommendation on three of the four Applications (the three At-Risk Applications, excluding #14128, Sherman Plaza) still exceeded the $3 million cap.

At this point, the Applicant made another attempt to reduce the credit being awarded on Tays (and essentially increasing the overall credit able to be awarded to HACEP) by appealing all four underwriting reports and citing REA staff's failure to identify the Applicant's error of including the asbestos abatement cost in eligible basis. The appeals had the effect of requesting a reduction to the recommended credit amounts such that the three At-Risk Applications remained under the $3 million cap.

In review of the Applications as a result of the appeals, REA staff confirmed the error but also reconciled an issue with the eligibility of asbestos abatement identified by the applicant in the appeal. At that point, staff recognized that the actual cost of the asbestos abatement had not been included in REA's original total cost estimate.

As a result, REA staff published addenda to all four reports removing asbestos abatement from the Applicant's eligible basis and adding the abatement cost to REA's total development cost. The effect of correcting these errors, in addition to an adjustment relating to sprinklers (and correcting the Applicant's exclusion of eligible site work costs on #14129 Westfall Baines), resulted in two of the Applications being deemed infeasible pursuant to the rules. Therefore Westfall Baines and Sherman Plaza were not recommended for an award at all in the revised reports.

In the third attempt to be eligible to receive the three separate At-Risk awards, the Applicant then submitted a second appeal, the subject appeal, stating that the costs on all four transactions were overstated by REA staff. This appeal was based on a claim that the Applicant intends to use a related-party non-profit general contractor that would provide cost savings by use of a sales tax exemption on construction material.

Staff's recommendations were made after multiple conversations with the Applicant regarding cost projections on all four developments. The purpose of these conversations was to learn and understand all aspects of the deals to make informed cost estimates. In this case and in that effort, information was provided to REA staff regarding a recently completed development by the Applicant that ultimately supported the REA staff's higher cost estimates but did not include the use of a non-profit general contractor. There was no indication of a non-profit general contractor in these conversations prior to publication of the underwriting reports.

The underwritten development cost schedules show that each of the transactions have sufficient construction costs and eligible basis to support the Applicant's requested credits. Westfall Baines and Sherman Plaza, however, do not have sufficient sources to cover total development costs. Therefore, REA is not able to recommend those two Applications for their requested tax credit awards.

The Applicant's position seems to boil down to allowing the Staff to accept material new information, the sales tax exemption, that would support lower construction costs, presumably leading to an REA directed adjustment reducing eligible basis and, therefore, making the adjusted total credit allocations to be within the $3 million cap.

Staff has received no data or materials to support this claim, but regardless, under applicable rules and statute, staff lacks the authority to make or proceed on these assumptions. First, this does not meet the definition of an administrative deficiency. This is clearly new and material information. To allow this information would clearly have the effect of giving the Applicant the untimely ability to impact its competitive posture. Therefore, staff recommends denial of all four appeals.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
www.tdhca.state.tx.us

Rick Perry
GOVERNOR

BOARD MEMBERS
J. Paul Oxer, *Chair*
Juan S. Muñoz, PhD, *Vice Chair*
Leslie Bingham-Escareño
Tom H. Gann
J. Mark McWatters
Robert D. Thomas

August 28, 2014

Writer's direct dial:512.475.3296
Email: tim.irvine@tdhca.state.tx.us

Alyssa Carpenter
S. Anderson Consulting
1305 East 6th Street, Suite 12
Austin, Texas 78702

RE: UNDERWRITING REPORT APPEALS FOR #14127 HAYMON KRUPP, #14130 TAYS APARTMENTS, #14129 WESTFALL BAINES AND #14128 SHERMAN PLAZA

Dear Ms. Carpenter:

By letter dated August 18, 2014, you have, on behalf of the Housing Authority of the City of El Paso (the "Applicant"), appealed the underwriting reports for the above referenced applications.

In the 2014 application round the Applicant received awards for Haymon Krupp and Tays Apartments. The motivation behind this appeal is to receive an award for Westfall Baines also.

For the reasons set forth herein I am unable to grant your appeal, and accordingly it is denied. The history of these applications is essential to an understanding of the issues presented and my inability to grant the relief requested.

The Applicant is seeking to convert public housing developments in its portfolio under the rental assistance demonstration ("RAD") program of the U. S. Department of Housing and Urban Development ("HUD"), and its need to move expeditiously on these and other properties in the Applicant's portfolio to complete RAD conversion within HUD's prescribed timeframes is admittedly a major driver. Nonetheless, in reviewing these applications for competitive 9% tax credits, the staff of the Texas Department of Housing and Community Affairs (the "Department" or "TDHCA") is constrained by statute and rule and is not able to grant special concessions or treatment on the basis of the exigencies of the RAD program or the Applicant's public mission, however laudable and worthy.

As we understand it the Applicant is seeking now to have staff re-underwrite these applications in a manner which:

- Allows the Applicant to provide new information regarding the inclusion of a non-profit as the general contractor on all four developments, even though this information was not noted anywhere in the applications or made available to Staff prior to publication of the underwriting reports;
- Adjusts eligible basis based on reduced cost of materials, utilizing the non-profit's sales tax exemption; and
- Makes a downward adjustment to the credit amount based on the reduction in eligible basis with the effect of making possible the award of 9% low income housing tax credits to three out of four applications without violating the $3 million statutory cap on the amount of tax credits that can be awarded to the Applicant in a single application round.

Although the history of these applications contains some matters that were not handled correctly by Staff and others that were not handled correctly by the Applicant, the question before me is whether I, at this time, have the authority to approve what the Applicant is seeking and compel a different outcome.

The applications submitted had several relevant attributes:

- They did not identify that there would be a non-profit general contractor. A general contractor was not named, and the development cost schedule was signed by the architect.
- They incorrectly listed costs of asbestos abatement as eligible basis costs. They are not eligible basis, but they are development costs.
- They sought credit which, in the aggregate, would exceed $3 million for three out of their four applications.

In response to an administrative deficiency from the program staff for Application #14130, Tays Apartments ("Tays"), the Applicant provided some responsive information but also provided certain unresponsive and unrequested information (a revised development cost schedule and other exhibits) indicating a reduction in their credit request. The narrative submitted with the deficiency response did not call attention to this reduction, nor to the revisions that led to it, namely lower financing costs and developer fees and an alteration of the applicable fraction. Therefore, these revisions were not immediately detected by Department staff, and the reduced credit request was never indicated on any of the application logs that were posted on the Department's website.

Subsequently, the Real Estate Analysis ("REA") staff published an underwriting report for Tays that indicated that the Applicant requested a lesser amount of credit than was reflected on the posted application log, since their review was based on the Applicant's revised exhibits. In researching the discrepancy between the Applicant's credit request listed in the initial underwriting report and the Applicant's original credit request listed in the application logs, Jean Latsha, Director of Multifamily Finance, determined that the Applicant's reduced credit request should be disallowed because it had not been provided in response to a staff request in accordance with the rule regarding administrative deficiencies. Note that even had the changes to the development costs (the lower financing costs and developer fees) been submitted in response to a request by program staff, the revised credit request would still have been disallowed (or at minimum revised by staff), as an alteration of the applicable fraction by the Applicant resulted in an inaccurate calculation of credits supported by eligible basis. Ms. Latsha then informed REA staff that, for purposes of their review, the credit request for Tays should not be based on the unrequested exhibits that indicated reductions in costs and an incorrect applicable fraction.

Real Estate Analysis ("REA") staff first published underwriting reports on the Applicant's four transactions on July 23, 2014. REA staff recommended the Applicant's full credit request on three of the four applications; the recommendation for the fourth application, #14130 Tays Apartments, was based on revised (although later disallowed) development cost schedule and other exhibits discussed above.

Upon learning that the revised development cost schedule on Tays was not allowed by program staff, REA staff amended the underwriting report based on the original development cost schedule recommending a credit amount limited by eligible basis. The recommended credit amount was less than the Applicant's original credit request, but higher than the revised request. Even with the revised recommendation on Tays, the total credit recommendation on three of the four applications (the three At-Risk applications, excluding #14128, Sherman Plaza) still exceeded the $3 million cap.

At this point, the Applicant appealed all four underwriting reports citing REA staff's failure to identify the Applicant's error of including the asbestos abatement cost in eligible basis. The appeal had the effect of requesting a reduction to the recommended credit amounts such that the three At-Risk applications would be under the $3 million cap.

In review of the applications as a result of the appeal, REA staff confirmed the error but also discovered that the actual cost of the asbestos abatement had not been included in REA's total cost estimate.

As a result, REA staff published addenda to all four reports removing asbestos abatement from the Applicant's eligible basis and adding the abatement cost to the total development cost. The effect of correcting these errors, in addition to an adjustment relating to sprinklers, resulted in two of the applications being deemed infeasible pursuant to the rules. Therefore Westfall Baines and Sherman Plaza were not recommended for an award at all in the revised reports.

These recommendations in the original reports were made after multiple conversations with the Applicant regarding cost projections on all four developments. The purpose of these conversations is to learn and understand all aspects of the deals to make informed cost estimates. In this case and in that effort, information was provided to REA staff regarding a recently completed development by the Applicant that ultimately supported the REA staff's higher costs.

On July 24, 2014, immediately following publication of the original underwriting reports, the Applicant contacted REA staff and indicated verbally that the cost estimate on Application #14129, Westfall Baines, should be lower than that reflected in the report because the Applicant intended to use a non-profit contractor on the construction allowing for sales tax savings on construction materials, there was no documentation submitted supporting this claim. No evidence was submitted in the application regarding a non-profit contractor, and it was not part of any discussion with the Applicant during the underwriting process; REA staff was never made aware of the Applicant's anticipated sales tax savings until after the report was published. It is unknown if a sales tax exemption would reduce costs in an amount sufficient to impact the overall recommendation on any of the four applications.

The Applicant then submitted a second appeal stating that the costs on all four transactions were overstated by REA staff. This appeal was based on this claim that the Applicant intends to use a related-party non-profit general contractor that would provide cost savings by use of a sales tax exemption on construction material.

At this point it had become, as the head of REA, Brent Stewart has said, "simply math." The underwritten development cost schedules show that each of the deals had sufficient construction costs and eligible basis to support the Applicant's claimed credits. Westfall Baines and Sherman Plaza, however, do not have sufficient sources to cover total development costs. Therefore, REA is not able to recommend those two applications for their requested tax credit awards.

The Applicant's position seems to boil down to allowing the Staff to accept material new information, the sales tax exemption, that would support lower construction costs, presumably leading to an REA directed adjustment reducing eligible basis and, therefore, making the adjusted total credit allocations to be within the $3 million cap.

Staff has received no data or materials to support this claim, but regardless, under applicable rules and statute, staff lacks the authority to make or proceed on these assumptions. First, this does not meet the definition of an administrative deficiency. This is clearly new and material information. To allow this information would clearly have the effect of giving the Applicant the untimely ability to impact its competitive posture. Accordingly I am denying the appeals and placing this matter, as requested by the Applicant, before the Board for consideration.

If you have questions or comments, please call me or Brent Stewart, Director of our Real Estate Analysis Division at (512) 475-2973.

Sincerely,

Timothy K. Irvine
Executive Director

TKI : RBS

August 18, 2014

Mr. Tim Irvine, Executive Director
TDHCA
PO Box 13941
Austin, TX 78711

RE: REA Underwriting Appeal for 14127 Haymon Krupp, 14128 Sherman Plaza, 14129 Westfall Baines, and 14130 Tays

Dear Mr. Irvine:

This letter contains an appeal of the second REA Underwriting Report for 14127 Haymon Krupp, 14128 Sherman Plaza, 14129 Westfall Baines, and 14130 Tays. We are forced to appeal the significant building cost increase that REA has imposed on the development, which has resulted in increased development costs and eligible basis, as well as feasibility determinations for two of the developments. This developments have the unique circumstance of a nonprofit contractor and thus the costs submitted by the applicant are more accurate.

First, we appreciate the Department reviewing our first appeal and agreeing with our conclusions regarding asbestos. Unfortunately, the asbestos issue has uncovered some issues with underwriting that have caused us concern. We would like to be on record confirming our respect for both you and your staff and trust that you understand that our appeal is in no way intended to be critical of staff. That said, we are very concerned that these developments have not received a complete REA review to date.

Our first appeal was based on an underwriting report that was signed off on by three REA staff members. We understood this report to be a complete and comprehensive review of all cost items originally submitted in the full application. The Development Cost Schedule in the full application has a specific line item for Asbestos Abatement under Building Costs and the applicant, following the directions of the form, inputted the Asbestos Abatement costs in this line item. These costs were clearly indicated in the application and the original underwriting report was presumed to have taken this cost into account. On the Capitalization/Total Development Budget/Itemized Basis page generated by REA staff in the original underwriting report, the applicant's building cost number is the total building cost number from the Development Cost Schedule in the application including the Asbestos Abatement estimate. Our reading of the first report and the numbers included in the first report indicated that REA staff reviewed and included Asbestos Abatement.

After review of our REA appeal, we received a phone call from REA that indicated that they had not considered Asbestos Abatement *whatsoever* in the initial underwriting reports. So while REA staff increased building costs initially, the additional increase of Asbestos Abatement that REA *had failed to even consider initially* even though it was on the application form, now increases the costs of the development so much that REA staff completely disregarded our building cost numbers in the second underwriting report. Because Asbestos Abatement was not considered in the original reports and results in an even larger cost increase, we must now address the issue of costs. We were not required to appeal the cost issue in our first appeal for Tays, Haymon Krupp, or Sherman Plaza because the first underwriting report used the applicant's costs due to a difference of less than 5%.

We did not initially appeal the cost issue for Westfall Baines in our first appeal because while the Underwriter's costs were higher than ours, they were within a reasonable amount that we did not take issue with the difference. Now with the substantial addition of costs that have ultimately let Underwriting to conclude that the development is infeasible, we must appeal the general development costs as well.

It would be appropriate to discuss the timeline of REA's review of building costs for these applications. On May 5, 2014, we received an REA deficiency notice that stated, "Per the phone call, my current M&S-derived estimate is significantly higher than the projected cost budget. If you have any comparable developments that have been recently completed, providing the construction contracts may be helpful in costing out the Subject." On May 12, 2014, the applicant responded and stated that the building cost estimate was based on Eastside Crossings and submitted the schedule of values for that property. The REA deficiency only asked for construction contracts of recent developments and did not ask us to provide any other reason why we had lower costs. There were subsequent REA deficiencies that asked for clarification on other items, but there was no further correspondence on building costs. REA asked if the other applications from this applicant were also based on Eastside Crossings, but again, we had no indication from REA that our costs were significantly lower than REA's costs derived from Marshall and Swift until the initial underwriting report was posted on the website. And again, REA did not ask us for a reason for lower costs except for us to provide a construction contract.

When the initial underwriting reports were posted on the website, Kit Sarai as the applicant's consultant contracted REA about the cost increase and explained that this applications has a nonprofit developer that will also be acting as the contractor, which would yield an 8% sales tax savings on building materials.

This applications has been submitted by a nonprofit, Paisano Housing Redevelopment Corporation, and it has been determined that this nonprofit will be acting as the general contractor. As a nonprofit general contractor that is exempt from sales tax, the development will have reduced building materials costs.

REA staff responded that such an arrangement would make a difference and was not contemplated during the review, but the report had already been released. Because the initial underwriting report contained costs within 5% for Tays, Haymon Krupp, and Sherman Plaza applicant's costs were used anyway.

However, now that REA has determined that Asbestos Abatement costs *were not* included in the original underwriting report, REA has added that cost to the development and now REA states that building costs are more than 5% higher than the costs submitted by the applicant, thus are using their costs in the calculation of credits.

In our telephone call with REA regarding these changes, we again mentioned the nonprofit contractor and the sales tax savings, but REA responded that there was no indication of this in the application and they did not ask for that information. It is our understanding that, at this point, REA is not accepting our information regarding a nonprofit contractor. We are asking for your discretion in accepting this information in order for REA to accurately underwrite this application.

It should also be noted, that our original costs for Sherman Plaza and Tays **did** include sprinklers in the units. There has been some confusion on this cost item and we would like to clear it up. Two of the applications had originally indicated that there were sprinklers (Tays and Sherman Plaza), but we had erroneously responded to staff that there were not sprinklers in the development. We have confirmed with our cost estimator that sprinklers were included and submitted an estimate for the costs to Underwriting (approximately $268,000 per development). We believe the sprinkler cost derived by Underwriting is over estimated and would ask that this cost be re-evaluated.

We have discussed this issue in the prior appeal, but we would like to emphasize the following again. Section 42 of the Internal Revenue Code requires that tax credits allocated to a development not exceed the amount necessary to ensure feasibility. Furthermore, Section 10.302(a) of the 2014 Real Estate Analysis Division Rules states as follows:

> *The rules of the Texas Government Code and the Code, resulting in a Credit Underwriting Analysis Report used by the Board in decision making with the goal to assist as many Texans as possible by providing no more financing than necessary based on an independent analysis of Development feasibility. The Report considers all information timely provided by the Applicant.*

The TDHCA rules specifically state that it provide no more financing than necessary to a development. REA has been made aware of a nonprofit contractor and the sales tax savings, which would have an impact on the building costs for this application. We do not believe that it is in the spirit of the rules to disregard information that would affect how many credits are provided to this application.

Additionally, the documentation in this REA appeal has been timely provided in accordance with the Appeals Process described in Section 10.902 of the 2014 Uniform Multifamily Rules. In accordance with Section 10.302(a) of the rules that states that the underwriting report “considers all information timely provided by the Applicant,” we ask that the Department incorporate the information in this appeal into the underwriting analysis.

We understand that REA is reluctant to accept this information since it was not included in the application; however, in the current application year, we understand that other applicants have been able to provide supplemental information to the Department as part of an appeal after submission of the original application. For example, the appeal for 14087 Cypress Creek Apartment Homes at Joshua Station was granted based on new information submitted with the Executive Director appeal. This supplemental information after the date of application included a letter from the Joshua ISD dated June 17, 2014, recapping a June 16, 2014, Joshua ISD Board

Meeting that changed the elementary attendance school zones that were in place as of the application submission date to benefit the proposed development and increase the application's score. Without the June 2014 change to the elementary school attendance zones, that application would not have been competitive. We are asking for similar consideration is accepting information that was clarified after the application submission date.

To conclude, we are appealing the building cost increases contained in the Underwriting Reports for 14127 Haymon Krupp, 14128, Sherman Plaza, 14129 Westfall Baines, and 14130 Tays. We are also appealing the infeasibility conclusions for Sherman Plaza and 14129 Westfall Baines The current underwriting report is based on Marshall and Swift building cost estimates that do not consider the sales tax savings of a nonprofit contractor. We believe that the building costs estimates used by REA are too high and should be adjusted. We feel that an open, back and forth discussion of these developments with Underwriting, where we are allowed to clarify cost issues, would put these issues to rest.

Thank you for your attention to this matter. Please contact me with any questions.

Regards,

Alyssa Carpenter
Applicant Representative

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

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Tom H. Gann
J. Mark McWatters
Robert D. Thomas

August 11, 2014

Direct dial: 512.475.3296
Email: tim.irvine@tdhca.state.tx.us

Alyssa Carpenter
S. Anderson Consulting
1305 East 6th Street, Suite 12
Austin, Texas 78702

RE: UNDERWRITING REPORT APPEALS FOR #14127 HAYMON KRUPP, #14130 TAYS APARTMENTS, #14129 WESTFALL BAINES AND #14128 SHERMAN PLAZA

Dear Ms. Carpenter:

The Texas Department of Housing and Community Affairs (the "Department") has received your appeal dated July 28, 2014, regarding the underwriting reports for the above- referenced applications.

In your appeals, you assert that the underwriting reports were in error because the underwriter included the cost of asbestos abatement in eligible basis calculations. Your application materials, as submitted, also included the cost of the asbestos abatement in the eligible basis calculation. Staff and I agree the costs of asbestos abatement should be excluded from eligible basis. However, the underwriter found that the cost of the asbestos abatement was not included in the underwriter's total cost calculation (asbestos abatement is generally included in the demolition cost for re-construction transactions and reported as a separate line-item under building cost for rehabilitation transactions), as it should have been. Inclusion of the asbestos abatement cost increased the underwriter's total cost which increased the cost difference between the underwriter's costs and the total cost in the Application.

Staff also reviewed other inconsistencies among the transactions and found errors in the conclusion of total costs in one of the original applications and with regard to the application of sprinkler costs. Specifically underwriting staff has made the following additional adjustments:

#14127 Haymond Krupp:

1. Deducted asbestos abatement from the applicant's eligible basis and added the cost of asbestos abatement to the underwriter's development cost.
2. Adjusted the vacancy assumption on the underwriter's *pro forma* from 7.5% to 5%.

#14130 Tays Apartments:

1. Deducted asbestos abatement from the applicant's eligible basis and added the cost of asbestos abatement to the underwriter's development cost.
2. Adjusted the vacancy assumption on the underwriter's *pro forma* from 7.5% to 5%.
3. Added the cost of sprinklers to the underwriter's total development cost as a required cost item confirmed by your architect.

#14129 Westfall Baines:

1. Deducted asbestos abatement from the applicant's eligible basis and added the cost of asbestos abatement to the underwriter's development cost.
2. Adjusted the vacancy assumption on the underwriter's *pro forma* from 7.5% to 5%.
3. Added back the eligible site work and concrete cost that was missing from the applicant's eligible cost schedule.
4. The underwriter's total costs are no longer supported by the sources of funds previously provided, and thus the underwriter's revised conclusion is that the transaction has an insurmountable gap and is not financially feasible.

#14128 Sherman Plaza:

1. Deducted asbestos abatement from the applicant's eligible basis and added the cost of asbestos abatement to the underwriter's development cost.
2. Adjusted the vacancy assumption on the underwriter's *pro forma* from 7.5% to 5%.
3. Added the cost of sprinklers to the underwriter's total development cost as a required cost item confirmed by your architect.
4. The underwriter's total costs are no longer supported by the sources of funds previously provided, and thus the underwriter's revised conclusion is that the transaction has an insurmountable gap and is not financially feasible.

If you wish to appeal any of these changed items, appeals should be confined to these itemized changes and to the issues in your prior appeal letters. Amendments to each of the underwriting reports are attached.

Appeal Determination

Your appeal is granted to the extent of correcting the treatment of the costs of the asbestos abatement, but as described above the assessment of the correctly categorized costs results in the infeasible conclusions for #14129 Westfall Baines and #14128 Sherman Plaza.

Pursuant to 10 TAC §10.902, you have requested that your appeal, if denied by me, be filed with the Board and heard at its next regularly scheduled meeting. Thus if you wish for this appeal to be further considered by the Board at the September 4, 2014, Board meeting, you need to submit any material for your appeal to the Board before the seventh calendar day preceding the date of the Board meeting.

If you have questions or comments, please call me or Brent Stewart, Director of our Real Estate Analysis Division at (512) 475-2973.

Sincerely,

Timothy K. Irvine
Executive Director

TKI : RBS

#14127 Haymon Krupp

July 28, 2014

Mr. Tim Irvine, Executive Director
TDHCA
PO Box 13941
Austin, TX 78711

RE: REA Underwriting Appeal for 14127 Haymon Krupp

Dear Mr. Irvine:

This letter contains an appeal of the REA Underwriting Report for 14127 Haymon Krupp We are appealing the inclusion of asbestos abatement in eligible basis. We believe that TDHCA is considering an ineligible item in eligible basis and such item must be removed.

At application submission, the applicant included asbestos abatement in eligible basis. At the time, it was thought that asbestos could potentially be included in eligible basis if it was considered a pre-development activity similar to the issuance of building permits. It was also understood that eligible basis items would be thoroughly reviewed by REA. In fact, the issue of asbestos was the subject of a challenge to this application and TDHCA staff confirmed that the Real Estate Analysis Division was underwriting the application and would make a recommendation after a full analysis.

Novogradac & Company LLP has since indicated that asbestos abatement is generally included in eligible basis for rehabilitation developments; however, reconstruction-type developments are less clear because demolition to tear down is capitalized to the land and cannot be capitalized to the building. The possible exception to this is when asbestos abatement would be a requirement of building permits prior to demolition, but this ultimately would need to be clarified with the syndicator.

In July, the Paisano Housing Redevelopment Corporation selected Hunt Capital Partners LLC to be the equity provider for this development. Hunt Capital has been consulted, and they have indicated that asbestos abatement would not be considered to be an eligible basis item. Please see the attached letter from Hunt Capital regarding this issue.

We ask that TDHCA reconsider the asbestos abatement item for this application and remove it from eligible basis. With confirmation that asbestos abatement should not be included in eligible basis, TDHCA should not calculate credits on an activity that is ineligible. The removal of asbestos abatement as an eligible basis item will result in a reduction of total eligible basis and will require a reduction in housing tax credits from those requested at application.

Section 42 of the Internal Revenue Code requires that tax credits allocated to a development not exceed the amount necessary to ensure feasibility. Furthermore, Section 10.302(a) of the 2014 Real Estate Analysis Division Rules states as follows:

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The rules of the Texas Government Code and the Code, resulting in a Credit Underwriting Analysis Report used by the Board in decision making with the goal to assist as many Texans as possible by providing no more financing than necessary based on an independent analysis of Development feasibility. The Report considers all information timely provided by the Applicant.

The TDHCA rules specifically state that it provide no more financing than necessary to a development. In the current underwriting report, asbestos abatement is included as an eligible basis item when it should not be eligible. In accordance with the TDHCA rules, this issue must be considered so that the Department does not provide more housing tax credits than necessary to this application.

Additionally, the documentation in this REA appeal has been timely provided in accordance with the Appeals Process described in Section 10.902 of the 2014 Uniform Multifamily Rules. In accordance with Section 10.302(a) of the rules that states that the underwriting report "considers all information timely provided by the Applicant," we ask that the Department incorporate the information in this appeal into the underwriting analysis.

In the current application year, we understand that other applicants have been able to provide supplemental information to the Department as part of an appeal. We are asking for the same consideration. For example, the appeal for 14087 Cypress Creek Apartment Homes at Joshua Station was granted based on new information submitted with the Executive Director appeal. This supplemental information after the date of application included a letter from the Joshua ISD dated June 17, 2014, recapping a June 16, 2014, Joshua ISD Board Meeting that changed the elementary attendance school zones to benefit the proposed development and increase the application's score. Without the June 2014 change to the elementary school attendance zones, that application would not have been competitive.

To conclude, we are appealing the inclusion of asbestos abatement in eligible basis contained in the Underwriting Report for 14127 Haymon Krupp. The current underwriting report is based on an eligible basis amount that includes an ineligible asbestos item. We believe that the Department cannot award credits based on ineligible items and therefore must reevaluate this application.

Thank you for your attention to this matter. Please contact me with any questions.

Regards,

Alyssa Carpenter
Applicant Representative

HUNT
Vision. Integrity. Professionalism.
Hunt Capital Partners, LLC
15260 Ventura Boulevard, Suite 600
Los Angeles, California 91403
Phone (818) 380-6100 Facsimile (818) 380-6101

July 28, 2014

Brent Stewart
Director, Underwriting
TDHCA
221 E. 11th St.
Austin, TX 78701

RE: Eligible Basis Opinion

Mr. Stewart,

Hunt Capital was officially engaged to provide equity for the tax credit developments submitted by Paisano Housing Redevelopment Corporation in July of 2014. As such, we have been asked to opine on the eligibility of tax credit basis related to asbestos abatement.

We understand that the applicant submitted costs for asbestos as part of their application, believing that they might be an eligible basis expense. It is our official position that because of the nature of the reconstruction of these developments, that the asbestos abatement is not eligible for credits. As the syndicator we will not give credits for costs associated with them because the abatement will be part of demolition, which renders them ineligible.

Please feel free to call me if you have any questions.

Dana Mayo
SVP, Director of Acquisitions
Hunt Capital Partners, LLC
818-380-6130 (office)
310-717-5578 (cell)

Real Estate Analysis Division
August 11, 2014

Addendum to Underwriting Report

TDHCA Application #: **14127** Program(s): **9% HTC**

Haymon Krupp

Address/Location: 10200 Hedgerow Ct.

City: El Paso County: El Paso Zip: 79925

	APPLICATION HISTORY
Report Date	**PURPOSE**
08/11/14	**Appeal Addendum**
07/23/14	Initial Underwriting Report

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (Annual)	$800,000				**$800,000**				

ANALYSIS

In a July 23, 2014 underwriting report REA recommended an allocation of $800,000 in annual tax credits to application 14127 Haymon Krupp (amount requested by Applicant). The Applicant appealed the recommendation on July 28, 2014. The appeal states that cost for asbestos abatement was incorrectly included in eligible basis, and that the credit award should be reduced by the amount related to these ineligible costs.

Development Cost

The Applicant correctly states that the cost for asbestos abatement from ineligible buildings that will be demolished is not eligible for tax credits. REA should have excluded this cost from the eligible basis in the Applicant's development cost schedule.

REA also did not consider the cost of asbestos abatement in the underwriting estimate for total development cost.

The Underwriter has reviewed the overall cost analysis for the application. The $380,000 cost for asbestos abatement (as stated by the Applicant) has been deducted from eligible cost in the Applicant's cost schedule. This causes the Applicant's stated amounts for eligible contractor fee and developer fee to exceed the limits. After adjusting contractor fee and developer fee to the eligible limits, the Applicant's eligible cost is reduced to $9,774,412 (from $10,255,298 in the original report).

The $380,000 cost for asbestos abatement has been added to the Underwriter's cost estimate. This increases the Underwriter's Total Development Cost to $12,823,401 (from $12,443,401 in the original report).

Operating Pro Forma

The original underwriting analysis applied a 7.5% vacancy/collection factor to Potential Gross Income. REA rules allow this to be reduced to 5% in certain circumstances, including when a substantial number of the units are supported by rental assistance or otherwise subsidized. Since all of the subject units will be subsidized (75% RAD and 25% Public Housing), REA would typically utilize the lower assumption.

The vacancy/collection factor has been adjusted to 5.0% in the revised analysis. This increases the Underwriter's net operating income to $485K (from $456K in the original report).

Conclusion

As a result of the revised cost analysis, the Applicant's Total Development Cost is 5.11% lower than the Underwriter's estimate. Therefore, per REA rules, the recommended financing structure is based on the Underwriter's estimate.

The proposed $2,269,240 senior loan from PNC and the $500,000 loan from City of El Paso result in a 1.42 times debt coverage ratio; this exceeds the underwriting guidelines. The recommended capital structure assumes a $140,000 increase in the senior loan to $2,409,240 to maintain the maximum 1.35x debt coverage.

The Underwriter recommends an allocation of $800,000 in annual credits, as requested by the Applicant. This provides $7,199,280 in equity proceeds.

The recommended capital structure indicates the need to defer $514,881 of the developer fee. This amount can be repaid within 7 years of stabilized operation.

Underwriter:	*Diamond Thompson*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

UNIT MIX/RENT SCHEDULE

Haymon Krupp, El Paso, 9% HTC #14127

LOCATION DATA	
CITY:	El Paso
COUNTY:	El Paso
PROGRAM REGION:	13
PIS Date:	On or After 2/1/2014
IREM REGION:	El Paso

UNIT DISTRIBUTION

# Beds	# Units	% Total
Eff	-	0.0%
1	-	0.0%
2	46	47.9%
3	42	43.8%
4	8	8.3%
TOTAL	**96**	**100.0%**

Income	# Units	% Total
30%	8	8.3%
40%	-	0.0%
50%	15	15.6%
60%	49	51.0%
MR	-	0.0%
TOTAL	**96**	**100.0%**

PHU	24	25.0%
RAD	72	75.0%

Applicable Programs
9% Housing Tax Credits

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	75%
APP % Acquisition	3.42%
APP % Construction	8.04%
Average Unit Size	971 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		PHA & RAD		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
		PHA	$222	17	2	1	850	$100	$0	$100	$122	$0.26	$222	**$3,774**	**$1,700**	$100	$0.12	$0	$855	$1.01	855
TC 30%	$339	RAD	$523	4	2	1	850	$523	$0	$523	$0	$0.62	$523	**$2,092**	**$2,092**	$523	$0.62	$0	$855	$1.01	855
TC 50%	$565	RAD	$523	6	2	1	850	$523	$0	$523	$0	$0.62	$523	**$3,138**	**$3,138**	$523	$0.62	$0	$855	$1.01	855
TC 60%	$678	RAD	$523	19	2	1	850	$523	$0	$523	$0	$0.62	$523	**$9,937**	**$9,937**	$523	$0.62	$0	$855	$1.01	855
		PHA	$242	5	3	2	1,050	$100	$0	$100	$142	$0.23	$242	**$1,210**	**$500**	$100	$0.10	$0	$1,030	$0.98	1030
TC 30%	$391	RAD	$751	3	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$2,253**	**$2,253**	$751	$0.72	$0	$1,030	$0.98	1030
TC 50%	$653	RAD	$751	7	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$5,257**	**$5,257**	$751	$0.72	$0	$1,030	$0.98	1030
TC 60%	$783	RAD	$751	27	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$20,277**	**$20,277**	$751	$0.72	$0	$1,030	$0.98	1030
		PHA	$262	2	4	2	1,250	$100	$0	$100	$162	$0.21	$262	**$524**	**$200**	$100	$0.08	$0	$1,190	$0.95	1190
TC 30%	$437	RAD	$890	1	4	2	1,250	$890	$0	$890	$0	$0.71	$890	**$890**	**$890**	$890	$0.71	$0	$1,190	$0.95	1190
TC 50%	$728	RAD	$890	2	4	2	1,250	$890	$0	$890	$0	$0.71	$890	**$1,780**	**$1,780**	$890	$0.71	$0	$1,190	$0.95	1190
TC 60%	$874	RAD	$890	3	4	2	1,250	$890	$0	$890	$0	$0.71	$890	**$2,670**	**$2,670**	$890	$0.71	$0	$1,190	$0.95	1190
TOTALS/AVERAGES:				**96**			**93,200**				**$32**	**$0.58**	**$560**	**$53,802**	**$50,694**	**$528**	**$0.54**	**$0**	**$959**	**$0.99**	**$0.99**

ANNUAL POTENTIAL GROSS RENT:	**$645,624**	**$608,328**

STABILIZED PRO FORMA

Haymon Krupp, El Paso, 9% HTC #14127

	STABILIZED FIRST YEAR PRO FORMA												
	COMPARABLES			APPLICANT				TDHCA				VARIANCE	
	Database		El Paso	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.58	$560	$645,624	$608,328	$528	$0.54		6.1%	$37,296
late, application, pet fees, retained sec. dep						$20.00	$23,040						
Total Secondary Income						$20.00		$23,040	$20.00			0.0%	$0
POTENTIAL GROSS INCOME			$ -				$668,664	$631,368				5.9%	$37,296
Vacancy & Collection Loss						7.5% PGI	(50,150)	(31,568)	5.0% PGI			58.9%	(18,581)
PHU Subsidy							-	$68,098				-100.0%	(68,098)
EFFECTIVE GROSS INCOME			$ -			**$6,443**	$618,514	$667,897	**$6,957**			-7.4%	($49,383)
General & Administrative	$31,407	$327/Unit	36,196	5.38%	$0.36	$347	$33,300	$31,407	$327	$0.34	4.70%	6.0%	1,893
Management	$37,990	5.7% EGI	27,393	5.00%	$0.33	$322	$30,926	$33,395	$348	$0.36	5.00%	-7.4%	(2,469)
Payroll & Payroll Tax	$115,203	$1,200/Unit	87,470	19.67%	$1.31	$1,267	$121,672	$121,672	$1,267	$1.31	18.22%	0.0%	-
Repairs & Maintenance	$34,026	$354/Unit	30,643	9.13%	$0.61	$589	$56,500	$52,800	$550	$0.57	7.91%	7.0%	3,700
Electric/Gas	$31,213	$325/Unit	19,158	3.36%	$0.22	$217	$20,800	$19,158	$200	$0.21	2.87%	8.6%	1,642
Water, Sewer, & Trash	$35,383	$369/Unit	39,893	8.07%	$0.54	$520	$49,900	$39,893	$416	$0.43	5.97%	25.1%	10,007
Property Insurance	$21,135	$0.23 /sf	15,713	3.32%	$0.22	$214	$20,504	$21,135	$220	$0.23	3.16%	-3.0%	(631)
Property Tax 2.8103	$52,344	$545/Unit	55,216	3.68%	$0.24	$237	$22,750	$37,250	$388	$0.40	5.58%	-38.9%	(14,500)
Reserve for Replacements	$24,632	$257/Unit	15,003	3.88%	$0.26	$250	$24,000	$24,000	$250	$0.26	3.59%	0.0%	-
Supportive services			2,304	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees			-	0.47%	$0.03	$30	$2,920	$2,880	$30	$0.03	0.43%	1.4%	40
Security			2,395	0.65%	$0.04	$42	$4,000	$4,000	$42	$0.04	0.60%	0.0%	-
TOTAL EXPENSES			**$ 331,385**	**62.61%**	**$4.16**	**$4,034**	**$ 387,272**	**$ 387,590**	**$4,037**	**$4.16**	**58.03%**	**-0.1%**	**$ (318)**
NET OPERATING INCOME ("NOI")				**37.39%**	**$2.48**	**$2,409**	**$231,242**	**$280,307**	**$2,920**	**$3.01**	**41.97%**	**-17.5%**	**$ (49,065)**

CONTROLLABLE EXPENSES		$2,575/Unit	$2,223/Unit			$2,939/Unit			$2,760/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Haymon Krupp, El Paso, 9% HTC #14127

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	MIP	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
PNC		1.63	1.34	172,118	6.50%	30	30	$2,269,240	2,409,240	30	30	6.50%	182,736	1.53	18.8%
City of El Paso		1.42	1.17	25,296	3.00%	30	15	$500,000	$500,000	15	30	3.00%	25,296	1.35	3.9%
CASH FLOW															
Housing Authority of El Paso		1.42	1.17		0.00%	0	0	$2,200,000	$2,200,000	0	0	0.00%		1.35	17.2%
				$197,414	TOTAL DEBT / GRANT SOURCES			$4,969,240	$5,109,240	TOTAL DEBT SERVICE			$208,033		39.8%
NET CASH FLOW		$82,893	$33,828							NET OPERATING INCOME		$280,307	$72,274	NET CASH FLOW	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE						
FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit		
PNC	LIHTC Equity	56.1%	$800,000	0.90	$7,199,280	$7,199,280	$0.8999	$800,000	56.1%	$74,993		
Deferred Developer Fee	Deferred Developer Fees	0.0%	(0% Deferred)		$0	$514,881	(37% Deferred)		4.0%	Total Developer Fee:		$1,375,000
Additional (Excess) Funds Req'd		0.0%			$0	$0			0.0%			
TOTAL EQUITY SOURCES		56.1%			$7,199,280	$7,714,161			60.2%	15-Year Cash Flow:		$1,375,786
TOTAL CAPITALIZATION					$12,168,520	$12,823,401			15-YearCash Flow after Deferred Fee:			$860,905

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	New Const. Rehab			Total Costs	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$12,865 / Unit	$1,235,000	$1,235,000	$12,865 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
Asbestos Abatement					$380,000	$380,000						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$638,921		$9,364 / Unit	$898,963	$898,963	$9,364 / Unit		$638,921		0.0%	$0
Site Amenities		$513,750		$5,352 / Unit	$513,750	$513,750	$5,352 / Unit		$513,750		0.0%	$0
Building Costs		$5,178,412	$55.56 /sf	$53,942/Unit	$5,178,412	$5,833,293	$60,763/Unit	$62.59 /sf	$5,833,293		-11.2%	($654,881)
Contingency		$348,556	5.51%	5.29%	$348,556	$348,556	4.81%	4.99%	$348,556		0.0%	$0
Contractor's Fees		$975,959	14.61%	14.06%	$975,959	$975,959	12.85%	13.31%	$975,959		0.0%	$0
Soft Costs	0	$514,700		$6,507 / Unit	$624,700	$624,700	$6,507 / Unit		$514,700	$0	0.0%	$0
Developer's Fees	$0	$1,335,000	15.63%	14.98%	$1,375,000	$1,375,000	14.54%	13.87%	$1,274,923	$0	0.0%	$0
Financing	0	$370,000		$4,533 / Unit	$435,180	$435,180	$4,533 / Unit		$370,000	$0	0.0%	$0
Reserves				$2,115 / Unit	$203,000	$203,000	$2,115 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$9,875,298**		$126,755 / Unit	**$12,168,520**	**$12,823,401**	$133,577 / Unit		**$10,470,103**	**$0**	**-5.1%**	**($654,881)**
Acquisition Cost	$0				$0							
Contingency		$0										
Contractor's Fee		($40,810)										
Interim Interest		$0										
Developer's Fee	$0	($60,077)			$0							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$9,774,412**		$126,755/unit	**$12,168,520**	**$12,823,401**	$133,577/unit		**$10,470,103**	**$0**	**-5.1%**	**($654,881)**

TOTAL UNDERWRITTEN COSTS (Applicant's Uses are not within 5% of TDHCA Estimate): $12,823,401

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Haymon Krupp, El Paso, 9% HTC #14127

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$9,774,412	$0	$10,470,103
Deduction of Federal Gr	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$9,774,412	$0	$10,470,103
High Cost Area Adjustm		130%		130%
TOTAL ADJUSTED BAS	$0	$12,706,736	$0	$13,611,133
Applicable Fraction	75.00%	75.00%	75.00%	75.00%
TOTAL QUALIFIED BAS	$0	$9,530,052	$0	$10,208,350
Applicable Percentage	0.00%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON BA	$0	$766,216	$0	$820,751
CREDITS ON QUALIFIEI	$766,216		$820,751	

ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$820,751	$7,386,023
Gap	$857,215	$7,714,161
Applicant Request 8.04	$800,000	$7,199,280

FINAL ANNUAL LIHTC ALLOCATION

Method	Applicant Request	Variance to Request
Credits	**$800,000**	$0
Total Equity Proceeds	**$7,199,280**	$0

Development Cost/SF

	Application	Underwritten
Acquisition & Hard Co	89.01	105.21
Hard Costs	89.01	91.96
Building Costs	59.64	62.59
Total Points Claimed:		0

BUILDING COST ESTIMATE

CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Townhome	93,200 SF	$64.37	5,999,530
Adjustments				
Exterior Wall Finish	0.00%		0.00	$0
	0.00%		0.00	0
9 ft. ceilings	3.00%		1.93	179,986
Roofing			(0.25)	(23,300)
Subfloor			(0.78)	(72,230)
Floor Cover			6.20	578,026
Breezeways	$0.00	0	0.00	0
Balconies	$23.10	7,611	1.89	175,819
Plumbing Fixtures	$1,125	54	0.65	60,750
Rough-ins	$495	96	0.51	47,520
Built-In Appliances	$2,325	96	2.39	223,200
Exterior Stairs	$2,125	0	0.00	0
Heating/Cooling			2.06	191,992
Enclosed Corridors	$48.16	0	0.00	0
Carports	$11.30	19,200	2.33	216,960
Garages		0	0.00	0
Comm &/or Aux Bldgs	$88.30	1,915	1.81	169,101
Elevators		0	0.00	0
Other:			0.00	0
Fire Sprinklers	$0.00	95,115	0.00	0
SUBTOTAL			**83.13**	**7,747,354**
Current Cost Multiplier	1.02		1.66	154,947
Local Multiplier	0.87		(10.81)	(1,007,156)
TOTAL BUILDING COSTS			**73.98**	**$6,895,145**
Plans, specs, survey, bldg permits	3.90%		(2.89)	($268,911)
Contractor's OH & Profit	11.50%		(8.51)	(792,942)
NET BUILDING COSTS		$60,763/unit	$62.59/sf	$5,833,293

30-Year Long-Term Pro Forma

Haymon Krupp, El Paso, 9% HTC #14127

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	$667,897	$682,152	$696,718	$711,604	$726,816	$742,362	$758,248	$774,484	$791,076	$808,034	$898,592	$999,605	$1,112,323	$1,238,155
TOTAL EXPENSES	3.00%	$387,590	$398,929	$410,602	$422,619	$434,991	$447,727	$460,840	$474,340	$488,238	$502,546	$580,682	$671,064	$775,622	$896,592
NET OPERATING INCOME ("NOI")		$280,307	$283,223	$286,117	$288,985	$291,825	$294,634	$297,408	$300,144	$302,839	$305,488	$317,911	$328,541	$336,700	$341,563
MUST -PAY DEBT SERVICE															
PNC		$182,736	$182,736	$182,736	$182,736	$182,736	$182,736	$182,736	$182,736	$182,736	$182,736	$182,736	$182,736	$182,736	$182,736
City of El Paso		$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296
TOTAL DEBT SERVICE		$208,033	$208,033	$208,033	$208,033	$208,033	$208,033	$208,033	$208,033	$208,033	$208,033	$208,033	$208,033	$208,033	$208,033
NET CASH FLOW		$72,274	$75,190	$78,084	$80,953	$83,793	$86,601	$89,376	$92,112	$94,806	$97,455	$109,878	$120,508	$128,668	$133,530
CUMULATIVE NET CASH FLOW		$72,274	$147,465	$225,549	$306,501	$390,294	$476,895	$566,271	$658,383	$753,189	$850,644	$1,375,786	$1,957,909	$2,586,070	$3,245,501
DEBT COVERAGE RATIO		1.35	1.36	1.38	1.39	1.40	1.42	1.43	1.44	1.46	1.47	1.53	1.58	1.62	1.64
EXPENSE/INCOME RATIO		58.0%	58.5%	58.9%	59.4%	59.8%	60.3%	60.8%	61.2%	61.7%	62.2%	64.6%	67.1%	69.7%	72.4%
Deferred Developer Fee Balance		$442,607	$367,417	$289,332	$208,380	$124,587	$37,986	$0	$0	$0	$0	$0	$0	$0	$0
Residual Cash Flow		0	0	0	0	0	0	51,390	92,112	94,806	97,455	109,878	120,508	128,668	133,530

Real Estate Analysis Division
Underwriting Report
July 23, 2014

DEVELOPMENT IDENTIFICATION

TDHCA Application #: **14127** Program(s): **9% HTC**

Haymon Krupp

Address/Location: 10200 Hedgerow Ct.

City: El Paso County: El Paso Zip: 79925

Population: General Program Set-Aside: At-Risk Area: Urban

Activity: Reconstruction Building Type: Townhome Region: 13

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

	REQUEST				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (Annual)	$800,000				**$800,000**				

CONDITIONS

1 Receipt and acceptance by Commitment:

a: Firm commitment from HACEP to provide $2.2M in the form of a grant with no expectation of repayment.

b: Firm commitment from City of El Paso for $500K HOME/CDBG loan with minimum 15-year term, minimum 30-year amortization, and maximum 3% interest rate; and specifying any income or rent restrictions that will be imposed by this funding.

2 Receipt and acceptance by Carryover:

Certification of the property tax exemption status of the property from El Paso CAD.

3 Receipt and acceptance by 10% test:

Documentation of HUD approval of RAD rents as represented in the Application.

4 Receipt and acceptance by Cost Certification:

a: Certification from a tax attorney confirming that the source of the $2.2M received from HACEP is not federal funds for the purpose of IRC§42 (and therefore does not need to be deducted from eligible basis).

b: Certification of the property tax exemption status of the property from El Paso CAD.

c: Documentation clearing environmental issues contained in the ESA report, specifically:

i: AMEC recommends evaluation of soil and/or groundwater quality beneath the site to determine whether the identified off site UST facility has impacted the subject site."

ii: Any recommendations regarding testing for identification of asbestos-containing materials, lead-based paint, and lead in water were followed, and, if found, that appropriate abatement procedures were followed for the demolition, removal and/or elimination of any such materials or identified sources.

5 Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	8
50% of AMI	50% of AMI	15
60% of AMI	60% of AMI	49

DEAL SUMMARY

Haymon Krupp is an existing public Housing development made up of 96 units built in 1975. The 96 units will be demolished and then reconstructed – it will be a one for one replacement including the unit mix. The site is approximately 10.118 acres. The application is in the At-Risk set aside and is a Section 8 development utilizing the RAD program. 75% of the units will be LIHTC financed using RAD rents and the remaining 25% will remain mixed financed and will continue to be supported by public housing operating subsidy.

RISK PROFILE

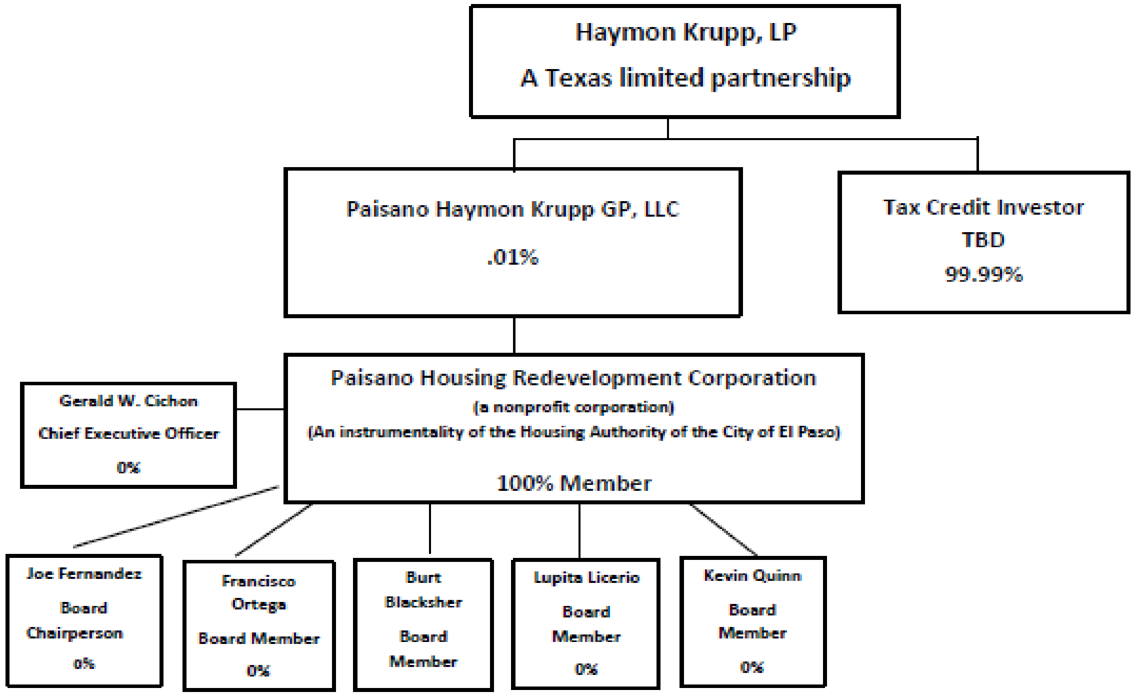
STRENGTHS/MITIGATING FACTORS	WEAKNESSES/RISKS
▫ The Housing Authority of the City of El Paso is providing a $2.2M grant	▫ Development is dependent on Housing Authority of the City of El Paso $2.2M grant
▫ Development will be receiving Public Housing Operating Subsidies on 24 units	▫ Feasibility is dependent on Public Housing Operating Subsidies
▫ 72 units converting to RAD program	▫ Dependent on approval and successful implementation of new RAD program
▫ Developer has extensive HTC experience	▫

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name:	Juan A. Olvera	Name:	Alyssa Carpenter
Phone:	(915) 849-3813	Phone:	(512) 789-1295
Relationship:	GP/Developer	Relationship:	Consultant

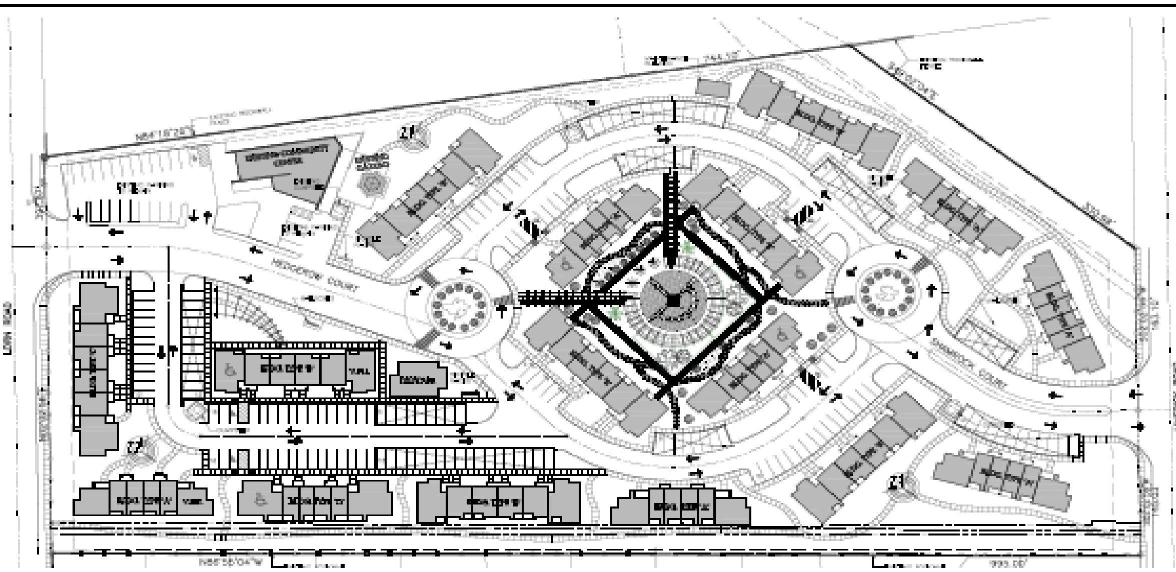
OWNERSHIP STRUCTURE



- The Applicant and Developer are related entities.

DEVELOPMENT SUMMARY

SITE PLAN



Parking	No Fee		Tenant-Paid		Total	
Open Surface	96	*1.0/unit*	0	--	96	*1.0/unit*
Carport	96	*1.0/unit*	0	--	96	*1.0/unit*
Garage	0	--	0	--	0	--
Total Parking	**192**	*2.0/unit*	**0**	--	**192**	*2.0/unit*

BUILDING ELEVATION

BUILDING CONFIGURATION

Building Type	A	B	C	D	day care		maint						Total Buildings
Floors/Stories	2	2	2	2	1		1						
Number of Bldgs	7	7	1	1									**16**
Units per Bldg	6	6	6	6									
Total Units	42	42	6	6									**96**
										Net Rentable SF			**93,200**
										Common Area SF			**1,915**

GENERAL INFORMATION

Total Size:	10.12 acres	Scattered Site?	No
Flood Zone:	Zone X	Within 100-yr floodplain?	No
Zoning:	A-2	Re-Zoning Required?	No
Density:	9.5 units/acre	Utilities at Site?	Yes
Year Constructed:	1975 to be demolished	Title Issues?	No

Surrounding Uses:

North: vacant land, storm water retention ponds, cell tower, vacant convenient store/gas station & commercial uses
East: Limerick Street & residential development
South: residential development
West: Lorne Street & residential development

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: AMEC Environmental & Infrastructure, Inc. Date: 2/14/2014

Recognized Environmental Conditions (RECs) and Other Concerns:

- "A vacant convenient store – gas station facility located at 3441 (3443) Lorne Street. This facility was observed during AMEC's site reconnaissance. Historical records reviewed revealed that 3443 Lorne property operated a convenience store from as early as 1977 until as late as 1986. Historical El Paso Fire Department records provided by the local TCEQ office indicated that in December of 1979 the Beverage House/Qik & EZE Market located at 3443 Lorne had two 6,000 gallon USTs on the site used to store gasoline. Although no indications were observed at the facility of fuel tanks existing on the site there were no obvious signs of pavement disturbance typically associated with the removal of UST either.

This facility is therefore considered to be a REC since there is a significant potential that if the USTs remain on this adjoining property they could have or will impact the site. Based on the results and conclusions of the Phase I ESA, AMEC recommends evaluation of soil and/or groundwater quality beneath the site to determine whether the identified off site UST facility has impacted the subject site."

- "...unless a current compressive asbestos survey is available of the structures to be affected by renovation or demolition activities, one would need to be performed at the subject site. The asbestos survey must be performed in accordance with Texas Department of State Health Services (TDSHS) asbestos requirements for public buildings."
- "...unless a current survey is available, an LBP survey of the structures to be affected by renovation or demolition activities would need to be performed at the subject site. The LBP survey must be performed by individuals licensed by the TDSHS in accordance with US Housing and Urban Development (HUD) standards."
- "...unless a current lead in drinking water survey is available, the drinking water would need to be sampled via testing at the subject site. The drinking water testing must be done in accordance with current EPA or HUD standards."

MARKET ANALYSIS

Provider: Valbridge Property Advisors　　Date: 3/11/2014

Contact: Tim N. Treadway　　Phone: 713.467.5858

Primary Market Area (PMA): 30 sq. miles　3 mile equivalent radius

The PMA covers three zip codes in eastern El Paso stretching north beyond the El Paso International Airport with the southern border being the state line.

ELIGIBLE HOUSEHOLDS BY INCOME								
El Paso County Income Limits								
HH	30% of AMI		40% of AMI		50% of AMI		60% of AMI	
size	min	max	min	max	min	max	min	max
1	---	---	---	---	---	---	---	---
2	$0	$12,060	---	---	$0	$20,100	$0	$24,120
3	$0	$13,560	---	---	$0	$22,600	$0	$27,120
4	$0	$15,060	---	---	$0	$25,100	$0	$30,120
5	$0	$16,290	---	---	$0	$27,150	$0	$32,580
6	$0	$17,490	---	---	$0	$29,150	$0	$34,980

Primary Market Occupancy Rates:

Rent-restricted developments are 95% occupied. The subject property is currently at 95% occupancy.

Comments:

75% of the units will be covered by a RAD voucher contract, and 25% will remain public housing. All households below the maximum income level are eligible tenants. This results in Gross Demand for 8,980 units, and a Gross Capture Rate of 1.1% for the development's 96 rentable units.

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (TDHCA's Pro forma)					
NOI:	$265,122	Avg. Rent:	$528	Expense Ratio:	59.3%
Debt Service:	$197,414	B/E Rent:	$465	Controllable Expenses:	$2,760
Net Cash Flow:	$67,708	UW Occupancy:	92.5%	Property Taxes/Unit:	$388
Aggregate DCR:	1.34	B/E Occupancy:	81.8%	Program Rent Year:	2014

Twenty-four units will continue to be public housing-assisted. These units are subject to an Annual Contributions Contract with HUD. Tenants pay up to 30% of household income toward rent, and HUD provides a subsidy up to the operating expenses for the units.

Total income from the public housing units should be equal to the operating expenses for those units. Applicant's rent schedule shows rents of $222/$242/$262 for the PHU's, but the Applicant's pro forma indicates $336/unit average operating expense. Total income is therefore understated. The Underwriter's pro forma assumes $100 average tenant rent, and calculates an operating subsidy that covers the difference between the tenant rent and the average operating expenses for all the PHU's. As a result, the Underwriter's Effective Gross Income is $33K higher.

The remaining 72 units will operate under HUD's new Rental Assistance Demonstration (RAD) program, allowing the conversion of these public housing units to long-term project-based Section 8 contracts.

The proposed RAD Contract Rents are net contract rent amounts provided in the RAD documentation from HUD. No utility allowance values are specified.

The pro forma indicates minimal operating risk, with break-even rent that is $64 below the average collected rent (12% lower). Break-even occupancy of 82% allows for 17 vacant units.

Applicant has several current applications. 14129 Westfall Baines proposes a similar structure to the subject, with 25% Public Housing and 75% RAD. Underwritten operating expenses at the subject ($4,029/unit) are higher than at Westfall ($3,413). The significant variances are in payroll and property tax. Haymon Krupp is a smaller development (96 units vs 148), making payroll less efficient on a per unit basis. Also, Haymon Krupp has a significantly different unit mix, with no one-BR units, 42 three-BR units, and 8 four-BR units. The high concentration of larger units results in higher relative income, and therefore increases the calculated property tax expense.

Applicant's pro forma assumes a 50% tax exemption. However, the Applicant's attorneys believe there is a strong case that the property will be eligible for further tax exemption (up to 100%) since the landlord is the Housing Authority. With a full tax exemption debt coverage would increase to 1.49x; the tax credit allocation would be reduced due to the additional debt capacity.

ACQUISITION INFORMATION

APPRAISED VALUE

Appraiser:	Wilkinson, Pendergras & Beard, LP		Date:	2/13/2014
Land as Vacant: 10.1 acres	$1,235,000	Per Unit:	$12,865	

SITE CONTROL

Type: Ground Lease

Acreage: 10.12

Acquisition Cost: $1,235,000

Contract Expiration: N/A

Cost Per Unit: $12,865

Seller: Housing Authority of the City of El Paso

Related-Party Seller/Identity of Interest: Yes

Comments:

Ground Lease: $100 per yr for 75 yrs. The lease rate is to be $1,235,000, to reflect the appraised value of the land. It is to be paid in a single installment at the closing of the partnership.

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)

Acquisition	$122,036/ac	$12,865/unit	**$1,235,000**	Contractor Fee	**$975,959**
Off-site + Site Work		$14,716/unit	**$1,412,713**	Developer Fee	**$1,375,000**
Building Cost	$59.64/sf	$57,900/unit	**$5,558,412**	Soft Cost	**$1,059,880**
Contingency	5.00%	$3,631/unit	**$348,556**	Reserves	**$203,000**
Total Development Cost	$126,755/unit	**$12,168,520**		**Rehabilitation Cost**	**N/A**

Qualified for Basis Boost?	High Opportunity Index

Building Cost:

Sixteen townhome-style 1 & 2-story buildings with some differentiating features contribute to slightly higher than typical per unit cost. Applicant's building costs are 4.7% or $275K lower than the REA estimate, but sufficient contingency and available developer fee for deferral exists for cost overruns.

Comments:

Applicant states that fire sprinklers are not required by local building code, so the cost for sprinklers was not included in the underwriting estimate.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
$12,168,520	**$10,255,298**	**$803,913**

UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
PNC	Conventional Loan	$2,269,240	4.00%	19%
City of El Paso	Loan	$500,000	3.00%	4%
PNC	Bridge Loan	$5,349,813	4.00%	45%
PNC	HTC	$1,439,856	$0.90	12%
Housing Authority of El Paso	Grant	$2,200,000		19%
		$11,758,909	**Total Sources**	

PERMANENT SOURCES

Debt Source	PROPOSED Amount	Interest Rate	Amort	Term	UNDERWRITTEN Amount	Interest Rate	Amort	Term	LTC
PNC	$2,269,240	6.50%	30	30	$2,269,240	6.50%	30	30	19%
City of El Paso	$500,000	3.00%	30	15	$500,000	3.00%	30	15	4%
Housing Authority of El Paso	$2,200,000	Grant			$2,200,000	Grant			18%
Total	**$4,969,240**				**$4,969,240**				

Equity & Deferred Fees	PROPOSED Amount	Rate	% Def	UNDERWRITTEN Amount	Rate	% TC	% Def
PNC	$7,199,280	$0.90		$7,199,280	$0.90	59%	
Total	**$7,199,280**			**$7,199,280**			
				$12,168,520	**Total Sources**		

Comments:

All else equal, any increase in the credit price would result in the allocation being limited by the need for funds; the price could fall to $0.74 and the project would remain feasible.

CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	$12,168,520
Permanent Sources	$4,969,240
Gap in Permanent Financing	$7,199,280

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	$7,234,492	$803,913
Needed to Fill Gap in Financing	$7,199,280	$800,000
Requested by Applicant	$7,199,280	$800,000

RECOMMENDATION:		
	Equity Proceeds	Annual Credits
Tax Credit Allocation	$7,199,280	$800,000
Deferred Developer Fee	**$0**	

Underwriter: *Diamond Unique Thompson*

Manager of Real Estate Analysis: *Thomas Cavanagh*

Director of Real Estate Analysis: *Brent Stewart*

UNIT MIX/RENT SCHEDULE

Haymon Krupp, El Paso, 9% HTC #14127

LOCATION DATA

CITY:	El Paso
COUNTY:	El Paso
PROGRAM REGION:	13
PIS Date:	On or After 2/1/2014
IREM REGION:	El Paso

UNIT DISTRIBUTION

# Beds	# Units	% Total
Eff	-	0.0%
1	-	0.0%
2	46	47.9%
3	42	43.8%
4	8	8.3%
TOTAL	**96**	**100.0%**

Income	# Units	% Total
30%	8	8.3%
40%	-	0.0%
50%	15	15.6%
60%	49	51.0%
MR	-	0.0%
TOTAL	**96**	**100.0%**

PHU	24	25.0%
RAD	72	75.0%

Applicable Programs

9% Housing Tax Credits

Pro Forma ASSUMPTIONS

Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	75%
APP % Acquisition	3.42%
APP % Construction	8.04%
Average Unit Size	971 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		PHA & RAD		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
		PHA	$222	17	2	1	850	$100	$0	$100	$122	$0.26	$222	**$3,774**	**$1,700**	$100	$0.12	$0	$855	$1.01	855
TC 30%	$339	RAD	$523	4	2	1	850	$523	$0	$523	$0	$0.62	$523	**$2,092**	**$2,092**	$523	$0.62	$0	$855	$1.01	855
TC 50%	$565	RAD	$523	6	2	1	850	$523	$0	$523	$0	$0.62	$523	**$3,138**	**$3,138**	$523	$0.62	$0	$855	$1.01	855
TC 60%	$678	RAD	$523	19	2	1	850	$523	$0	$523	$0	$0.62	$523	**$9,937**	**$9,937**	$523	$0.62	$0	$855	$1.01	855
		PHA	$242	5	3	2	1,050	$100	$0	$100	$142	$0.23	$242	**$1,210**	**$500**	$100	$0.10	$0	$1,030	$0.98	1030
TC 30%	$391	RAD	$751	3	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$2,253**	**$2,253**	$751	$0.72	$0	$1,030	$0.98	1030
TC 50%	$653	RAD	$751	7	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$5,257**	**$5,257**	$751	$0.72	$0	$1,030	$0.98	1030
TC 60%	$783	RAD	$751	27	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$20,277**	**$20,277**	$751	$0.72	$0	$1,030	$0.98	1030
		PHA	$262	2	4	2	1,250	$100	$0	$100	$162	$0.21	$262	**$524**	**$200**	$100	$0.08	$0	$1,190	$0.95	1190
TC 30%	$437	RAD	$890	1	4	2	1,250	$890	$0	$890	$0	$0.71	$890	**$890**	**$890**	$890	$0.71	$0	$1,190	$0.95	1190
TC 50%	$728	RAD	$890	2	4	2	1,250	$890	$0	$890	$0	$0.71	$890	**$1,780**	**$1,780**	$890	$0.71	$0	$1,190	$0.95	1190
TC 60%	$874	RAD	$890	3	4	2	1,250	$890	$0	$890	$0	$0.71	$890	**$2,670**	**$2,670**	$890	$0.71	$0	$1,190	$0.95	1190
TOTALS/AVERAGES:				**96**			**93,200**				**$32**	**$0.58**	**$560**	**$53,802**	**$50,694**	**$528**	**$0.54**	**$0**	**$959**	**$0.99**	**$0.99**

ANNUAL POTENTIAL GROSS RENT:	**$645,624**	**$608,328**	

STABILIZED PRO FORMA

Haymon Krupp, El Paso, 9% HTC #14127

	STABILIZED FIRST YEAR PRO FORMA												
	COMPARABLES			APPLICANT				TDHCA				VARIANCE	
	Database		El Paso	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.58	$560	$645,624	$608,328	$528	$0.54		6.1%	$37,296
late, application, pet fees, retained sec. dep						$20.00	$23,040						
Total Secondary Income						$20.00		$23,040	$20.00			0.0%	$0
POTENTIAL GROSS INCOME			$ -				$668,664	$631,368				5.9%	$37,296
Vacancy & Collection Loss						7.5% PGI	(50,150)	(47,353)	7.5% PGI			5.9%	(2,797)
PHU Subsidy							-	$67,898				-100.0%	(67,898)
EFFECTIVE GROSS INCOME			$ -			**$6,443**	$618,514	$651,913	**$6,791**			-5.1%	($33,399)
General & Administrative	$31,407	$327/Unit	36,196	5.38%	$0.36	$347	$33,300	$31,407	$327	$0.34	4.82%	6.0%	1,893
Management	$37,990	5.7% EGI	27,393	5.00%	$0.33	$322	$30,926	$32,596	$340	$0.35	5.00%	-5.1%	(1,670)
Payroll & Payroll Tax	$115,203	$1,200/Unit	87,470	19.67%	$1.31	$1,267	$121,672	$121,672	$1,267	$1.31	18.66%	0.0%	-
Repairs & Maintenance	$34,026	$354/Unit	30,643	9.13%	$0.61	$589	$56,500	$52,800	$550	$0.57	8.10%	7.0%	3,700
Electric/Gas	$31,213	$325/Unit	19,158	3.36%	$0.22	$217	$20,800	$19,158	$200	$0.21	2.94%	8.6%	1,642
Water, Sewer, & Trash	$35,383	$369/Unit	39,893	8.07%	$0.54	$520	$49,900	$39,893	$416	$0.43	6.12%	25.1%	10,007
Property Insurance	$21,135	$0.23 /sf	15,713	3.32%	$0.22	$214	$20,504	$21,135	$220	$0.23	3.24%	-3.0%	(631)
Property Tax 2.8103	$52,344	$545/Unit	55,216	3.68%	$0.24	$237	$22,750	$37,250	$388	$0.40	5.71%	-38.9%	(14,500)
Reserve for Replacements	$24,632	$257/Unit	15,003	3.88%	$0.26	$250	$24,000	$24,000	$250	$0.26	3.68%	0.0%	-
Supportive services			2,304	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees			-	0.47%	$0.03	$30	$2,920	$2,880	$30	$0.03	0.44%	1.4%	40
Security			2,395	0.65%	$0.04	$42	$4,000	$4,000	$42	$0.04	0.61%	0.0%	-
TOTAL EXPENSES			**$ 331,385**	**62.61%**	**$4.16**	**$4,034**	**$ 387,272**	**$ 386,791**	**$4,029**	**$4.15**	**59.33%**	**0.1%**	**$ 481**
NET OPERATING INCOME ("NOI")				**37.39%**	**$2.48**	**$2,409**	**$231,242**	**$265,122**	**$2,762**	**$2.84**	**40.67%**	**-12.8%**	**$ (33,880)**
CONTROLLABLE EXPENSES		$2,575/Unit	$2,223/Unit			$2,939/Unit			$2,760/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Haymon Krupp, El Paso, 9% HTC #14127

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	MIP	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
PNC		1.54	1.34	172,118	6.50%	30	30	$2,269,240	2,269,240	30	30	6.50%	172,118	1.54	18.6%
City of El Paso		1.34	1.17	25,296	3.00%	30	15	$500,000	$500,000	15	30	3.00%	25,296	1.34	4.1%
CASH FLOW DEBT/GRANTS															
Housing Authority of El Paso		1.34	1.17		0.00%	0	0	$2,200,000	$2,200,000	0	0	0.00%		1.34	18.1%
				$197,414	TOTAL DEBT / GRANT SOURCES			$4,969,240	$4,969,240		TOTAL DEBT SERVICE		$197,414		40.8%
NET CASH FLOW		$67,708	$33,828						NET OPERATING INCOME			$265,122	$67,708	NET CASH FLOW	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE						
FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit		
PNC	LIHTC Equity	59.2%	$800,000	0.90	$7,199,280	$7,199,280	$0.8999	$800,000	59.2%	$74,993		
Deferred Developer Fee	Deferred Developer Fees	0.0%	(0% Deferred)		$0		(0% Deferred)		0.0%	Total Developer Fee:		$1,375,000
Additional (Excess) Funds Req'd		0.0%			$0	$0			0.0%			
TOTAL EQUITY SOURCES		59.2%			$7,199,280	$7,199,280			59.2%	15-Year Cash Flow:		$1,272,470
TOTAL CAPITALIZATION					$12,168,520	$12,168,520			15-YearCash Flow after Deferred Fee:			$1,272,470

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	New Const. Rehab			Total Costs	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$12,865 / Unit	$1,235,000	$1,235,000	$12,865 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
					$0	$0						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$638,921		$9,364 / Unit	$898,963	$898,963	$9,364 / Unit		$638,921		0.0%	$0
Site Amenities		$513,750		$5,352 / Unit	$513,750	$513,750	$5,352 / Unit		$513,750		0.0%	$0
Building Costs		$5,558,412	$59.64 /sf	$57,900/Unit	$5,558,412	$5,833,293	$60,763/Unit	$62.59 /sf	$5,833,293		-4.7%	($274,881)
Contingency		$348,556	5.19%	5.00%	$348,556	$348,556	4.81%	4.99%	$348,556		0.0%	$0
Contractor's Fees		$975,959	13.82%	13.33%	$975,959	$975,959	12.85%	13.31%	$975,959		0.0%	$0
Soft Costs	0	$514,700		$6,507 / Unit	$624,700	$624,700	$6,507 / Unit		$514,700	$0	0.0%	$0
Developer's Fees	$0	$1,335,000	14.97%	14.98%	$1,375,000	$1,375,000	14.54%	14.52%	$1,335,000	$0	0.0%	$0
Financing	0	$370,000		$4,533 / Unit	$435,180	$435,180	$4,533 / Unit		$370,000	$0	0.0%	$0
Reserves				$2,115 / Unit	$203,000	$203,000	$2,115 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$10,255,298**		$126,755 / Unit	**$12,168,520**	**$12,443,401**	$129,619 / Unit		**$10,530,179**	**$0**	**-2.2%**	**($274,881)**
Acquisition Cost	$0				$0							
Contingency		$0										
Contractor's Fee		$0										
Interim Interest		$0										
Developer's Fee	$0	$0			$0							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$10,255,298**		$126,755/unit	**$12,168,520**	**$12,443,401**	$129,619/unit		**$10,530,179**	**$0**	**-2.2%**	**($274,881)**
TOTAL UNDERWRITTEN COSTS (Applicant's Uses are within 5% of TDHCA Estimate):					**$12,168,520**							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Haymon Krupp, El Paso, 9% HTC #14127

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$10,255,298	$0	$10,530,179
Deduction of Federal Gra	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$10,255,298	$0	$10,530,179
High Cost Area Adjustme		130%		130%
TOTAL ADJUSTED BASIS	$0	$13,331,888	$0	$13,689,233
Applicable Fraction	75.00%	75.00%	75.00%	75.00%
TOTAL QUALIFIED BASIS	$0	$9,998,916	$0	$10,266,925
Applicable Percentage	0.00%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON BAS	$0	$803,913	$0	$825,461
CREDITS ON QUALIFIED	$803,913		$825,461	

CALCULATION BASED ON APPLICANT BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$803,913	$7,234,492
Gap	$800,000	$7,199,280
Applicant Request)8.04	$800,000	$7,199,280

LIHTC ALLOCATION

Method	Applicant Request	Variance to Request
Credits	**$800,000**	$0
Total Equity Proceeds		
$7,199,280		$0

Development Cost/SF

	Application	Underwritten
Acquisition & Hard Cost	89.01	105.21
Hard Costs	89.01	91.96
Building Costs	59.64	62.59
Total Points Claimed:		0

BUILDING COST ESTIMATE

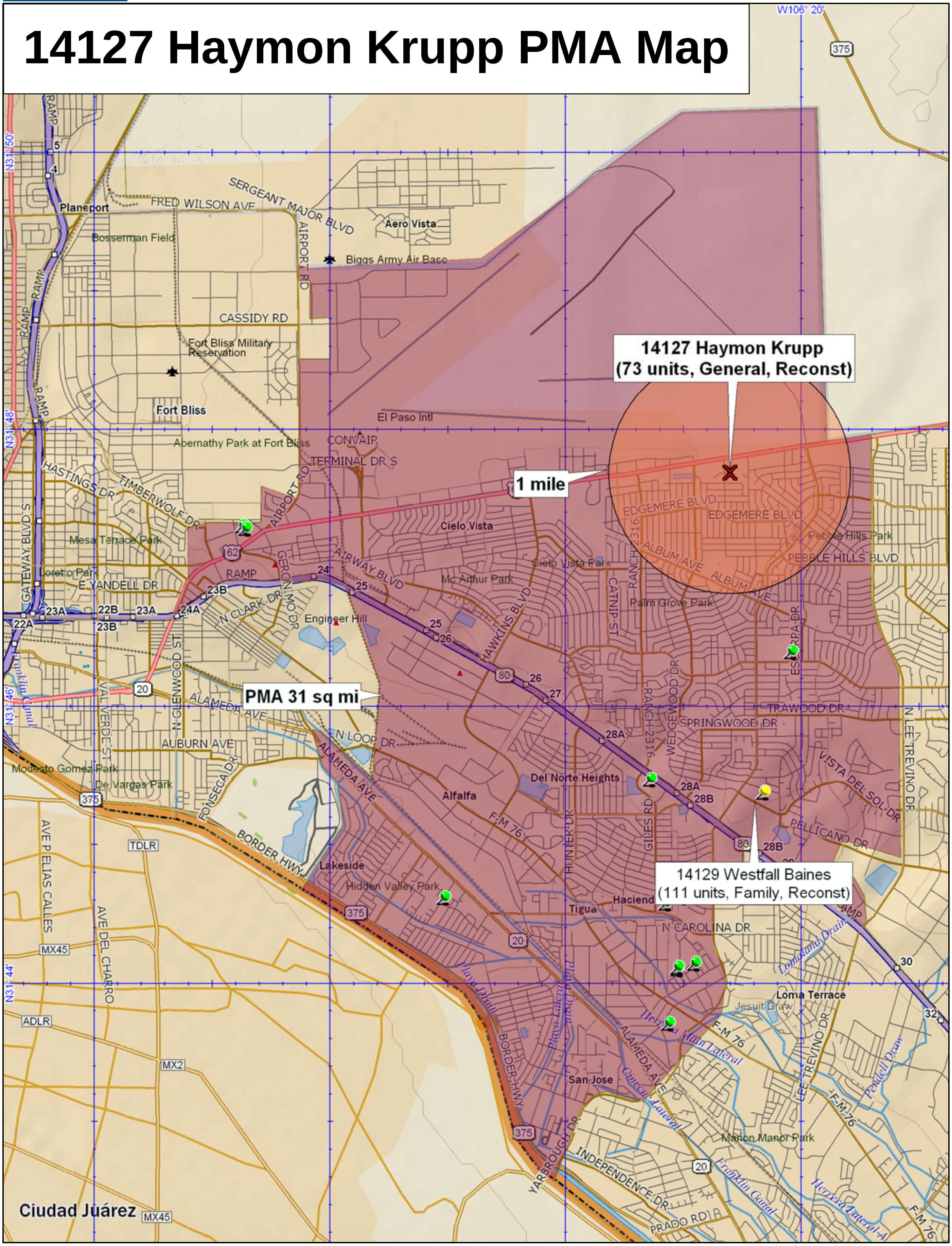
CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Townhome	93,200 SF	$64.37	5,999,530
Adjustments				
Exterior Wall Finish	0.00%		0.00	$0
	0.00%		0.00	0
9 ft. ceilings	3.00%		1.93	179,986
Roofing			(0.25)	(23,300)
Subfloor			(0.78)	(72,230)
Floor Cover			6.20	578,026
Breezeways	$0.00	0	0.00	0
Balconies	$23.10	7,611	1.89	175,819
Plumbing Fixtures	$1,125	54	0.65	60,750
Rough-ins	$495	96	0.51	47,520
Built-In Appliances	$2,325	96	2.39	223,200
Exterior Stairs	$2,125	0	0.00	0
Heating/Cooling			2.06	191,992
Enclosed Corridors	$48.16	0	0.00	0
Carports	$11.30	19,200	2.33	216,960
Garages		0	0.00	0
Comm &/or Aux Bldgs	$88.30	1,915	1.81	169,101
Elevators		0	0.00	0
Other:			0.00	0
Fire Sprinklers	$0.00	95,115	0.00	0
SUBTOTAL			**83.13**	**7,747,354**
Current Cost Multiplier	1.02		1.66	154,947
Local Multiplier	0.87		(10.81)	(1,007,156)
TOTAL BUILDING COSTS			**73.98**	**$6,895,145**
Plans, specs, survey, bldg permits	3.90%		(2.89)	($268,911)
Contractor's OH & Profit	11.50%		(8.51)	(792,942)
NET BUILDING COSTS		$60,763/unit	$62.59/sf	$5,833,293

30-Year Long-Term Pro Forma

Haymon Krupp, El Paso, 9% HTC #14127

	Growth F	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	$651,913	$665,848	$680,089	$694,642	$709,514	$788,932	$877,502	$976,319	$1,086,613	$1,209,770
TOTAL EXPENSES	3.00%	$386,791	$398,113	$409,770	$421,771	$434,126	$501,591	$579,627	$669,899	$774,337	$895,173
NET OPERATING INCOME ("NOI")		$265,122	$267,735	$270,318	$272,871	$275,389	$287,341	$297,875	$306,419	$312,277	$314,597
MUST -PAY DEBT SERVICE											
PNC		$172,118	$172,118	$172,118	$172,118	$172,118	$172,118	$172,118	$172,118	$172,118	$172,118
City of El Paso		$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296	$25,296
TOTAL DEBT SERVICE		$197,414	$197,414	$197,414	$197,414	$197,414	$197,414	$197,414	$197,414	$197,414	$197,414
NET CASH FLOW		$67,708	$70,321	$72,905	$75,457	$77,975	$89,927	$100,461	$109,006	$114,863	$117,183
CUMULATIVE NET CASH FLOW		$67,708	$138,029	$210,934	$286,391	$364,365	$790,562	$1,272,470	$1,801,333	$2,365,165	$2,948,045
DEBT COVERAGE RATIO		1.34	1.36	1.37	1.38	1.39	1.46	1.51	1.55	1.58	1.59
EXPENSE/INCOME RATIO		59.3%	59.8%	60.3%	60.7%	61.2%	63.6%	66.1%	68.6%	71.3%	74.0%
Deferred Developer Fee Balance		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Residual Cash Flow		67,708	70,321	72,905	75,457	77,975	89,927	100,461	109,006	114,863	117,183

14127 Haymon Krupp PMA Map



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14127 Haymon Krupp

TN MN (8.4°E)

Scale 1 : 68,750

1" = 1.09 mi

Data Zoom 11-5

printed: 7/23/14

#14128 Sherman Plaza

July 28, 2014

Mr. Tim Irvine, Executive Director
TDHCA
PO Box 13941
Austin, TX 78711

RE: REA Underwriting Appeal for 14128 Sherman Plaza

Dear Mr. Irvine:

This letter contains an appeal of the REA Underwriting Report for 14128 Sherman Plaza. We are appealing the inclusion of asbestos abatement in eligible basis. We believe that TDHCA is considering an ineligible item in eligible basis and such item must be removed.

At application submission, the applicant included asbestos abatement in eligible basis. At the time, it was thought that asbestos could potentially be included in eligible basis if it was considered a pre-development activity similar to the issuance of building permits. It was also understood that eligible basis items would be thoroughly reviewed by REA. In fact, the issue of asbestos was the subject of a challenge to this application and TDHCA staff confirmed that the Real Estate Analysis Division was underwriting the application and would make a recommendation after a full analysis.

Novogradac & Company LLP has since indicated that asbestos abatement is generally included in eligible basis for rehabilitation developments; however, reconstruction-type developments are less clear because demolition to tear down is capitalized to the land and cannot be capitalized to the building. The possible exception to this is when asbestos abatement would be a requirement of building permits prior to demolition, but this ultimately would need to be clarified with the syndicator.

In July, the Paisano Housing Redevelopment Corporation selected Hunt Capital Partners LLC to be the equity provider for this development. Hunt Capital has been consulted, and they have indicated that asbestos abatement would not be considered to be an eligible basis item. Please see the attached letter from Hunt Capital regarding this issue.

We ask that TDHCA reconsider the asbestos abatement item for this application and remove it from eligible basis. With confirmation that asbestos abatement should not be included in eligible basis, TDHCA should not calculate credits on an activity that is ineligible. The removal of asbestos abatement as an eligible basis item will result in a reduction of total eligible basis and will require a reduction in housing tax credits from those requested at application.

Section 42 of the Internal Revenue Code requires that tax credits allocated to a development not exceed the amount necessary to ensure feasibility. Furthermore, Section 10.302(a) of the 2014 Real Estate Analysis Division Rules states as follows:

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The rules of the Texas Government Code and the Code, resulting in a Credit Underwriting Analysis Report used by the Board in decision making with the goal to assist as many Texans as possible by providing no more financing than necessary based on an independent analysis of Development feasibility. The Report considers all information timely provided by the Applicant.

The TDHCA rules specifically state that it provide no more financing than necessary to a development. In the current underwriting report, asbestos abatement is included as an eligible basis item when it should not be eligible. In accordance with the TDHCA rules, this issue must be considered so that the Department does not provide more housing tax credits than necessary to this application.

Additionally, the documentation in this REA appeal has been timely provided in accordance with the Appeals Process described in Section 10.902 of the 2014 Uniform Multifamily Rules. In accordance with Section 10.302(a) of the rules that states that the underwriting report "considers all information timely provided by the Applicant," we ask that the Department incorporate the information in this appeal into the underwriting analysis.

In the current application year, we understand that other applicants have been able to provide supplemental information to the Department as part of an appeal. We are asking for the same consideration. For example, the appeal for 14087 Cypress Creek Apartment Homes at Joshua Station was granted based on new information submitted with the Executive Director appeal. This supplemental information after the date of application included a letter from the Joshua ISD dated June 17, 2014, recapping a June 16, 2014, Joshua ISD Board Meeting that changed the elementary attendance school zones to benefit the proposed development and increase the application's score. Without the June 2014 change to the elementary school attendance zones, that application would not have been competitive.

To conclude, we are appealing the inclusion of asbestos abatement in eligible basis contained in the Underwriting Report for 14128 Sherman Plaza. The current underwriting report is based on an eligible basis amount that includes an ineligible asbestos item. We believe that the Department cannot award credits based on ineligible items and therefore must reevaluate this application.

Thank you for your attention to this matter. Please contact me with any questions.

Regards,

Alyssa Carpenter
Applicant Representative

HUNT
Vision. Integrity. Professionalism.
Hunt Capital Partners, LLC
15260 Ventura Boulevard, Suite 600
Los Angeles, California 91403
Phone (818) 380-6100 Facsimile (818) 380-6101

July 28, 2014

Brent Stewart
Director, Underwriting
TDHCA
221 E. 11th St.
Austin, TX 78701

RE: Eligible Basis Opinion

Mr. Stewart,

Hunt Capital was officially engaged to provide equity for the tax credit developments submitted by Paisano Housing Redevelopment Corporation in July of 2014. As such, we have been asked to opine on the eligibility of tax credit basis related to asbestos abatement.

We understand that the applicant submitted costs for asbestos as part of their application, believing that they might be an eligible basis expense. It is our official position that because of the nature of the reconstruction of these developments, that the asbestos abatement is not eligible for credits. As the syndicator we will not give credits for costs associated with them because the abatement will be part of demolition, which renders them ineligible.

Please feel free to call me if you have any questions.

Dana Mayo
SVP, Director of Acquisitions
Hunt Capital Partners, LLC
818-380-6130 (office)
310-717-5578 (cell)

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Real Estate Analysis Division
August 11, 2014

Addendum to Underwriting Report

TDHCA Application #: **14128** Program(s): **9% HTC**

Sherman Plaza

Address/Location: 4528 Blanco Ave.

City: El Paso County: El Paso Zip: 79905

Analysis Purpose: 1st Addendum to Prior Report

	APPLICATION HISTORY
Report Date	**PURPOSE**
08/11/14	**Appeal Addendum**
07/23/14	Initial Underwriting Report

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (Annual)	$1,500,000				**$0**				

Pursuant to §10.302(i)(2), the amount of required deferred developer fee is not repayable from Cash Flow within the first fifteen (15) years of the long term pro forma. As a result, the Development is characterized per rule as infeasible and REA is unable to recommend a credit allocation.

If the Board chooses to make an award by waiver of the rule, the award should be subject to the following conditions:

CONDITIONS STATUS

1 A tax credit allocation not to exceed $1,500,000.

2 Receipt and acceptance by Commitment:

a: Firm commitment from HACEP to provide $675K in the form of a grant with no expectation of repayment.

b: Firm commitment from City of El Paso for $100K HOME/CDBG loan with minimum 15-year term, minimum 30-year amortization, and maximum 3% interest rate, specifying all terms and conditions including payment terms, and specifying any income or rent restrictions that will be imposed by this funding.

3 Receipt and acceptance by Carryover:

Certification of the property tax exemption status of the property from El Paso CAD

4 Receipt and acceptance by 10% test:

a: Documentation of HUD approval of RAD rents as represented in the Application.

5 Receipt and acceptance by Cost Certification:

a: Certification from a tax attorney confirming that the source of the $675K grant is not federal funds for the purpose of IRC§42 (and therefore does not need to be deducted from eligible basis).

b: Certification of the property tax exemption status of the property from El Paso CAD.

c: Documentation clearing environmental issues contained in the ESA report, specifically:

Any recommendations regarding testing for identification of asbestos-containing materials, lead-based paint, and lead in water were followed, and, if found, that appropriate abatement procedures were followed for the demolition, removal and/or elimination of any such materials or identified sources.

6 Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

ANALYSIS

In a July 23, 2014 underwriting report REA recommended an allocation of $1,500,000 in annual tax credits to application 14128 Sherman Plaza (amount requested by Applicant). The Applicant appealed the recommendation on July 28, 2014. The appeal states that cost for asbestos abatement was incorrectly included in eligible basis, and that the credit award should be reduced by the amount related to these ineligible costs.

Development Cost

The Applicant correctly states that the cost for asbestos abatement from ineligible buildings that will be demolished is not eligible for tax credits. REA should have excluded this cost from the eligible basis in the Applicant's development cost schedule.

REA also did not consider the cost of asbestos abatement in the underwriting estimate for total development cost.

The Underwriter has reviewed the overall cost analysis for the application. The $504,000 cost for asbestos abatement (as stated by the Applicant) has been deducted from eligible cost in the Applicant's cost schedule. This causes the Applicant's stated amounts for eligible contingency, contractor fee and developer fee to exceed the limits.

After deducting the cost for asbestos abatement as ineligible, and adjusting contingency, contractor fee, and developer fee to the eligible limits, the Applicant's eligible cost is reduced to $16,592,675 (from $17,283,167 in the original report).

The $504,000 cost for asbestos abatement has been added to the Underwriter's cost estimate.

The building configuration exhibit in the application states that the buildings will be equipped with fire sprinklers. But during underwriting the Applicant stated that local code did not require fire sprinklers, so fire sprinklers were not included in the Underwriter's cost. The Applicant's architect has since confirmed that sprinklers are required because the buildings are more than 2 stories and contain more than 16 units, and that the cost for sprinklers was included in the Applicant's proposed cost.

The Underwriter's eligible cost has been increased by $386K to account for fire sprinklers, and total cost has been increased by $504K to account for asbestos abatement. As a result, the Underwriter's estimate of Total Development Cost increased to $21,305,172 (from $20,497,628 in the original report).

Operating Pro Forma

The original underwriting analysis applied a 7.5% vacancy/collection factor to Potential Gross Income. REA rules allow this to be reduced to 5% in certain circumstances, including when a substantial number of the units are supported by rental assistance or otherwise subsidized. Since all of the subject units will be supported by the RAD Contract, REA would typically utilize the lower assumption.

The vacancy/collection factor has been adjusted to 5.0% in the revised analysis. This increases the Underwriter's net operating income to $485K (from $456K in the original report).

Conclusion

As a result of the revised cost analysis, the Applicant's Total Development Cost is 7.65% lower than the Underwriter's estimate. Therefore, per REA rules, the recommended financing structure is based on the Underwriter's estimate.

The proposed $5,401,796 senior loan from PNC and the $100,000 loan from City of El Paso result in a 1.17 times debt coverage ratio; this is within the underwriting guidelines.

A tax credit allocation would be limited by the Applicant's request to $1,500,000 and would provide $13,498,650 in equity proceeds. This would require the deferral of $1,629,726 of the developer fee. The long-term pro forma indicates it would take 16 years to repay the deferred fee.

The application is NOT RECOMMENDED due to the inability to repay the deferred developer fee within 15 years.

Based on the Applicant's cost schedule they could have requested $1,806,507 in credits. The additional $307K in credits would have provided an additional $2,758K in equity, which would have made this project feasible.

Underwriter:	*Diamond Thompson*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

UNIT MIX/RENT SCHEDULE

Sherman Plaza, El Paso, 9% HTC #14128

LOCATION DATA

CITY:	El Paso
COUNTY:	El Paso
PROGRAM REGION:	13
PIS Date:	On or After 2/1/2014
IREM REGION:	El Paso

UNIT DISTRIBUTION

# Beds	# Units	% Total
Eff	-	0.0%
1	40	20.2%
2	120	60.6%
3	38	19.2%
4	-	0.0%
TOTAL	**198**	**100.0%**

Income	# Units	% Total
30%	20	10.1%
40%	-	0.0%
50%	41	20.7%
60%	137	69.2%
MR	-	0.0%
TOTAL	**198**	**100.0%**
RAD	**198**	**100.0%**

Applicable Programs

9% Housing Tax Credits

Pro Forma ASSUMPTIONS

Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.42%
APP % Construction	8.04%
Average Unit Size	848 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		RAD		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
TC 30%	$282	RAD	$402	4	1	1	650	$402	$0	$402	$0	$0.62	$402	**$1,608**	**$1,608**	$402	$0.62	$0	$810	$1.25	810
TC 50%	$471	RAD	$402	10	1	1	650	$402	$0	$402	$0	$0.62	$402	**$4,020**	**$4,020**	$402	$0.62	$0	$810	$1.25	810
TC 60%	$565	RAD	$402	26	1	1	650	$402	$0	$402	$0	$0.62	$402	**$10,452**	**$10,452**	$402	$0.62	$0	$810	$1.25	810
TC 30%	$339	RAD	$478	12	2	2	850	$478	$0	$478	$0	$0.56	$478	**$5,736**	**$5,736**	$478	$0.56	$0	$950	$1.12	950
TC 50%	$565	RAD	$478	26	2	2	850	$478	$0	$478	$0	$0.56	$478	**$12,428**	**$12,428**	$478	$0.56	$0	$950	$1.12	950
TC 60%	$678	RAD	$478	82	2	2	850	$478	$0	$478	$0	$0.56	$478	**$39,196**	**$39,196**	$478	$0.56	$0	$950	$1.12	950
TC 30%	$391	RAD	$686	4	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$2,744**	**$2,744**	$686	$0.65	$0	$1,120	$1.07	1120
TC 50%	$653	RAD	$686	5	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$3,430**	**$3,430**	$686	$0.65	$0	$1,120	$1.07	1120
TC 60%	$783	RAD	$686	29	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$19,894**	**$19,894**	$686	$0.65	$0	$1,120	$1.07	1120
TOTALS/AVERAGES:				**198**			**167,900**				**$0**	**$0.59**	**$503**	**$99,508**	**$99,508**	**$503**	**$0.59**	**$0**	**$954**	**$1.13**	**$1.13**

ANNUAL POTENTIAL GROSS RENT:	**$1,194,096**	**$1,194,096**

STABILIZED PRO FORMA

Sherman Plaza, El Paso, 9% HTC #14128

	STABILIZED FIRST YEAR PRO FORMA												
	COMPARABLES			APPLICANT				TDHCA				VARIANCE	
	Database		El Paso	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.59	$503	$1,194,096	$1,194,096	$503	$0.59		0.0%	$0
late, application, pet fees, retained sec. dep.						$20.00	$47,520						
Total Secondary Income						$20.00		$47,520	$20.00			0.0%	$0
POTENTIAL GROSS INCOME			$ -				$1,241,616	$1,241,616				0.0%	$0
Vacancy & Collection Loss						7.5% PGI	(93,121)	(62,081)	5.0% PGI			50.0%	(31,040)
Non-Rental Units/Concessions							-					0.0%	-
EFFECTIVE GROSS INCOME			$ -				$1,148,495	$1,179,535				-2.6%	($31,040)
General & Administrative	$60,623	$306/Unit	74,654	5.49%	$0.38	$318	$63,000	$60,623	$306	$0.36	5.14%	3.9%	2,377
Management	$73,277	5.7% EGI	56,498	5.00%	$0.34	$290	$57,425	$58,977	$298	$0.35	5.00%	-2.6%	(1,552)
Payroll & Payroll Tax	$237,607	$1,200/Unit	180,407	16.13%	$1.10	$936	$185,263	$185,263	$936	$1.10	15.71%	0.0%	-
Repairs & Maintenance	$70,179	$354/Unit	63,202	6.70%	$0.46	$389	$77,000	$108,900	$550	$0.65	9.23%	-29.3%	(31,900)
Electric/Gas	$59,931	$303/Unit	39,514	3.05%	$0.21	$177	$35,000	$39,514	$200	$0.24	3.35%	-11.4%	(4,514)
Water, Sewer, & Trash	$68,245	$345/Unit	82,280	7.49%	$0.51	$434	$86,000	$82,280	$416	$0.49	6.98%	4.5%	3,720
Property Insurance	$40,782	$0.24 /sf	32,407	2.61%	$0.18	$152	$30,000	$32,407	$164	$0.19	2.75%	-7.4%	(2,407)
Property Tax 2.6853	$101,071	$510/Unit	113,884	4.79%	$0.33	$278	$55,000	$61,143	$309	$0.36	5.18%	-10.0%	(6,143)
Reserve for Replacements	$47,562	$240/Unit	30,944	4.31%	$0.29	$250	$49,500	$49,500	$250	$0.29	4.20%	0.0%	-
Supportive services			4,752	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees			7,912	0.52%	$0.04	$30	$5,960	$7,920	$40	$0.05	0.67%	-24.7%	(1,960)
Security			4,939	0.70%	$0.05	$40	$8,000	$8,000	$40	$0.05	0.68%	0.0%	-
TOTAL EXPENSES			**$691,393**	**56.78%**	**$3.88**	**$3,294**	**$ 652,148**	**$ 694,526**	**$3,508**	**$4.14**	**58.88%**	**-6.1%**	**(42,379)**
NET OPERATING INCOME ("NOI")				**43.22%**	**$2.96**	**$2,507**	**$496,347**	**$485,009**	**$2,450**	**$2.89**	**41.12%**	**2.3%**	**$ 11,338**

CONTROLLABLE EXPENSES	$2,508/Unit	$2,223/Unit		$2,254/Unit			$2,407/Unit		

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Sherman Plaza, El Paso, 9% HTC #14128

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	MIP	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
PNC		1.18	1.21	409,565	6.50%	30	15	$5,401,796	$5,401,796	15	30	6.50%	409,716	1.18	25.4%
City of El Paso		1.17	1.20	5,059	3.00%	30	15	$100,000	$100,000	15	30	3.00%	5,059	1.17	0.5%
CASH FLOW DEBT / GRANT															
Housing Authority of the City o		1.17	1.20		0.00%	0	0	$675,000	$675,000	0	0	0.00%		1.17	3.2%
				$414,624	TOTAL DEBT / GRANT SOURCES			$6,176,796	$6,176,796			TOTAL DEBT SERVICE	$414,776		29.0%
NET CASH FLOW		$70,385	$81,723								NET OPERATING INCOME	$485,009	$70,233	NET CASH FLOW	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE						
FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit		
PNC	LIHTC Equity	63.4%	#########	0.90	$13,498,650	$13,498,650	$0.8999	########	63.4%	$68,175		
0	Deferred Developer Fees	0.0%	(0% Deferred)		$0	$1,629,726	(70% Deferred)		7.6%	Total Developer Fee:		$2,325,000
Additional (Excess) Funds Req		0.0%			$0	$0			0.0%			
TOTAL EQUITY SOURCES		63.4%			$13,498,650	$15,128,376			71.0%	15-Year Cash Flow:		$1,336,120
TOTAL CAPITALIZATION					$19,675,446	$21,305,172			15-Yr Cash Flow after Deferred Fee:			($293,605)

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	New Const. Rehab	Total Costs			Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$6,035 / Unit	$1,195,000	$1,195,000	$6,035 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
Asbestos Abatement					$504,000	$504,000						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$636,389		$4,953 / Unit	$980,659	$980,659	$4,953 / Unit		$636,389		0.0%	$0
Site Amenities		$340,896		$2,287 / Unit	$452,792	$452,792	$2,287 / Unit		$340,896		0.0%	$0
Building Costs		$9,764,076	$58.15 /sf	$49,314/Unit	$9,764,076	$11,393,801	$57,544/Unit	$67.86 /sf	$11,393,801		-14.3%	($1,629,725)
Contingency		$776,586	7.23%	7.20%	$806,374	$806,374	6.29%	6.28%	$776,586		0.0%	$0
Contractor's Fees		$1,680,794	14.59%	14.54%	$1,745,265	$1,745,265	12.80%	12.78%	$1,680,794		0.0%	$0
Soft Costs	0	$586,100		$3,516 / Unit	$696,100	$696,100	$3,516 / Unit		$586,100	$0	0.0%	$0
Developer's Fees	$0	$2,255,000	15.525%	14.99%	$2,325,000	$2,325,000	13.56%	13.40%	$2,164,262	$0	0.0%	$0
Financing	0	$740,000		$4,092 / Unit	$810,180	$810,180	$4,092 / Unit		$740,000	$0	0.0%	$0
Reserves				$2,000 / Unit	$396,000	$396,000	$2,000 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$16,779,841**		$99,371 / Unit	**$19,675,446**	**$21,305,172**	$107,602 / Unit		**$18,318,828**	**$0**	**-7.6%**	**($1,629,725)**
Acquisition Cost	$0				$0							
Contingency		($24,691)										
Contractor's Fee		($71,738)										
Interim Interest		$0										
Developer's Fee	$0	($90,738)			$0							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$16,592,675**		$99,371/unit	**$19,675,446**	**$21,305,172**	$107,602/unit		**$18,318,828**	**$0**	**-7.6%**	**($1,629,725)**

TOTAL UNDERWRITTEN COSTS (Applicant's Uses are not within 5% of TDHCA Estimate): $21,305,172

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Sherman Plaza, El Paso, 9% HTC #14128

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$16,592,675	$0	$18,318,828
Deduction of Federal	$0	$0	$0	$0
TOTAL ELIGIBLE BAS	$0	$16,592,675	$0	$18,318,828
High Cost Area Adjus		130%		130%
TOTAL ADJUSTED B	$0	$21,570,477	$0	$23,814,477
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
TOTAL QUALIFIED B	$0	$21,570,477	$0	$23,814,477
Applicable Percentag	0.00%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON	$0	$1,734,266	$0	$1,914,684
CREDITS ON QUALIFI	$1,734,266		$1,914,684	

ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$1,914,684	$17,230,432
Gap	$1,681,099	$15,128,376
Applicant Request	$1,500,000	$13,498,650

FINAL ANNUAL LIHTC ALLOCATION

Method	**Applicant Request**	**Variance to Request**
Credits	**$1,500,000**	$0
Total Equity Proceeds		
$13,498,650		$0

Development Cost/SF

	Application	**Underwritten**
Acquisition & Hard C	84.89	98.71
Hard Costs	84.89	91.60
Building Costs	61.16	67.86
Total Points Claimed:		0

BUILDING COST ESTIMATE

CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Garden (Up to 4-story)	167,900 SF	$62.45	10,484,760
Adjustments				
Exterior Wall Finish	0.00%		0.00	$0
	0.00%		0.00	0
9 ft. ceilings	3.00%		1.87	314,543
Roofing			(0.25)	(41,975)
Subfloor			(0.12)	(19,588)
Floor Cover			6.20	1,041,316
Breezeways	$25.68	25,312	3.87	650,012
Balconies	$25.32	15,011	2.26	380,060
Plumbing Fixtures	$940	276	1.55	259,440
Rough-ins	$465	396	1.10	184,140
Built-In Appliances	$1,750	198	2.06	346,500
Exterior Stairs	$2,125	20	0.25	42,500
Heating/Cooling			2.06	345,874
Enclosed Corridors	$46.24	0	0.00	0
Carports	$11.30	39,600	2.67	447,480
Garages		0	0.00	0
Comm &/or Aux Bldgs	$81.10	3,837	1.85	311,185
Elevators		0	0.00	0
Other:			0.00	0
Fire Sprinklers	$2.30	167,900	2.30	386,170
SUBTOTAL			**90.13**	**15,132,416**
Current Cost Multiplier	1.02		1.80	302,648
Local Multiplier	0.87		(11.72)	(1,967,214)
TOTAL BUILDING COSTS			**80.21**	**$13,467,850**
Plans, specs, survey, bldg permi	3.90%		(3.13)	($525,246)
Contractor's OH & Profit	11.50%		(9.22)	(1,548,803)
NET BUILDING COSTS		$57,544/unit	$67.86/sf	$11,393,801

30-Year Long-Term Pro Forma

Sherman Plaza, El Paso, 9% HTC #14128

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	$1,179,535	$1,203,126	$1,227,188	$1,251,732	$1,276,767	$1,409,654	$1,556,372	$1,718,360	$1,897,208	$2,094,671
TOTAL EXPENSES	3.00%	$694,526	$714,772	$735,614	$757,069	$779,155	$899,731	$1,039,144	$1,200,358	$1,386,802	$1,602,448
NET OPERATING INCOME ("NOI")		$485,009	$488,354	$491,575	$494,663	$497,612	$509,923	$517,227	$518,002	$510,407	$492,224
MUST -PAY DEBT SERVICE											
PNC		$409,716	$409,716	$409,716	$409,716	$409,716	$409,716	$409,716	$409,716	$409,716	$409,716
City of El Paso		$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059
TOTAL DEBT SERVICE		$414,776	$414,776	$414,776	$414,776	$414,776	$414,776	$414,776	$414,776	$414,776	$414,776
NET CASH FLOW		$70,233	$73,578	$76,799	$79,888	$82,836	$95,148	$102,452	$103,227	$95,631	$77,448
CUMULATIVE NET CASH FLOW		$70,233	$143,811	$220,610	$300,498	$383,335	$836,184	$1,336,120	$1,853,658	$2,350,766	$2,779,105
DEBT COVERAGE RATIO		1.17	1.18	1.19	1.19	1.20	1.23	1.25	1.25	1.23	1.19
EXPENSE/INCOME RATIO		58.9%	59.4%	59.9%	60.5%	61.0%	63.8%	66.8%	69.9%	73.1%	76.5%
Deferred Developer Fee Balance		$1,559,492	$1,485,914	$1,409,115	$1,329,227	$1,246,391	$793,542	$293,605	$0	$0	$0
Residual Cash Flow		0	0	0	0	0	0	0	103,227	95,631	77,448

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities

Real Estate Analysis Division
Underwriting Report
July 23, 2014

DEVELOPMENT IDENTIFICATION

TDHCA Application #: **14128** Program(s): **9% HTC**

Sherman Plaza

Address/Location: 4528 Blanco Ave.

City: El Paso County: El Paso Zip: 79905

Population: General Program Set-Aside: Non-Profit Area: Urban

Activity: New Construction Building Type: Garden (Up to 4-story) Region: 13

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

	REQUEST				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (Annual)	$1,500,000				**$1,500,000**				

CONDITIONS

1 Receipt and acceptance by Commitment:

a: Firm commitment from HACEP to provide $675K in the form of a grant with no expectation of repayment.

b: Firm commitment from City of El Paso for $100K HOME/CDBG loan with minimum 15-year term, minimum 30-year amortization, and maximum 3% interest rate, specifying all terms and conditions including payment terms, and specifying any income or rent restrictions that will be imposed by this funding.

2 Receipt and acceptance by Carryover:

Certification of the property tax exemption status of the property from El Paso CAD

3 Receipt and acceptance by 10% test:

a: Documentation of HUD approval of RAD rents as represented in the Application.

4 Receipt and acceptance by Cost Certification:

a: Certification from a tax attorney confirming that the source of the $675K grant is not federal funds for the purpose of IRC§42 (and therefore does not need to be deducted from eligible basis).

b: Certification of the property tax exemption status of the property from El Paso CAD.

c: Documentation clearing environmental issues contained in the ESA report, specifically:

Any recommendations regarding testing for identification of asbestos-containing materials, lead-based paint, and lead in water were followed, and, if found, that appropriate abatement procedures were followed for the demolition, removal and/or elimination of any such materials or identified sources.

5 Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	20
50% of AMI	50% of AMI	41
60% of AMI	60% of AMI	137

DEAL SUMMARY

Sherman Plaza is a public housing development comprised of 324 units constructed in approximately 1953. The Applicant proposes to convert all the public housing units on the site to the Rental Assistance Demonstration Program. As a 100% RAD development the application is competing in Region 13 Urban rather than the At-Risk category.

Applicant is proposing the redevelopment of only a portion (9.817 acre) of the larger Sherman development. 144 existing units will be demolished on the subject site and replaced by 198 units. The additional 54 units will be a one to one replacement for units that are part of the larger Sherman development that are not on this acreage, but will be demolished when construction of the 198 units is completed. Density on this specific site will increase (198 units replacing 144), but ultimately the overall density of the larger Sherman development will not change If the entirety of the current plan is accomplished.

RISK PROFILE

STRENGTHS/MITIGATING FACTORS	WEAKNESSES/RISKS
▫ The Housing Authority of the City of El Paso is providing a $675K grant	▫ Minimum 1.15x debt coverage ratio
▫ CHAP contract for all 198 units; utilizing HUD's RAD program	▫ Dependent on approval and successful implementation of new RAD program

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name:	Juan Olvera	Name:	Alyssa Carpenter
Phone:	(915) 849-3813	Phone:	(512) 789-1295
Relationship:	GP/Developer	Relationship:	Consultant

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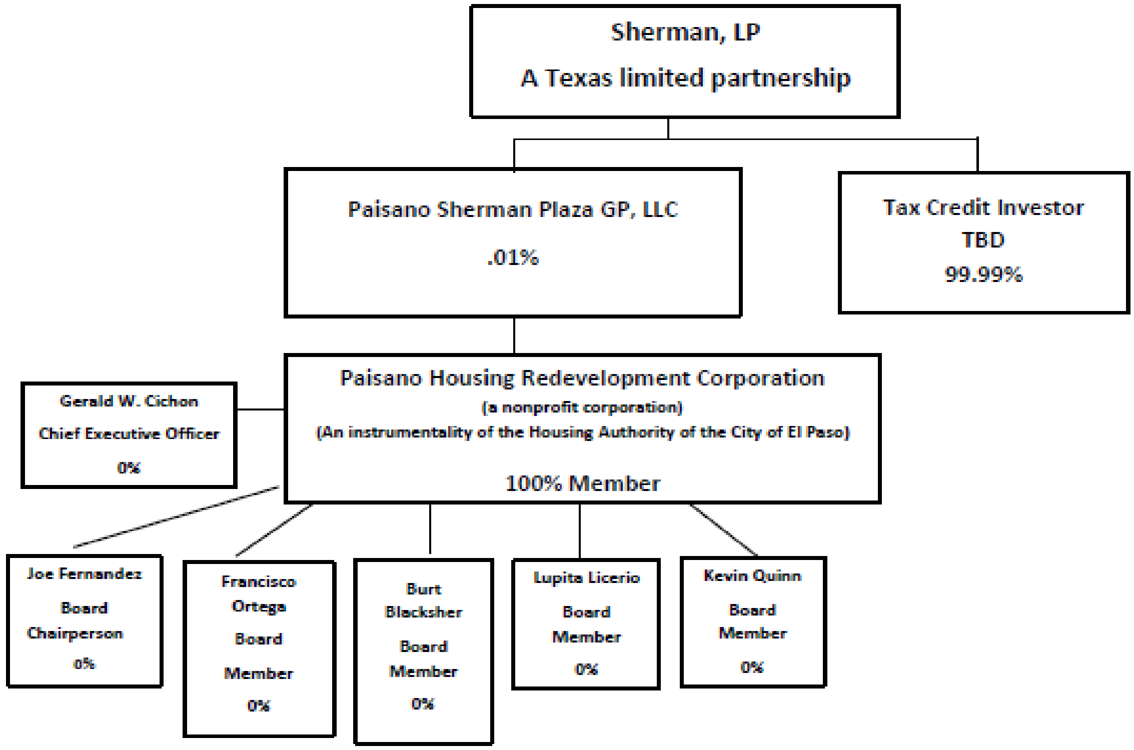
OWNERSHIP STRUCTURE



- The Applicant and Developer are related entities.

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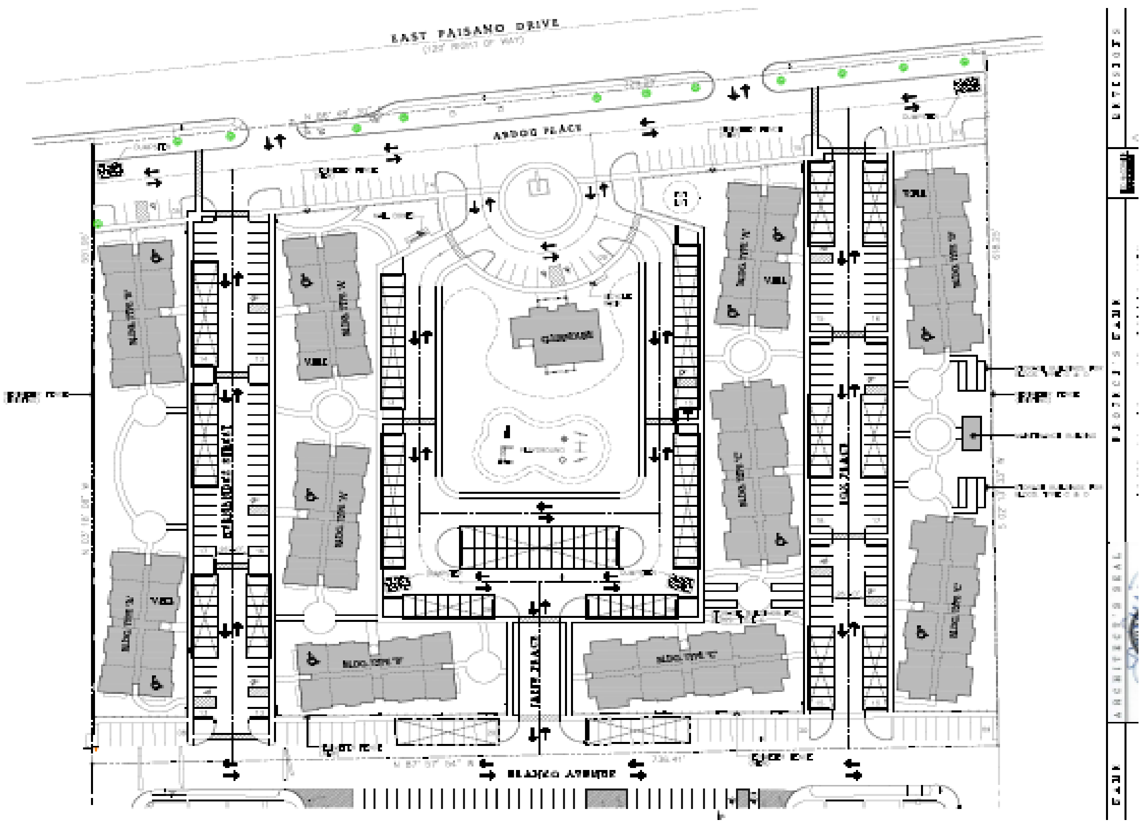
DEVELOPMENT SUMMARY

SITE PLAN



Parking	No Fee		Tenant-Paid		Total	
Open Surface	189	*1.0/unit*	0	--	189	*1.0/unit*
Carport	198	*1.0/unit*	0	--	198	*1.0/unit*
Total Parking	**387**	*2.0/unit*	**0**	--	**387**	*2.0/unit*

BUILDING ELEVATION

BUILDING CONFIGURATION

Building Type	A	B	C	D	Total Buildings
Floors/Stories	3	3	3	3	
Number of Bldgs	4	2	3	1	**10**
Units per Bldg	20	16	22	20	
Total Units	80	32	66	20	**198**
				Net Rentable SF	**167,900**
				Common Area SF	**3,837**

GENERAL INFORMATION

Total Size:	9.82 acres	Scattered Site?	No
Flood Zone:	Zone X	Within 100-yr floodplain?	No
Zoning:	A-2	Re-Zoning Required?	No
Density:	20.2 units/acre	Utilities at Site?	Yes
Year Constructed:	1953 (to be demolished)	Title Issues?	No

Surrounding Uses:

North: Abdou Place, Paisano Drive, the Franklin Canal, Jefferson High School and residential.
East: Francis St, El Paso Community College Career Training Center and Residential.
South: Sue Hall Place, city park and residential development.
West: Paisano Dr., U.S Post Office, Burleson Elementary School.

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: AMEC Environmental & Infrastructure   Date: 2/14/2014

Recognized Environmental Conditions (RECs) and Other Concerns:

- "...unless a current compressive asbestos survey is available of the structures to be affected by renovation or demolition activities, one would need to be performed at the subject site. The asbestos survey must be performed in accordance with Texas Department of State Health Services (TDSHS) asbestos requirements for public buildings."
- "...unless a current survey is available, an LBP survey of the structures to be affected by renovation or demolition activities would need to be performed at the subject site. The LBP survey must be performed by individuals licensed by the TDSHS in accordance with US Housing and Urban Development (HUD) standards."
- "...unless a current lead in drinking water survey is available, the drinking water would need to be sampled via testing at the subject site. The drinking water testing must be done in accordance with current EPA or HUD standards."

MARKET ANALYSIS

Provider: Valbridge Property Advisors   Date: 3/24/2014
Contact: Tim N. Treadway   Phone: 713.467.5858

Primary Market Area (PMA): 26 sq. miles   3 mile equivalent radius

The PMA covers five zip codes in south central El Paso City.

ELIGIBLE HOUSEHOLDS BY INCOME

El Paso County Income Limits

HH size	30% of AMI		40% of AMI		50% of AMI		60% of AMI	
	min	max	min	max	min	max	min	max
1	$0	$10,560	---	---	$0	$17,600	$0	$21,120
2	$0	$12,060	---	---	$0	$20,100	$0	$24,120
3	$0	$13,560	---	---	$0	$22,600	$0	$27,120
4	$0	$15,060	---	---	$0	$25,100	$0	$30,120
5	$0	$16,290	---	---	$0	$27,150	$0	$32,580
6	---	---	---	---	---	---	---	---

Primary Market Occupancy Rates:

The subject property is 100% occupied. Other rent-restricted developments are at 98% occupancy.

Comments:

The subject property is covered by a RAD voucher contract, meaning that all households below the maximum income level are eligible. This results in Gross Demand for 14,374 units, and a Gross Capture Rate of 1.4% for the development's 198 rentable units.

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (TDHCA's Pro forma)					
NOI:	$455,521	Avg. Rent:	$503	Expense Ratio:	60.3%
Debt Service:	$395,814	B/E Rent:	$475	Controllable Expenses:	$2,407
Net Cash Flow:	$59,707	UW Occupancy:	92.5%	Property Taxes/Unit:	$309
Aggregate DCR:	1.15	B/E Occupancy:	87.7%	Program Rent Year:	2014

All 198 units will operate under HUD's new Rental Assistance Demonstration (RAD) program, allowing the conversion of these public housing units to long-term project-based Section 8 contracts.

The proposed RAD Contract Rents are net contract rent amounts provided in the RAD documentation from HUD. No utility allowance values are specified.

The pro forma indicates minimal operating risk, with break-even rent $27 below the average collected rent. Break-even occupancy of 88% allows for 24 vacant units (out of 198 total).

Applicant's total operating expenses ($652K) are 6% lower than underwriting estimate ($692K), and Applicant's NOI is 9% higher ($496K vs. $456K). As a result, the underwriting analysis is based on the Underwriter's pro forma.

Underwriter's NOI provides 1.10x debt coverage. The recommended financing structure assumes a reduction in the senior debt amount to achieve the minimum 1.15x debt coverage.

Applicant anticipates a 50% tax exemption. However, the Applicant's attorneys believe there is a strong case that the property will be eligible for further tax exemption (up to 100%) since the landlord is the Housing Authority. All else equal, with a full tax exemption debt coverage would increase to 1.25x; no adjustment to the tax credit allocation would be warranted.

ACQUISITION INFORMATION

APPRAISED VALUE

Appraiser: Wilkinson, Pendergras & Beard, LP   Date: 2/13/2014

Land as Vacant: 9.82 acres $1,195,000   Per Unit: $6,035

SITE CONTROL

Type: Ground Lease   Acreage: 20.948

Acquisition Cost: $1,195,000   Contract Expiration: N/A

Cost Per Unit: $6,035

Seller: Housing Authority of the City of El Paso

Related-Party Seller/Identity of Interest: Yes

Comments:

Ground Lease: $100 per yr for 75 yrs. The lease rate is to be $1,195,000, to reflect the appraised value of the land. It is to be paid in a single installment at the closing of the partnership.

Applicant reports the property was acquired in 1953, and the book value of the land is $67,500. A 5% rate of return over 61 years would support a value greater than the $1.2M appraised value. The property will be capitalized on the books of the new partnership at the appraised value. It should also be noted the Housing Authority is providing a $675K grant to the partnership. So the net cash transfer for the related party acquisition is well below the appraised value.

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	$57,046/ac	$6,035/unit	**$1,195,000**	Contractor Fee	**$1,745,265**
Off-site + Site Work		$7,240/unit	**$1,433,451**	Developer Fee	**$2,312,219**
Building Cost	$60.56/sf	$51,354/unit	**$10,168,076**	Soft Cost	**$1,506,280**
Contingency	6.95%	$4,073/unit	**$806,374**	Reserves	**$396,000**
Total Development Cost		$98,801/unit	**$19,562,666**	**Rehabilitation Cost**	**N/A**

Qualification for Basis Boost:	Located in QCT

Building Cost:

Ten typical garden-style 3-story buildings with some differentiating features. REA costing consistent on the average with AIA schedule of values of Eastside Crossing, a comparable property by the same developer currently under construction (adjusted for specifications including building mix, unit sizes and economies of scale).

Applicant's building costs are 7.5% or $835K lower than the REA estimate.

Comments:

Eastside Crossing is a similar development recently completed by the same developer. For the subject development (Sherman Plaza), Applicant's cost per unit ($51K) is 11% lower than the actual contract cost for Eastside Crossing ($56K). Applicant's response is that they are building more units (198 vs. 188 at Eastside) in less space (168K sf vs. 185K sf at Eastside). Per unit cost is lower due to smaller units, but cost per square foot is 3.7% higher ($60.56 psf compared to $58.39).

But Applicant's cost estimates are not consistent. Applicant has another application in the current cycle (14130 Tays) that is essentially the same as Sherman Plaza - exact same number of units, exact same units sizes, and exact same net rentable area. But the Applicant's proposed cost for Tays is $2 psf and $2,000 per unit higher than their estimates for Sherman. The proposed costs for Tays are closer to the documented actual costs for Eastside. But the Underwriter's estimates are higher, they are consistent between Sherman and Tays, and they are consistent with the actual cost at Eastside.

Applicant's total development cost ($19.6M) is 4.6% lower than the underwriting estimate ($20.5M), and based on the comparisons to Tays and Eastside Crossing the Underwriter believes the Applicant's cost is too low. But the Applicant's total cost is within 5%, so per REA guidelines, the recommended financing is based on the Applicant's cost schedule.

If actual cost matches the Underwriter's estimate, the long-term pro forma indicates sufficient cash flow such that the additional cost can be accounted for by additional deferred developer fee.

Applicant states that fire sprinklers are not required by local building code, so the cost for sprinklers was not included in the underwriting estimate.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
$19,562,666	**$17,283,167**	**$1,806,437**

UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
PNC	Conventional Loan	$5,401,796	4.00%	29%
City of El Paso	Loan	$100,000	3.00%	1%
PNC	Bridge Loan	$10,000,000	4.00%	53%
PNC	HTC	$2,699,730	$0.90	14%
Housing Authority of the City of El Paso	Grant	$675,000		4%
		$18,876,526	**Total Sources**	

PERMANENT SOURCES

	PROPOSED				UNDERWRITTEN				
Debt Source	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**LTC**
PNC	$5,401,796	6.50%	30	15	$5,151,800	6.50%	30	15	26%
City of El Paso	$100,000	3.00%	30	15	$100,000	3.00%	30	15	1%
HACEP	$675,000	Grant			$675,000	Grant			3%
Total	**$6,176,796**				**$5,926,800**				

	PROPOSED			UNDERWRITTEN			
Equity & Deferred Fees	**Amount**	**Rate**	**% Def**	**Amount**	**Rate**	**% TC**	**% Def**
PNC	$13,498,650	$0.90		$13,498,650	$0.90	69%	
Deferred Developer Fee	$0		0%	$137,216		1%	6%
	($112,780)			$0			
Total	**$13,385,870**			**$13,635,866**			
				$19,562,666	**Total Sources**		

Comments:

All else equal, the credit price could increase to $0.91 before the allocation would be limited by the need for funds; the price could fall to $0.84 and the project would remain feasible.

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CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	$19,562,666
Permanent Sources	$5,926,800
Gap in Permanent Financing	$13,635,866

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	$16,256,304	$1,806,437
Needed to Fill Gap in Financing	$13,635,866	$1,515,248
Requested by Applicant	$13,498,650	$1,500,000

RECOMMENDATION:	Amount	Interest Rate	Amort	Term	Lien
	Equity Proceeds	**Annual Credits**			
Tax Credit Allocation	**$13,498,650**	**$1,500,000**			
Deferred Developer Fee	**$137,216**				
Repayable in	**3 years**				

Comments:

The credit allocation is limited to $1.5M as requested by the Applicant. Eligible costs would have supported an additional $306K in annual credits and $2.8M in additional equity proceeds. The senior debt could have been decreased by $1.1M while maintaining the maximum 1.35 debt coverage, allowing the property to operate with much stronger margins.

Underwriter:	*Diamond Unique Thompson*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

UNIT MIX/RENT SCHEDULE

Sherman Plaza, El Paso, 9% HTC #14128

LOCATION DATA	
CITY:	El Paso
COUNTY:	El Paso
PROGRAM REGION:	13
PIS Date:	On or After 2/1/2014
IREM REGION:	El Paso

UNIT DISTRIBUTION					
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0.0%	30%	20	10.1%
1	40	20.2%	40%	-	0.0%
2	120	60.6%	50%	41	20.7%
3	38	19.2%	60%	137	69.2%
4	-	0.0%	MR	-	0.0%
TOTAL	**198**	**100.0%**	**TOTAL**	**198**	**100.0%**
			RAD	**198**	**100.0%**

Applicable Programs
9% Housing Tax Credits

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.42%
APP % Construction	8.04%
Average Unit Size	848 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		RAD		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
TC 30%	$282	RAD	$402	4	1	1	650	$402	$0	$402	$0	$0.62	$402	**$1,608**	**$1,608**	$402	$0.62	$0	$810	$1.25	810
TC 50%	$471	RAD	$402	10	1	1	650	$402	$0	$402	$0	$0.62	$402	**$4,020**	**$4,020**	$402	$0.62	$0	$810	$1.25	810
TC 60%	$565	RAD	$402	26	1	1	650	$402	$0	$402	$0	$0.62	$402	**$10,452**	**$10,452**	$402	$0.62	$0	$810	$1.25	810
TC 30%	$339	RAD	$478	12	2	2	850	$478	$0	$478	$0	$0.56	$478	**$5,736**	**$5,736**	$478	$0.56	$0	$950	$1.12	950
TC 50%	$565	RAD	$478	26	2	2	850	$478	$0	$478	$0	$0.56	$478	**$12,428**	**$12,428**	$478	$0.56	$0	$950	$1.12	950
TC 60%	$678	RAD	$478	82	2	2	850	$478	$0	$478	$0	$0.56	$478	**$39,196**	**$39,196**	$478	$0.56	$0	$950	$1.12	950
TC 30%	$391	RAD	$686	4	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$2,744**	**$2,744**	$686	$0.65	$0	$1,120	$1.07	1120
TC 50%	$653	RAD	$686	5	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$3,430**	**$3,430**	$686	$0.65	$0	$1,120	$1.07	1120
TC 60%	$783	RAD	$686	29	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$19,894**	**$19,894**	$686	$0.65	$0	$1,120	$1.07	1120
TOTALS/AVERAGES:				**198**			**167,900**				**$0**	**$0.59**	**$503**	**$99,508**	**$99,508**	**$503**	**$0.59**	**$0**	**$954**	**$1.13**	**$1.13**

ANNUAL POTENTIAL GROSS RENT:		
	$1,194,096	**$1,194,096**

STABILIZED PRO FORMA

Sherman Plaza, El Paso, 9% HTC #14128

	STABILIZED FIRST YEAR PRO FORMA												
	COMPARABLES			APPLICANT				TDHCA				VARIANCE	
	Database		El Paso	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.59	$503	$1,194,096	$1,194,096	$503	$0.59		0.0%	$0
late, application, pet fees, retained sec. dep.						$20.00	$47,520						
Total Secondary Income						$20.00		$47,520	$20.00			0.0%	$0
POTENTIAL GROSS INCOME			$ -				$1,241,616	$1,241,616				0.0%	$0
Vacancy & Collection Loss						7.5% PGI	(93,121)	(93,121)	7.5% PGI			0.0%	-
Non-Rental Units/Concessions							-					0.0%	-
EFFECTIVE GROSS INCOME			$ -				$1,148,495	$1,148,495				0.0%	$0
General & Administrative	$60,623	$306/Unit	74,654	5.49%	$0.38	$318	$63,000	$60,623	$306	$0.36	5.28%	3.9%	2,377
Management	$73,277	5.7% EGI	56,498	5.00%	$0.34	$290	$57,425	$57,425	$290	$0.34	5.00%	0.0%	-
Payroll & Payroll Tax	$237,607	$1,200/Unit	180,407	16.13%	$1.10	$936	$185,263	$185,263	$936	$1.10	16.13%	0.0%	-
Repairs & Maintenance	$70,179	$354/Unit	63,202	6.70%	$0.46	$389	$77,000	$108,900	$550	$0.65	9.48%	-29.3%	(31,900)
Electric/Gas	$59,931	$303/Unit	39,514	3.05%	$0.21	$177	$35,000	$39,514	$200	$0.24	3.44%	-11.4%	(4,514)
Water, Sewer, & Trash	$68,245	$345/Unit	82,280	7.49%	$0.51	$434	$86,000	$82,280	$416	$0.49	7.16%	4.5%	3,720
Property Insurance	$40,782	$0.24 /sf	32,407	2.61%	$0.18	$152	$30,000	$32,407	$164	$0.19	2.82%	-7.4%	(2,407)
Property Tax 2.6853	$101,071	$510/Unit	113,884	4.79%	$0.33	$278	$55,000	$61,143	$309	$0.36	5.32%	-10.0%	(6,143)
Reserve for Replacements	$47,562	$240/Unit	30,944	4.31%	$0.29	$250	$49,500	$49,500	$250	$0.29	4.31%	0.0%	-
Supportive services			4,752	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees			7,912	0.52%	$0.04	$30	$5,960	$7,920	$40	$0.05	0.69%	-24.7%	(1,960)
Security			4,939	0.70%	$0.05	$40	$8,000	$8,000	$40	$0.05	0.70%	0.0%	-
TOTAL EXPENSES			**$691,393**	**56.78%**	**$3.88**	**$3,294**	**$ 652,148**	**$ 692,974**	**$3,500**	**$4.13**	**60.34%**	**-5.9%**	**$ (40,827)**
NET OPERATING INCOME ("NOI")				**43.22%**	**$2.96**	**$2,507**	**$496,347**	**$455,521**	**$2,301**	**$2.71**	**39.66%**	**9.0%**	**$ 40,827**

CONTROLLABLE EXPENSES	$2,508/Unit	$2,223/Unit		$2,254/Unit			$2,407/Unit		

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Sherman Plaza, El Paso, 9% HTC #14128

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	**MIP**	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
PNC		1.11	1.21	409,565	6.50%	30	15	$5,401,796	$5,151,800	15	30	6.50%	390,755	1.17	26.3%
City of El Paso		1.10	1.20	5,059	3.00%	30	15	$100,000	$100,000	15	30	3.00%	5,059	1.15	0.5%
CASH FLOW DEBT / GRANTS															
Housing Authority of the City of El Paso		1.10	1.20		0.00%	0	0	$675,000	$675,000	0	0	0.00%		1.15	3.5%
				$414,624	**TOTAL DEBT / GRANT SOURCES**			**$6,176,796**	**$5,926,800**			**TOTAL DEBT SERVICE**	**$395,814**		30.3%
NET CASH FLOW		$40,896	$81,723								**NET OPERATING INCOME**	**$455,521**	**$59,707**	**NET CASH FLOW**	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit		
PNC	LIHTC Equity	69.0%	$1,500,000	0.90	$13,498,650	$13,498,650	$0.8999	$1,500,000	69.0%	$68,175		
0	Deferred Developer Fees	0.0%	(0% Deferred)		$0	$137,216	(6% Deferred)		0.7%	**Total Developer Fee:**		**$2,312,219**
Additional (Excess) Funds Req'd		-0.6%			($112,780)	$0			0.0%			
TOTAL EQUITY SOURCES		68.4%			$13,385,870	$13,635,866			69.7%	**15-Year Cash Flow:**		**$1,110,591**
TOTAL CAPITALIZATION					**$19,562,666**	**$19,562,666**				**15-Yr Cash Flow after Deferred Fee:**		**$973,376**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	New Const. Rehab			Total Costs	Total Costs			New Const. Rehab	Acquisition	%	$
Land Acquisition				$6,035 / Unit	$1,195,000	$1,195,000	$6,035 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
					$0	$0						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$636,389		$4,953 / Unit	$980,659	$980,659	$4,953 / Unit		$636,389		0.0%	$0
Site Amenities		$340,896		$2,287 / Unit	$452,792	$452,792	$2,287 / Unit		$340,896		0.0%	$0
Building Costs		$10,268,076	$60.56 /sf	$51,354/Unit	$10,168,076	$11,103,038	$56,076/Unit	$66.13 /sf	$11,103,038		-8.4%	($934,962)
Contingency		$776,586	6.91%	6.95%	$806,374	$806,374	6.43%	6.43%	$776,586		0.0%	$0
Contractor's Fees		$1,680,794	13.98%	14.07%	$1,745,265	$1,745,265	13.08%	13.07%	$1,680,794		0.0%	$0
Soft Costs	0	$586,100		$3,516 / Unit	$696,100	$696,100	$3,516 / Unit		$586,100	$0	0.0%	$0
Developer's Fees	$0	$2,255,000	15.004%	15.08%	$2,325,000	$2,312,219	14.14%	14.21%	$2,254,326	$0	0.6%	$12,781
Financing	0	$740,000		$4,092 / Unit	$810,180	$810,180	$4,092 / Unit		$740,000	$0	0.0%	$0
Reserves				$2,000 / Unit	$396,000	$396,000	$2,000 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$17,283,841**		$98,866 / Unit	**$19,575,446**	**$20,497,628**	$103,523 / Unit		**$18,118,130**	**$0**	**-4.5%**	**($922,182)**
Acquisition Cost	$0				$0							
Contingency		$0										
Contractor's Fee		$0										
Interim Interest		$0										
Developer's Fee	$0	($674)			($12,781)							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$17,283,167**		$98,801/unit	**$19,562,666**	**$20,497,628**	$103,523/unit		**$18,118,130**	**$0**	**-4.6%**	**($934,962)**

TOTAL UNDERWRITTEN COSTS (Applicant's Uses are within 5% of TDHCA Estimate): **$19,562,666**

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Sherman Plaza, El Paso, 9% HTC #14128

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$17,283,167	$0	$18,118,130
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$17,283,167	$0	$18,118,130
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$22,468,118	$0	$23,553,569
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
TOTAL QUALIFIED BASIS	$0	$22,468,118	$0	$23,553,569
Applicable Percentage	0.00%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON BASIS	$0	$1,806,437	$0	$1,893,707
CREDITS ON QUALIFIED BASIS	$1,806,437		$1,893,707	

CALCULATION BASED ON APPLICANT BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$1,806,437	$16,256,304
Gap	$1,515,248	$13,635,866
Applicant Request	$1,500,000	$13,498,650

FINAL ANNUAL LIHTC ALLOCATION

FINAL ANNUAL LIHTC ALLOCATION		Variance to Request
Method	**Applicant Request**	
Credits	**$1,500,000**	$0
Total Equity Proceeds		
$13,498,650		$0

Development Cost/SF

	Application	Underwritten
Acquisition & Hard Costs	84.89	96.98
Hard Costs	84.89	89.86
Building Costs	61.16	66.13
Total Points Claimed:		0

BUILDING COST ESTIMATE

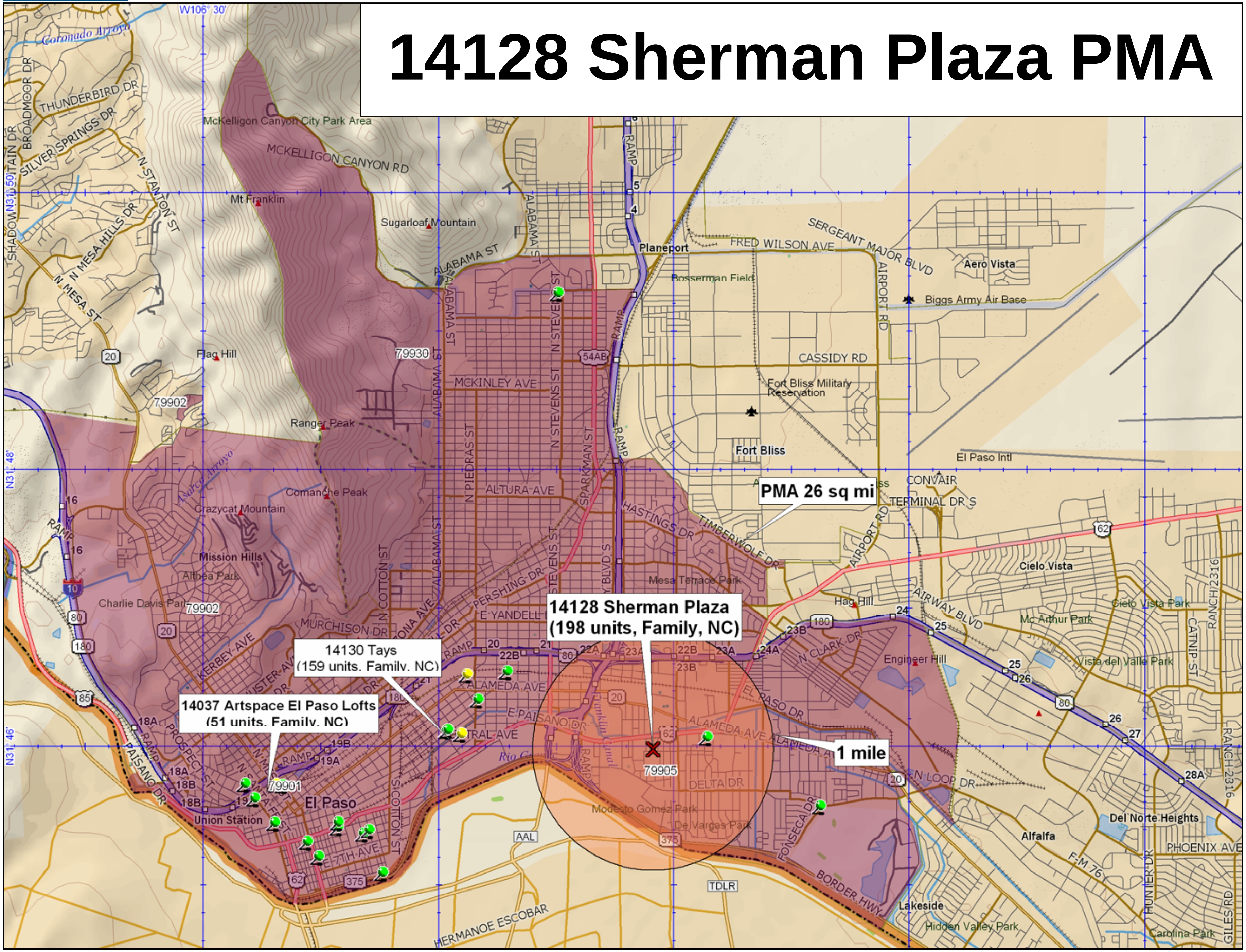
CATEGORY		FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Garden (Up to 4-story)		167,900 SF	$62.45	10,484,760
Adjustments					
Exterior Wall Finish		0.00%		0.00	$0
		0.00%		0.00	0
9 ft. ceilings		3.00%		1.87	314,543
Roofing				(0.25)	(41,975)
Subfloor				(0.12)	(19,588)
Floor Cover				6.20	1,041,316
Breezeways		$25.68	25,312	3.87	650,012
Balconies		$25.32	15,011	2.26	380,060
Plumbing Fixtures		$940	276	1.55	259,440
Rough-ins		$465	396	1.10	184,140
Built-In Appliances		$1,750	198	2.06	346,500
Exterior Stairs		$2,125	20	0.25	42,500
Heating/Cooling				2.06	345,874
Enclosed Corridors		$46.24	0	0.00	0
Carports		$11.30	39,600	2.67	447,480
Garages			0	0.00	0
Comm &/or Aux Bldgs		$81.10	3,837	1.85	311,185
Elevators			0	0.00	0
Other:				0.00	0
Fire Sprinklers		$0.00	0	0.00	0
SUBTOTAL				**87.83**	**14,746,246**
Current Cost Multiplier		1.02		1.76	294,925
Local Multiplier		0.87		(11.42)	(1,917,012)
TOTAL BUILDING COSTS				**78.17**	**$13,124,159**
Plans, specs, survey, bldg permits		3.90%		(3.05)	($511,842)
Contractor's OH & Profit		11.50%		(8.99)	(1,509,278)
NET BUILDING COSTS			$56,076/unit	$66.13/sf	$11,103,038

30-Year Long-Term Pro Forma

Sherman Plaza, El Paso, 9% HTC #14128

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	$1,148,495	$1,171,465	$1,194,894	$1,218,792	$1,243,168	$1,372,558	$1,515,414	$1,673,140	$1,847,282	$2,039,548
TOTAL EXPENSES	3.00%	$692,974	$713,189	$733,999	$755,422	$777,475	$897,876	$1,037,096	$1,198,097	$1,384,305	$1,599,691
NET OPERATING INCOME ("NOI")		$455,521	$458,275	$460,895	$463,370	$465,693	$474,682	$478,318	$475,043	$462,976	$439,857
MUST -PAY DEBT SERVICE											
PNC		$390,755	$390,755	$390,755	$390,755	$390,755	$390,755	$390,755	$390,755	$390,755	$390,755
City of El Paso		$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059
TOTAL DEBT SERVICE		$395,814	$395,814	$395,814	$395,814	$395,814	$395,814	$395,814	$395,814	$395,814	$395,814
NET CASH FLOW		$59,707	$62,462	$65,081	$67,556	$69,879	$78,868	$82,504	$79,229	$67,163	$44,043
CUMULATIVE NET CASH FLOW		$59,707	$122,168	$187,249	$254,806	$324,685	$702,912	$1,110,591	$1,516,403	$1,880,288	$2,151,670
DEBT COVERAGE RATIO		1.15	1.16	1.16	1.17	1.18	1.20	1.21	1.20	1.17	1.11
EXPENSE/INCOME RATIO		60.3%	60.9%	61.4%	62.0%	62.5%	65.4%	68.4%	71.6%	74.9%	78.4%
Deferred Developer Fee Balance		$77,509	$15,047	$0	$0	$0	$0	$0	$0	$0	$0
Residual Cash Flow		0	0	50,034	67,556	69,879	78,868	82,504	79,229	67,163	44,043

14128 Sherman Plaza PMA



#14129 Westfall Baines

July 28, 2014

Mr. Tim Irvine, Executive Director
TDHCA
PO Box 13941
Austin, TX 78711

RE: REA Underwriting Appeal for 14129 Westfall Baines

Dear Mr. Irvine:

This letter contains an appeal of the REA Underwriting Report for 14129 Westfall Baines. We are appealing the inclusion of asbestos abatement in eligible basis. We believe that TDHCA is considering an ineligible item in eligible basis and such item must be removed.

At application submission, the applicant included asbestos abatement in eligible basis. At the time, it was thought that asbestos could potentially be included in eligible basis if it was considered a pre-development activity similar to the issuance of building permits. It was also understood that eligible basis items would be thoroughly reviewed by REA. In fact, the issue of asbestos was the subject of a challenge to this application and TDHCA staff confirmed that the Real Estate Analysis Division was underwriting the application and would make a recommendation after a full analysis.

Novogradac & Company LLP has since indicated that asbestos abatement is generally included in eligible basis for rehabilitation developments; however, reconstruction-type developments are less clear because demolition to tear down is capitalized to the land and cannot be capitalized to the building. The possible exception to this is when asbestos abatement would be a requirement of building permits prior to demolition, but this ultimately would need to be clarified with the syndicator.

In July, the Paisano Housing Redevelopment Corporation selected Hunt Capital Partners LLC to be the equity provider for this development. Hunt Capital has been consulted, and they have indicated that asbestos abatement would not be considered to be an eligible basis item. Please see the attached letter from Hunt Capital regarding this issue.

We ask that TDHCA reconsider the asbestos abatement item for this application and remove it from eligible basis. With confirmation that asbestos abatement should not be included in eligible basis, TDHCA should not calculate credits on an activity that is ineligible. The removal of asbestos abatement as an eligible basis item will result in a reduction of total eligible basis and will require a reduction in housing tax credits from those requested at application.

Section 42 of the Internal Revenue Code requires that tax credits allocated to a development not exceed the amount necessary to ensure feasibility. Furthermore, Section 10.302(a) of the 2014 Real Estate Analysis Division Rules states as follows:

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The rules of the Texas Government Code and the Code, resulting in a Credit Underwriting Analysis Report used by the Board in decision making with the goal to assist as many Texans as possible by providing no more financing than necessary based on an independent analysis of Development feasibility. The Report considers all information timely provided by the Applicant.

The TDHCA rules specifically state that it provide no more financing than necessary to a development. In the current underwriting report, asbestos abatement is included as an eligible basis item when it should not be eligible. In accordance with the TDHCA rules, this issue must be considered so that the Department does not provide more housing tax credits than necessary to this application.

Additionally, the documentation in this REA appeal has been timely provided in accordance with the Appeals Process described in Section 10.902 of the 2014 Uniform Multifamily Rules. In accordance with Section 10.302(a) of the rules that states that the underwriting report "considers all information timely provided by the Applicant," we ask that the Department incorporate the information in this appeal into the underwriting analysis.

In the current application year, we understand that other applicants have been able to provide supplemental information to the Department as part of an appeal. We are asking for the same consideration. For example, the appeal for 14087 Cypress Creek Apartment Homes at Joshua Station was granted based on new information submitted with the Executive Director appeal. This supplemental information after the date of application included a letter from the Joshua ISD dated June 17, 2014, recapping a June 16, 2014, Joshua ISD Board Meeting that changed the elementary attendance school zones to benefit the proposed development and increase the application's score. Without the June 2014 change to the elementary school attendance zones, that application would not have been competitive.

To conclude, we are appealing the inclusion of asbestos abatement in eligible basis contained in the Underwriting Report for 14129 Westfall Baines. The current underwriting report is based on an eligible basis amount that includes an ineligible asbestos item. We believe that the Department cannot award credits based on ineligible items and therefore must reevaluate this application.

Thank you for your attention to this matter. Please contact me with any questions.

Regards,

Alyssa Carpenter
Applicant Representative

Vision. Integrity. Professionalism.
Hunt Capital Partners, LLC
15260 Ventura Boulevard, Suite 600
Los Angeles, California 91403
Phone (818) 380-6100 Facsimile (818) 380-6101

July 28, 2014

Brent Stewart
Director, Underwriting
TDHCA
221 E. 11th St.
Austin, TX 78701

RE: Eligible Basis Opinion

Mr. Stewart,

Hunt Capital was officially engaged to provide equity for the tax credit developments submitted by Paisano Housing Redevelopment Corporation in July of 2014. As such, we have been asked to opine on the eligibility of tax credit basis related to asbestos abatement.

We understand that the applicant submitted costs for asbestos as part of their application, believing that they might be an eligible basis expense. It is our official position that because of the nature of the reconstruction of these developments, that the asbestos abatement is not eligible for credits. As the syndicator we will not give credits for costs associated with them because the abatement will be part of demolition, which renders them ineligible.

Please feel free to call me if you have any questions.

Dana Mayo
SVP, Director of Acquisitions
Hunt Capital Partners, LLC
818-380-6130 (office)
310-717-5578 (cell)

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Real Estate Analysis Division
August 11, 2014

Addendum to Underwriting Report

TDHCA Application #: **14129** Program(s): **9% HTC**

Westfall Baines

Address/Location: 10661 and 10700 Vista Del Sol

City: El Paso County: El Paso Zip: 79925

Analysis Purpose: 1st Addendum to Prior Report

	APPLICATION HISTORY
Report Date	**PURPOSE**
08/11/14	**Appeal Addendum**
07/23/14	Initial Underwriting Report

ALLOCATION

	Previous Allocation				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (Annual)	$875,000				**$0**				

Pursuant to §10.302(i)(2), the amount of required deferred developer fee is not repayable from Cash Flow within the first fifteen (15) years of the long term pro forma. As a result, the Development is characterized per rule as infeasible and REA is unable to recommend a credit allocation.

If the Board chooses to make an award by waiver of the rule, the award should be subject to the following conditions:

1 A tax credit allocation not to exceed $875,000.

2 Receipt and acceptance by Commitment:

a: Firm commitment from HACEP to provide $3.6M in the form of a grant with no expectation of repayment.

b: Firm commitment from City of El Paso for $150K HOME/CDBG loan with minimum 15-year term, minimum 30-year amortization, and maximum 3% interest rate; and specifying any income or rent restrictions that will be imposed by this funding.

3 Receipt and acceptance by Carryover:

Certification of the property tax exemption status of the property from El Paso CAD

4 Receipt and acceptance by Cost Certification:

a: Certification from a tax attorney confirming that the source of the $3.6M received from HACEP is not federal funds for the purpose of IRC§42 (and therefore does not need to be deducted from eligible basis).

b: Certification of the property tax exemption status of the property from El Paso CAD.

c: Documentation clearing environmental issues contained in the ESA report, specifically:

Any recommendations regarding testing for identification of asbestos-containing materials, lead-based paint, and lead in water were followed, and, if found, that appropriate abatement procedures were followed for the demolition, removal and/or elimination of any such materials or identified sources.

5 Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

ANALYSIS

In a July 23, 2014 underwriting report REA recommended an allocation of $875,000 in annual tax credits to application 14129 Westfall Baines (amount requested by Applicant). The Applicant appealed the recommendation on July 28, 2014. The appeal letter states that cost for asbestos abatement was incorrectly included in eligible basis, and that the credit award should be reduced by the amount related to these ineligible costs.

Development Cost

The Applicant correctly states that the cost for asbestos abatement from ineligible buildings that will be demolished is not eligible for tax credits. REA should have excluded this cost from the eligible basis in the Applicant's development cost schedule.

REA also did not consider the cost of asbestos abatement in the underwriting estimate for total development cost.

In reviewing the overall cost analysis several other discrepancies were identified in the Applicant's cost schedule. Total site work is listed as $1,175,352, including $430,000 for demolition. Eligible site work should be $745,352. But no eligible site work cost is listed. And under building cost a $233,940 cost for concrete is listed under total cost but is missing from eligible cost. So while the Applicant's eligible cost was overstated by $450K due to the inclusion of asbestos abatement cost, it was understated by $979K due to the missing site work and concrete costs. The net result is that the Applicant's unadjusted eligible cost increases by $529,292. After adjusting the contractor fee to the eligible limit, the Applicant's bottom line eligible cost increases to $11,646,083 (from $10,991,344 in the original report).

The $450,000 cost for asbestos abatement has been added to the Underwriter's cost estimate. This increases the Underwriter's Total Development Cost to $15,813,999 (from $15,363,999 in the original report).

Operating Pro Forma

The original underwriting analysis applied a 7.5% vacancy/collection factor to Potential Gross Income. REA rules allow this to be reduced to 5% in certain circumstances, including when a substantial number of the units are supported by rental assistance or otherwise subsidized. Since all of the subject units will be subsidized (75% RAD and 25% Public Housing), REA would typically utilize the lower assumption.

The vacancy/collection factor has been adjusted to 5.0% in the revised analysis. This increases the Underwriter's net operating income to $292K (from $274K in the original report).

Conclusion

As a result of the revised cost analysis, the Applicant's Total Development Cost is 8.27% lower than the Underwriter's estimate. Therefore, per REA rules, the recommended financing structure is based on the Underwriter's estimate.

The proposed $2,881,868 senior loan from PNC and the $150,000 loan from City of El Paso result in a 1.29 times debt coverage ratio; this is within the underwriting guidelines.

A tax credit allocation would be limited by the Applicant's request to $875,000 and would provide $7,874,213 in equity proceeds. This would require the deferral of $1,307,918 of the developer fee. The long-term pro forma indicates it would take 16 years to repay the deferred fee.

The application is NOT RECOMMENDED due to the inability to repay the deferred developer fee within 15 years.

As explained above, the Applicant underestimated eligible cost by $529K. Even at that amount, the Applicant's cost schedule shows they could have requested $953K in credits. The additional $78K in credits would have provided an additional $705K in equity, which would have made this project feasible.

Underwriter:	*Diamond Thompson*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

UNIT MIX/RENT SCHEDULE

Westfall Baines, El Paso, 9% HTC #14129

LOCATION DATA	
CITY:	El Paso
COUNTY:	El Paso
PROGRAM REGION:	13
PIS Date:	or After 2/1/2014
IREM REGION:	El Paso

UNIT DISTRIBUTION					
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0.0%	30%	11	7.4%
1	96	64.9%	40%	-	0.0%
2	28	18.9%	50%	22	14.9%
3	24	16.2%	60%	78	52.7%
4	-	0.0%	MR	-	0.0%
TOTAL	**148**	**100.0%**	**TOTAL**	**148**	**100.0%**

PHU	37	25.0%
RAD	111	75.0%

Applicable Programs
% Housing Tax Credit

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	75.00%
APP % Acquisition	3.42%
APP % Construction	8.04%
Average Unit Size	753 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		PHA & RAD		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
		PHA	$100	24	1	1.5	650	$100	$0	$100	$102	$0.31	$202	**$4,848**	**$2,400**	$100	$0.15	$0	$815	$1.25	815
TC 30%	$282	RAD	$440	8	1	1.5	650	$440	$0	$440	$0	$0.68	$440	**$3,520**	**$3,520**	$440	$0.68	$0	$815	$1.25	815
TC 50%	$471	RAD	$440	15	1	1.5	650	$440	$0	$440	$0	$0.68	$440	**$6,600**	**$6,600**	$440	$0.68	$0	$815	$1.25	815
TC 60%	$565	RAD	$440	7	1	1.5	650	$440	$0	$440	$0	$0.68	$440	**$3,080**	**$3,080**	$440	$0.68	$0	$815	$1.25	815
TC 60%	$565	RAD	$440	42	1	1	650	$440	$0	$440	$0	$0.68	$440	**$18,480**	**$18,480**	$440	$0.68	$0	$815	$1.25	815
		PHA	$100	7	2	1	850	$100	$0	$100	$122	$0.26	$222	**$1,554**	**$700**	$100	$0.12	$0	$855	$1.01	855
TC 30%	$339	RAD	$523	2	2	1	850	$523	$0	$523	$0	$0.62	$523	**$1,046**	**$1,046**	$523	$0.62	$0	$855	$1.01	855
TC 50%	$565	RAD	$523	3	2	1	850	$523	$0	$523	$0	$0.62	$523	**$1,569**	**$1,569**	$523	$0.62	$0	$855	$1.01	855
TC 60%	$678	RAD	$523	16	2	1	850	$523	$0	$523	$0	$0.62	$523	**$8,368**	**$8,368**	$523	$0.62	$0	$855	$1.01	855
		PHA	$100	6	3	2	1,050	$100	$0	$100	$142	$0.23	$242	**$1,452**	**$600**	$100	$0.10	$0	$1,030	$0.98	1030
TC 30%	$391	RAD	$751	1	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$751**	**$751**	$751	$0.72	$0	$1,030	$0.98	1030
TC 50%	$653	RAD	$751	4	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$3,004**	**$3,004**	$751	$0.72	$0	$1,030	$0.98	1030
TC 60%	$783	RAD	$751	13	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$9,763**	**$9,763**	$751	$0.72	$0	$1,030	$0.98	1030
TOTALS/AVERAGES:				**148**			**111,400**				**$28**	**$0.57**	**$433**	**$64,035**	**$59,881**	**$405**	**$0.54**	**$0**	**$857**	**$1.14**	**$1.14**
ANNUAL POTENTIAL GROSS RENT:														**$768,420**	**$718,572**						

STABILIZED PRO FORMA

Westfall Baines, El Paso, 9% HTC #14129

	STABILIZED FIRST YEAR PRO FORMA												
	COMPARABLES			APPLICANT				TDHCA				VARIANCE	
	Database		Other	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.57	$433	$768,420	$718,572	$405	$0.54		6.9%	$49,848
late, application, pet fees, retained sec. de						$20.00	$35,520						
Total Secondary Income						$20.00		$35,520	$20.00			0.0%	$0
POTENTIAL GROSS INCOME			$ -				$803,940	$754,092				6.6%	$49,848
Vacancy & Collection Loss						7.5% PGI	(60,296)	(37,705)	5.0% PGI			59.9%	(22,591)
PHU Subsidy							-	$82,124				-100.0%	(82,124)
EFFECTIVE GROSS INCOME			$ -				$743,645	$798,512				-6.9%	($54,867)
General & Administrative	$42,906	$290/Unit	55,802	6.25%	$0.42	$314	$46,500	$42,906	$290	$0.39	5.37%	8.4%	3,594
Management	$51,829	5.7% EGI	42,231	5.00%	$0.33	$251	$37,182	$39,926	$270	$0.36	5.00%	-6.9%	(2,743)
Payroll & Payroll Tax	$177,605	$1,200/Unit	134,850	18.55%	$1.24	$932	$137,975	$137,975	$932	$1.24	17.28%	0.0%	-
Repairs & Maintenance	$52,457	$354/Unit	47,242	7.53%	$0.50	$378	$56,000	$81,400	$550	$0.73	10.19%	-31.2%	(25,400)
Electric/Gas	$42,220	$285/Unit	29,535	3.50%	$0.23	$176	$26,000	$29,535	$200	$0.27	3.70%	-12.0%	(3,535)
Water, Sewer, & Trash	$48,267	$326/Unit	61,502	8.61%	$0.57	$432	$64,000	$61,502	$416	$0.55	7.70%	4.1%	2,498
Property Insurance	$28,856	$0.26 /sf	24,224	3.30%	$0.22	$166	$24,508	$28,856	$195	$0.26	3.61%	-15.1%	(4,348)
Property Tax 2.8103	$71,555	$483/Unit	85,125	4.44%	$0.30	$223	$33,000	$37,557	$254	$0.34	4.70%	-12.1%	(4,557)
Reserve for Replacements	$33,672	$228/Unit	23,130	4.98%	$0.33	$250	$37,000	$37,000	$250	$0.33	4.63%	0.0%	-
Cable TV			-	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
Supportive services			3,552	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees			5,914	0.60%	$0.04	$30	$4,440	$4,440	$30	$0.04	0.56%	0.0%	-
Security			3,692	0.67%	$0.04	$34	$5,000	$5,000	$34	$0.04	0.63%	0.0%	-
TOTAL EXPENSES			**$ 516,799**	**63.42%**	**$4.23**	**$3,187**	**$ 471,605**	**$ 506,098**	**$3,420**	**$4.54**	**63.38%**	**-6.8%**	**$ (34,492)**
NET OPERATING INCOME ("NOI")				**36.58%**	**$2.44**	**$1,838**	**$272,039**	**$292,414**	**$1,976**	**$2.62**	**36.62%**	**-7.0%**	**$ (20,375)**

CONTROLLABLE EXPENSES	$2,456/Unit	$2,223/Unit			$2,233/Unit			$2,387/Unit		

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Westfall Baines, El Paso, 9% HTC #14129

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	**MIP**	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
PNC		1.34	1.24	218,584	6.50%	30	15	$2,881,868	$2,881,868	15	30	6.50%	218,584	1.34	18.2%
City of El Paso		1.29	1.20	7,589	3.00%	30	15	$150,000	$150,000	15	30	3.00%	7,589	1.29	0.9%
CASH FLOW DEBT / GRANTS															
El Paso Housing Authority		1.29	1.20		0.00%	0	0	$3,600,000	$3,600,000	0	0	0.00%		1.29	22.8%
				$226,173	**TOTAL DEBT / GRANT SOURCES**			**$6,631,868**	**$6,631,868**		**TOTAL DEBT SERVICE**		**$226,173**		41.9%
NET CASH FLOW		$66,241	$45,866							**NET OPERATING INCOME**			**$292,414**	**$66,241**	**NET CASH FLOW**

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	**DESCRIPTION**	**% Cost**	**Annual Credit**	**Credit Price**	**Amount**	**Amount**	**Credit Price**	**Annual Credit**	**% Cost**	**Annual Credits per Unit**		
PNC	LIHTC Equity	49.8%	$875,000	0.90	$7,874,213	$7,874,213	$0.8999	$875,000	49.8%	$53,204		
Deferred Developer Fees	Deferred Developer Fees	0.0%	(0% Deferred)		$0	$1,307,918	(88% Deferred)		8.3%	**Total Developer Fee:**		**$1,485,000**
Additional (Excess) Funds Req'd		0.0%			$1	$0			0.0%			
TOTAL EQUITY SOURCES		49.8%			$7,874,213	$9,182,131			58.1%	**15-Year Cash Flow:**		**$1,202,024**
TOTAL CAPITALIZATION					**$14,506,081**	**$15,813,999**				**15-Yr Cash Flow after Deferred Fee:**		**($105,893)**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	**New Const. Rehab**			**Total Costs**	**Total Costs**			**New Const. Rehab**	**Acquisition**	**%**	**$**
Land Acquisition				$10,372 / Unit	$1,535,000	$1,535,000	$10,372 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
					$450,000	**$450,000**						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$745,352		$7,942 / Unit	$1,175,352	$1,175,352	$7,942 / Unit		$745,352		0.0%	$0
Site Amenities		$689,308		$4,657 / Unit	$689,308	$689,308	$4,657 / Unit		$689,308		0.0%	$0
Building Costs		$6,025,510	$54.09 /sf	$40,713/Unit	$6,025,510	$7,333,428	$49,550/Unit	$65.83 /sf	$7,333,428		-17.8%	($1,307,918)
Contingency		$417,009	5.59%	5.29%	$417,009	$417,009	4.53%	4.76%	$417,009		0.0%	$0
Contractor's Fees		$1,167,623	14.82%	14.06%	$1,167,623	$1,167,623	12.14%	12.71%	$1,167,623		0.0%	$0
Soft Costs	0	$651,100		$4,467 / Unit	$661,100	$661,100	$4,467 / Unit		$651,100	$0	0.0%	$0
Developer's Fees	$0	$1,485,000	14.52%	13.94%	$1,485,000	$1,485,000	12.41%	12.88%	$1,485,000	$0	0.0%	$0
Financing	0	$530,000		$4,055 / Unit	$600,180	$600,180	$4,055 / Unit		$530,000	$0	0.0%	$0
Reserves				$2,027 / Unit	$300,000	$300,000	$2,027 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$11,710,901**		$98,014 / Unit	**$14,506,081**	**$15,813,999**	$106,851 / Unit		**$13,018,819**	**$0**	**-8.27%**	**($1,307,918)**
Acquisition Cost	$0				$0							
Contingency		$0										
Contractor's Fee		($64,818)										
Interim Interest		$0										
Developer's Fee	$0	$0			$0							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$11,646,083**		$98,014/unit	**$14,506,081**	**$15,813,999**	$106,851/unit		**$13,018,819**	**$0**	**-8.3%**	**($1,307,918)**
TOTAL UNDERWRITTEN COSTS (Applicant's Uses are not within 5% of TDHCA Estimate):					**$15,813,999**							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Westfall Baines, El Paso, 9% HTC #14129

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$11,646,083	$0	$13,018,819
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$11,646,083	$0	$13,018,819
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$15,139,908	$0	$16,924,464
Applicable Fraction	75.00%	75.00%	75.00%	75.00%
TOTAL QUALIFIED BASIS	$0	$11,354,931	$0	$12,693,348
Applicable Percentage	3.42%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON BASIS	$0	$912,936	$0	$1,020,545
CREDITS ON QUALIFIED BASIS	$912,936		$1,020,545	

ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$1,020,545	$9,183,989
Gap	$1,020,339	$9,182,131
Applicant Request	$875,000	$7,874,213

FINAL ANNUAL LIHTC ALLOCATION

Method	Applicant Request	Variance to Request
Credits	**$875,000**	$0
Total Equity Proceeds	**$7,874,213**	$0

Development Cost/SF

	Application	Underwritten
Acquisition & Hard Costs	89.09	110.57
Hard Costs	89.09	96.79
Building Costs	58.13	65.83
Total Points Claimed:		0

BUILDING COST ESTIMATE

CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Townhome	111,400 SF	$67.97	7,571,629
Adjustments				
Exterior Wall Finish	0.00%		0.00	$0
	0.00%		0.00	0
9 ft. ceilings	3.00%		2.04	227,149
Roofing			(0.25)	(27,850)
Subfloor			(2.06)	(229,140)
Floor Cover			6.20	690,903
Breezeways	$0.00	0	0.00	0
Balconies	$23.10	17,139	3.55	395,903
Plumbing Fixtures	$940	-62	-0.52	(58,280)
Rough-ins	$465	148	0.62	68,820
Built-In Appliances	$1,750	148	2.32	259,000
Exterior Stairs	$2,125	0	0.00	0
Heating/Cooling			2.06	229,484
Enclosed Corridors	$51.76	0	0.00	0
Carports	$11.30	29,600	3.00	334,480
Garages		0	0.00	0
Comm &/or Aux Bldgs	$81.97	3,387	2.49	277,626
Elevators		0	0.00	0
Other:			0.00	0
Fire Sprinklers	$0.00	114,787	0.00	0
SUBTOTAL			**87.43**	**9,739,724**
Current Cost Multiplier	1.02		1.75	194,794
Local Multiplier	0.87		(11.37)	(1,266,164)
TOTAL BUILDING COSTS			**77.81**	**$8,668,354**
Plans, specs, survey, bldg perm	3.90%		(3.03)	($338,066)
Contractor's OH & Profit	11.50%		(8.95)	(996,861)
NET BUILDING COSTS		$49,550/unit	$65.83/sf	$7,333,428

30-Year Long-Term Pro Forma

Westfall Baines, El Paso, 9% HTC #14129

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	$798,512	$815,662	$833,191	$851,107	$869,419	$967,240	$1,076,410	$1,198,296	$1,334,438	$1,486,569
TOTAL EXPENSES	3.00%	$506,098	$520,940	$536,221	$551,954	$568,152	$656,611	$758,947	$877,350	$1,014,354	$1,172,893
NET OPERATING INCOME ("NOI")		$292,414	$294,722	$296,970	$299,153	$301,267	$310,629	$317,462	$320,946	$320,084	$313,675
MUST -PAY DEBT SERVICE											
PNC		$218,584	$218,584	$218,584	$218,584	$218,584	$218,584	$218,584	$218,584	$218,584	$218,584
City of El Paso		$7,589	$7,589	$7,589	$7,589	$7,589	$7,589	$7,589	$7,589	$7,589	$7,589
TOTAL DEBT SERVICE		$226,173	$226,173	$226,173	$226,173	$226,173	$226,173	$226,173	$226,173	$226,173	$226,173
NET CASH FLOW		$66,241	$68,549	$70,796	$72,980	$75,094	$84,456	$91,289	$94,773	$93,911	$87,502
CUMULATIVE NET CASH FLOW		$66,241	$134,790	$205,586	$278,566	$353,659	$758,081	$1,202,024	$1,670,446	$2,143,687	$2,596,504
DEBT COVERAGE RATIO		1.29	1.30	1.31	1.32	1.33	1.37	1.40	1.42	1.42	1.39
EXPENSE/INCOME RATIO		63.4%	63.9%	64.4%	64.9%	65.3%	67.9%	70.5%	73.2%	76.0%	78.9%
Deferred Developer Fee Balance		$1,241,677	$1,173,128	$1,102,332	$1,029,352	$954,258	$549,837	$105,893	$0	$0	$0
Residual Cash Flow		0	0	0	0	0	0	0	94,773	93,911	87,502

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Real Estate Analysis Division
Underwriting Report
July 23, 2014

DEVELOPMENT IDENTIFICATION

TDHCA Application #: **14129** Program(s): **9% HTC**

Westfall Baines

Address/Location: 10661 and 10700 Vista Del Sol

City: El Paso County: El Paso Zip: 79925

Population: General Program Set-Aside: At-Risk Area: Urban
Activity: Reconstruction Building Type: Townhome Region: 13

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

	REQUEST				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (Annual)	$875,000				**$875,000**				

CONDITIONS

1 Receipt and acceptance by Commitment:

a: Firm commitment from HACEP to provide $3.6M in the form of a grant with no expectation of repayment.

b: Firm commitment from City of El Paso for $150K HOME/CDBG loan with minimum 15-year term, minimum 30-year amortization, and maximum 3% interest rate; and specifying any income or rent restrictions that will be imposed by this funding.

2 Receipt and acceptance by Carryover:

Certification of the property tax exemption status of the property from El Paso CAD

3 Receipt and acceptance by Cost Certification:

a: Certification from a tax attorney confirming that the source of the $3.6M received from HACEP is not federal funds for the purpose of IRC§42 (and therefore does not need to be deducted from eligible basis).

b: Certification of the property tax exemption status of the property from El Paso CAD.

c: Documentation clearing environmental issues contained in the ESA report, specifically:

Any recommendations regarding testing for identification of asbestos-containing materials, lead-based paint, and lead in water were followed, and, if found, that appropriate abatement procedures were followed for the demolition, removal and/or elimination of any such materials or identified sources.

4 Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	11
50% of AMI	50% of AMI	22
60% of AMI	60% of AMI	78

DEAL SUMMARY

Westfall Baines is made up of two public housing developments that are across the street from one another and were built in 1980 and 1981. A total of 148 units will be demolished and then reconstructed resulting in a one for one replacement of the units including the unit mix. The site is made up of two parcels of land. The Westfall side is approximately 6.939 acres with 90 units and the Baines side is approximately 4.255 acres and has 58 units. The application is in the At-Risk set aside and is a Section 8 development utilizing the RAD program. 75% of the units will be LIHTC financed using RAD rents and the remaining 25% will remain mixed financed and will continue to be supported by public housing operating subsidy.

RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	The Housing Authority of the City of El Paso is providing a $3.6M grant
▫	Development will be receiving Public Housing Operating Subsidies on 37 units
▫	111 units converting to RAD program
▫	Developer has extensive HTC experience

WEAKNESSES/RISKS	
▫	64.8% expense-to-income ratio
▫	Development is dependent on $3.6M grant from Housing Authority of the City of El Paso
▫	Feasibility is dependent on Public Housing Operating Subsidies
▫	Dependent on approval and successful implementation of new RAD program

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name: Juan A. Olvera
Phone: (915) 849-3813
Relationship: GP/Developer

Name: Alyssa Carpenter
Phone: (512) 789-1295
Relationship: Consultant

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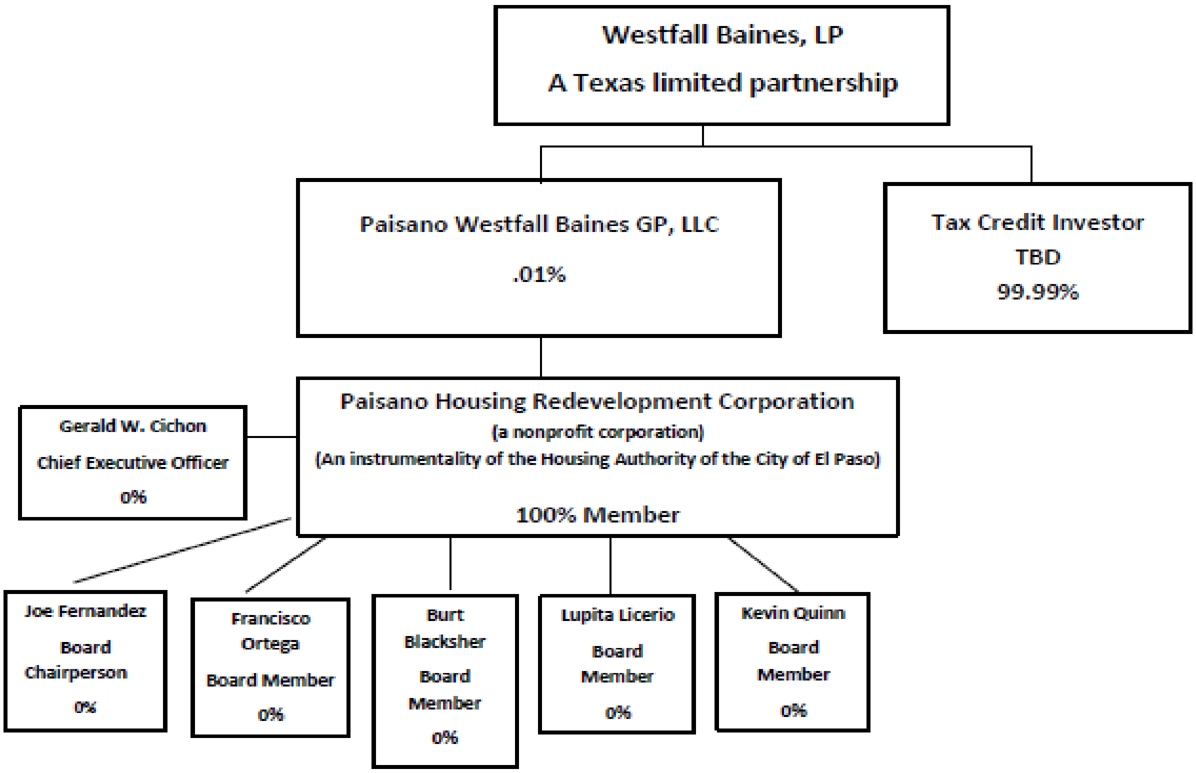
OWNERSHIP STRUCTURE



- The Applicant and Developer are related entities.

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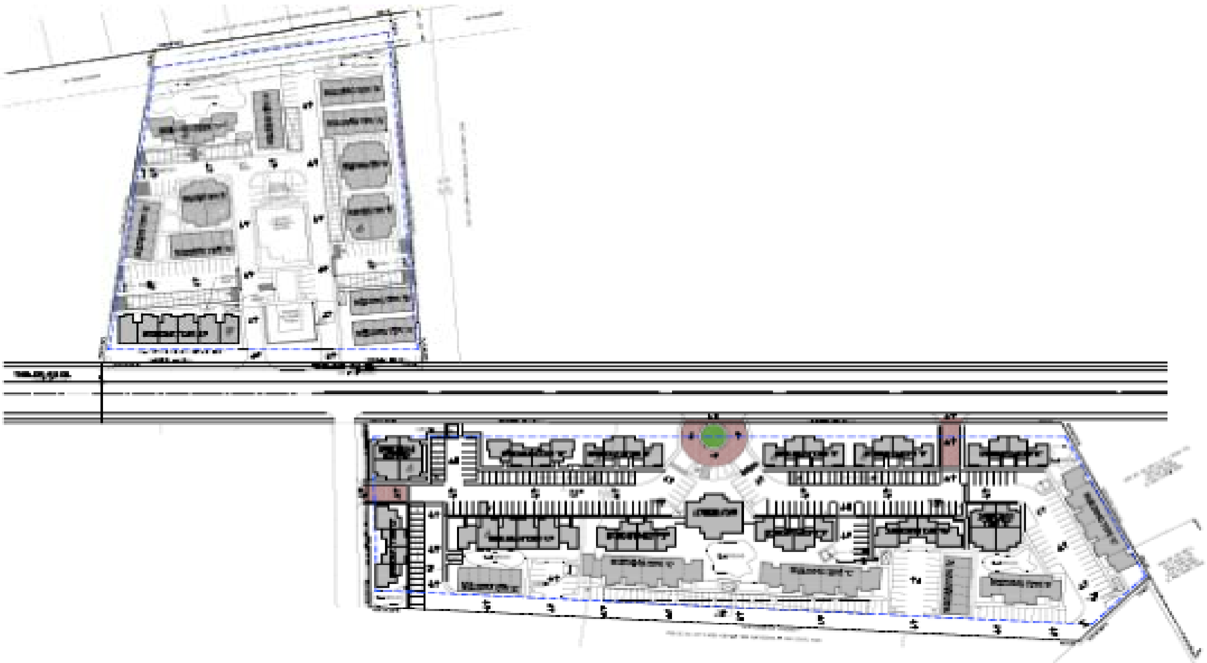
DEVELOPMENT SUMMARY

SITE PLAN



Parking	No Fee		Tenant-Paid		Total	
Open Surface	237	*1.6/unit*	0	--	237	*1.6/unit*
Carport	148	*1.0/unit*	0	--	148	*1.0/unit*
Garage	0	--	0	--	0	--
Total Parking	**385**	*2.6/unit*	**0**	--	**385**	*2.6/unit*

BUILDING ELEVATION

BUILDING CONFIGURATION

Building Type	A	B	C	D	E	F							**Total Buildings**
Floors/Stories	2	1	1	1	1	1							
Number of Bldgs	9	5	5	4	5	2							**30**
Units per Bldg	6	4	6	4	4	4							
Total Units	54	20	30	16	20	8							**148**
												Net Rentable SF	**111,400**
												Common Area SF	**3,387**

GENERAL INFORMATION

Total Size:	11.19 acres	Scattered Site?	No
Flood Zone:	Zone X	Within 100-yr floodplain?	No
Zoning:	C-1	Re-Zoning Required?	No
Density:	13.2 units/acre	Utilities at Site?	Yes
Year Constructed:	1980/81 to be demolished	Title Issues?	No

Surrounding Uses:

North: Vista Del Sol Dr (Westfall), Candlewood Ave, residential development
East: Vista De Oro Dr, Circle –K convenience store/gas station, an auto mechanic shop, residential development
South: Vista Del Sol Dr (Baines), retention pond, Walmart and other commercial and retail uses
West: N. Yarbrough Dr, commercial and retail uses

Other Observations:

Apartments (multi-family housing) are a permitted use in the C-1 zoning district.

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: AMEC Environmental & Infrastructure, Inc. Date: 2/14/2014

Recognized Environmental Conditions (RECs) and Other Concerns:

- "...unless a current compressive asbestos survey is available of the structures to be affected by renovation or demolition activities, one would need to be performed at both of the subject sites. The asbestos survey must be performed in accordance with Texas Department of State Health Services (TDSHS) asbestos requirements for public buildings."
- "...unless a current survey is available, an LBP survey of the structures to be affected by renovation or demolition activities would need to be performed at both of the subject sites. The LBP survey must be performed by individuals licensed by the TDSHS in accordance with US Housing and Urban Development (HUD) standards."
- "...unless a current lead in drinking water survey is available, the drinking water would need to be sampled via testing at both of the subject sites. The drinking water testing must be done in accordance with current EPA or HUD standards."
- "The Circle K UST facility located on the adjoining property to the east of the Westfall site is a concern. However, since the site not the subject of any ongoing TCEQ investigations or enforcement actions based on the reasonably ascertainable records reviewed for this assessment, we do not believe that the existence of this UST facility is a REC."
- "The underground transmission natural gas pipeline and a petroleum fuel pipeline within an easement on the north side of the Baines site is also of concern. However, since the pipelines are actively operated and neither of the pipelines are under any current regulatory enforcement based on reasonably ascertainable records reviewed for this assessment, we do not believe that the existence of the natural gas or petroleum pipelines constitutes a REC."

MARKET ANALYSIS

Provider: Valbridge Property Advisors Date: 3/24/2014
Contact: Tim N. Treadway Phone: 713.467.5858

Primary Market Area (PMA): 30 sq. miles 3 mile equivalent radius

The PMA covers three zip codes in eastern El Paso stretching north beyond the El Paso International Airport with the southern border being the state line.

ELIGIBLE HOUSEHOLDS BY INCOME								
El Paso County Income Limits								
HH	30% of AMI		40% of AMI		50% of AMI		60% of AMI	
size	min	max	min	max	min	max	min	max
1	$0	$10,560	---	---	$0	$17,600	$0	$21,120
2	$0	$12,060	---	---	$0	$20,100	$0	$24,120
3	$0	$13,560	---	---	$0	$22,600	$0	$27,120
4	$0	$15,060	---	---	$0	$25,100	$0	$30,120
5	$0	$16,290	---	---	$0	$27,150	$0	$32,580
6	---	---	---	---	---	---	---	---

Primary Market Occupancy Rates:

Rent-restricted developments are 95% occupied. The subject property is currently at 98% occupancy.

Comments:

75% of the units will be covered by a RAD voucher contract, and 25% will remain public housing. All households below the maximum income level are eligible tenants. This results in Gross Demand for 8,148 units, and a Gross Capture Rate of 1.8% for the development's 148 rentable units.

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (TDHCA's Pro forma)					
NOI:	$274,278	Avg. Rent:	$405	Expense Ratio:	64.8%
Debt Service:	$226,173	B/E Rent:	$375	Controllable Expenses:	$2,387
Net Cash Flow:	$48,105	UW Occupancy:	92.5%	Property Taxes/Unit:	$254
Aggregate DCR:	1.21	B/E Occupancy:	86.1%	Program Rent Year:	2014

Thirty-seven units will continue to be public housing-assisted. These units are subject to an Annual Contributions Contract with HUD. Tenants pay up to 30% of household income toward rent, and HUD provides a subsidy up to the operating expenses for the units.

Total income from the public housing units should be equal to the operating expenses for those units. Applicant's rent schedule shows rents of $202/$222/$242 for the PHU's, but the Applicant's pro forma indicates $266/unit average operating expense. Total income is therefore understated. The Underwriter's pro forma assumes $100 average tenant rent, and calculates an operating subsidy that covers the difference between the tenant rent and the average operating expenses for all the PHU's. As a result, the Underwriter's Effective Gross Income is $36K higher.

The remaining 111 units will operate under HUD's new Rental Assistance Demonstration (RAD) program, allowing the conversion of these public housing units to long-term project-based Section 8 contracts.

The proposed RAD Contract Rents are net contract rent amounts provided in the RAD documentation from HUD. No utility allowance values are specified.

The pro forma indicates minimal operating risk, with break-even rent that is $30 below the average collected rent. Break-even occupancy of 86% allows for 20 vacant units.

Applicant has several current applications. 14127 Haymon Krupp proposes a similar structure to the subject, with 25% Public Housing and 75% RAD. Underwritten operating expenses at the subject ($3,413/unit) are lower than at Haymon Krupp ($4,029). The significant variances are in payroll and property tax. The subject is a larger development (148 units vs 96), making payroll more efficient on a per unit basis. Also, Haymon Krupp has a significantly different unit mix, with no one-BR units, 42 three-BR units, and 8 four-BR units. By contrast, 65% of the subject units are one-BR, only 16% are three-BR, and there are no four-BR. The higher concentration of smaller units results in lower relative income, and therefore decreases the calculated property tax expense.

Applicant anticipates a 50% tax exemption. However, the Applicant's attorneys believe there is a strong case that the property will be eligible for further tax exemption (up to 100%) since the landlord is the Housing Authority. All else equal, with a full tax exemption debt coverage would increase to 1.35x; no adjustment to the tax credit allocation would be warranted.

ACQUISITION INFORMATION

APPRAISED VALUE

Appraiser: Wilkinson, Pendergras & Beard, LP   Date: 2/13/2014

Land as Vacant: 11.2 acres $1,535,000   Per Unit: $10,372

SITE CONTROL

Type: Ground Lease   Acreage: 11.19

Acquisition Cost: $1,535,000   Contract Expiration: 12/15/2014

Cost Per Unit: $10,372

Seller: Housing Authority of the City of El Paso

Related-Party Seller/Identity of Interest: Yes

Comments:

Ground Lease: $100 per yr for 75 yrs. The lease rate is to be $1,535,000 to reflect the appraised value of the land. It is to be paid in a single installment at the closing of the partnership.

Applicant reports the two sites were acquired in 1981 and 1982, and the total book value of the land is $841,118. A 2% rate of return over 32 years would support a value greater than the $1.5M appraised value. The property will be capitalized on the books of the new partnership at the appraised value. It should also be noted the Housing Authority is providing a $3.6M grant to the partnership. So the net cash transfer for the related party acquisition is $2.1M to the partnership.

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (TDHCA's Costs)

Acquisition	$137,176/ac	$10,372/unit	**$1,535,000**	Contractor Fee	**$1,167,623**
Off-site + Site Work		$12,599/unit	**$1,864,660**	Developer Fee	**$1,485,000**
Building Cost	$65.83/sf	$49,550/unit	**$7,333,428**	Soft Cost	**$1,261,280**
Contingency	4.53%	$2,818/unit	**$417,009**	Reserves	**$300,000**
Total Development Cost	$103,811/unit	**$15,363,999**		**Rehabilitation Cost**	**N/A**
Qualified for 30% Basis Boost?	High Opportunity Index				

Building Cost:

Thirty townhome-style 1 & 2-story buildings with some differentiating features.

Per-unit costs are low ($43,753/unit projected by Applicant, $49,550 estimated by Underwriter). This is due to very small average unit size (753 sf) resulting from unit mix with 65% 1BR units. Building costs per sq. ft. are more typical ($58 psf projected by Applicant, $66 psf estimated by Underwriter).

Applicant's projected building cost ($6.5M) is 12% lower than underwriting estimate ($7.3M).

Contractor/Developer Fees:

The Applicant’s eligible contractor fee is overstated by $139K; and eligible developer fee is overstated by $51K.

Comments:

Applicant states that fire sprinklers are not required by local building code, so the cost for sprinklers was not included in the underwriting estimate.

Applicant's total development cost ($14.5M) is 5.6% lower than underwriting estimate ($15.4M). As a result, the recommended financing structure is based on the Underwriter's cost estimates.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
$15,363,999	$12,222,121	$958,092

UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
PNC	Conventional Loan	$2,881,868	4.00%	20%
City of El Paso	Loan	$150,000	3.00%	1%
PNC	Bridge Loan	$6,150,000	4.00%	43%
PNC	HTC	$1,574,843	$0.90	11%
El Paso Housing Authority	Grant	$3,600,000		25%
		$14,356,711	Total Sources	

PERMANENT SOURCES

	PROPOSED				UNDERWRITTEN				
Debt Source	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
PNC	$2,881,868	6.50%	30	15	$2,881,868	6.50%	30	15	19%
City of El Paso	$150,000	3.00%	30	15	$150,000	3.00%	30	15	1%
El Paso Housing Authority	$3,600,000				$3,600,000				23%
Total	$6,631,868				$6,631,868				

	PROPOSED			UNDERWRITTEN			
Equity & Deferred Fees	Amount	Rate	% Def	Amount	Rate	% TC	% Def
PNC	$7,874,213	$0.90		$7,874,213	$0.90	51%	
Deferred Developer Fees	$0		0%	$857,918		6%	58%
Total	$7,874,213			$8,732,131			
				$15,363,999	Total Sources		

Comments:

All else equal, an increase in the credit price to $1.00 would result in the allocation being limited by the need for funds. Any decrease in the credit price would make the project infeasible.

CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	$15,363,999
Permanent Sources	$6,631,868
Gap in Permanent Financing	$8,732,131

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	$8,621,967	$958,092
Needed to Fill Gap in Financing	$8,732,131	$970,334
Requested by Applicant	$7,874,213	$875,000

RECOMMENDATION:		
	Equity Proceeds	**Annual Credits**
Tax Credit Allocation	$7,874,213	$875,000
Deferred Developer Fee	**$857,918**	
Repayable in	**15 years**	

Comments:

The credit allocation is limited to $875K as requested by the Applicant. Eligible costs would have supported an additional $83K in credits and provided $748K additional equity. This would reduce the deferred developer fee to 3 years rather than 15 years.

Underwriter: *Diamond Unique Thompson*

Manager of Real Estate Analysis: *Thomas Cavanagh*

Director of Real Estate Analysis: *Brent Stewart*

UNIT MIX/RENT SCHEDULE

Westfall Baines, El Paso, 9% HTC #14129

LOCATION DATA	
CITY:	El Paso
COUNTY:	El Paso
PROGRAM REGION:	13
PIS Date:	On or After 2/1/2014
IREM REGION:	El Paso

UNIT DISTRIBUTION

# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0.0%	30%	11	7.4%
1	96	64.9%	40%	-	0.0%
2	28	18.9%	50%	22	14.9%
3	24	16.2%	60%	78	52.7%
4	-	0.0%	MR	-	0.0%
TOTAL	**148**	**100.0%**	**TOTAL**	**148**	**100.0%**

PHU	37	25.0%
RAD	111	75.0%

Applicable Programs
9% Housing Tax Credits

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	75.00%
APP % Acquisition	3.42%
APP % Construction	8.04%
Average Unit Size	753 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		PHA & RAD		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
		PHA	$100	24	1	1.5	650	$100	$0	$100	$102	$0.31	$202	**$4,848**	**$2,400**	$100	$0.15	$0	$815	$1.25	815
TC 30%	$282	RAD	$440	8	1	1.5	650	$440	$0	$440	$0	$0.68	$440	**$3,520**	**$3,520**	$440	$0.68	$0	$815	$1.25	815
TC 50%	$471	RAD	$440	15	1	1.5	650	$440	$0	$440	$0	$0.68	$440	**$6,600**	**$6,600**	$440	$0.68	$0	$815	$1.25	815
TC 60%	$565	RAD	$440	7	1	1.5	650	$440	$0	$440	$0	$0.68	$440	**$3,080**	**$3,080**	$440	$0.68	$0	$815	$1.25	815
TC 60%	$565	RAD	$440	42	1	1	650	$440	$0	$440	$0	$0.68	$440	**$18,480**	**$18,480**	$440	$0.68	$0	$815	$1.25	815
		PHA	$100	7	2	1	850	$100	$0	$100	$122	$0.26	$222	**$1,554**	**$700**	$100	$0.12	$0	$855	$1.01	855
TC 30%	$339	RAD	$523	2	2	1	850	$523	$0	$523	$0	$0.62	$523	**$1,046**	**$1,046**	$523	$0.62	$0	$855	$1.01	855
TC 50%	$565	RAD	$523	3	2	1	850	$523	$0	$523	$0	$0.62	$523	**$1,569**	**$1,569**	$523	$0.62	$0	$855	$1.01	855
TC 60%	$678	RAD	$523	16	2	1	850	$523	$0	$523	$0	$0.62	$523	**$8,368**	**$8,368**	$523	$0.62	$0	$855	$1.01	855
		PHA	$100	6	3	2	1,050	$100	$0	$100	$142	$0.23	$242	**$1,452**	**$600**	$100	$0.10	$0	$1,030	$0.98	1030
TC 30%	$391	RAD	$751	1	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$751**	**$751**	$751	$0.72	$0	$1,030	$0.98	1030
TC 50%	$653	RAD	$751	4	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$3,004**	**$3,004**	$751	$0.72	$0	$1,030	$0.98	1030
TC 60%	$783	RAD	$751	13	3	2	1,050	$751	$0	$751	$0	$0.72	$751	**$9,763**	**$9,763**	$751	$0.72	$0	$1,030	$0.98	1030
TOTALS/AVERAGES:				**148**			**111,400**				**$28**	**$0.57**	**$433**	**$64,035**	**$59,881**	**$405**	**$0.54**	**$0**	**$857**	**$1.14**	**$1.14**

ANNUAL POTENTIAL GROSS RENT:	**$768,420**	**$718,572**	

STABILIZED PRO FORMA

Westfall Baines, El Paso, 9% HTC #14129

	STABILIZED FIRST YEAR PRO FORMA												
	COMPARABLES			APPLICANT				TDHCA				VARIANCE	
	Database		Other	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.57	$433	$768,420	$718,572	$405	$0.54		6.9%	$49,848
late, application, pet fees, retained sec. dep.						$20.00	$35,520						
Total Secondary Income						$20.00		$35,520	$20.00			0.0%	$0
POTENTIAL GROSS INCOME			$ -				$803,940	$754,092				6.6%	$49,848
Vacancy & Collection Loss						7.5% PGI	(60,296)	(56,557)	7.5% PGI			6.6%	(3,739)
PHU Subsidy							-	$81,886				-100.0%	(81,886)
EFFECTIVE GROSS INCOME			$ -				$743,645	$779,421				-4.6%	($35,776)
General & Administrative	$42,906	$290/Unit	55,802	6.25%	$0.42	$314	$46,500	$42,906	$290	$0.39	5.50%	8.4%	3,594
Management	$51,829	5.7% EGI	42,231	5.00%	$0.33	$251	$37,182	$38,971	$263	$0.35	5.00%	-4.6%	(1,789)
Payroll & Payroll Tax	$177,605	$1,200/Unit	134,850	18.55%	$1.24	$932	$137,975	$137,975	$932	$1.24	17.70%	0.0%	-
Repairs & Maintenance	$52,457	$354/Unit	47,242	7.53%	$0.50	$378	$56,000	$81,400	$550	$0.73	10.44%	-31.2%	(25,400)
Electric/Gas	$42,220	$285/Unit	29,535	3.50%	$0.23	$176	$26,000	$29,535	$200	$0.27	3.79%	-12.0%	(3,535)
Water, Sewer, & Trash	$48,267	$326/Unit	61,502	8.61%	$0.57	$432	$64,000	$61,502	$416	$0.55	7.89%	4.1%	2,498
Property Insurance	$28,856	$0.26 /sf	24,224	3.30%	$0.22	$166	$24,508	$28,856	$195	$0.26	3.70%	-15.1%	(4,348)
Property Tax 2.8103	$71,555	$483/Unit	85,125	4.44%	$0.30	$223	$33,000	$37,557	$254	$0.34	4.82%	-12.1%	(4,557)
Reserve for Replacements	$33,672	$228/Unit	23,130	4.98%	$0.33	$250	$37,000	$37,000	$250	$0.33	4.75%	0.0%	-
Cable TV			-	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
Supportive services			3,552	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees			5,914	0.60%	$0.04	$30	$4,440	$4,440	$30	$0.04	0.57%	0.0%	-
Security			3,692	0.67%	$0.04	$34	$5,000	$5,000	$34	$0.04	0.64%	0.0%	-
TOTAL EXPENSES			**$ 516,799**	**63.42%**	**$4.23**	**$3,187**	**$ 471,605**	**$ 505,143**	**$3,413**	**$4.53**	**64.81%**	**-6.6%**	**$ (33,538)**
NET OPERATING INCOME ("NOI")				**36.58%**	**$2.44**	**$1,838**	**$272,039**	**$274,278**	**$1,853**	**$2.46**	**35.19%**	**-0.8%**	**$ (2,239)**

CONTROLLABLE EXPENSES		$2,456/Unit	$2,223/Unit			$2,233/Unit			$2,387/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Westfall Baines, El Paso, 9% HTC #14129

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	**MIP**	**UW**	**App**	**Pmt**	**Rate**	**Amort**	**Term**	**Principal**	**Principal**	**Term**	**Amort**	**Rate**	**Pmt**	**DCR**	**LTC**
PNC		1.25	1.24	218,584	6.50%	30	15	$2,881,868	$2,881,868	15	30	6.50%	218,584	1.25	18.8%
City of El Paso		1.21	1.20	7,589	3.00%	30	15	$150,000	$150,000	15	30	3.00%	7,589	1.21	1.0%
CASH FLOW DEBT / GRANTS															
El Paso Housing Authority		1.21	1.20		0.00%	0	0	$3,600,000	$3,600,000	0	0	0.00%		1.21	23.4%
				$226,173	**TOTAL DEBT / GRANT SOURCES**			**$6,631,868**	**$6,631,868**	**TOTAL DEBT SERVICE**			**$226,173**		43.2%
NET CASH FLOW		$48,105	$45,866							**NET OPERATING INCOME**			**$274,278**	**$48,105**	**NET CASH FLOW**

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	**DESCRIPTION**	**% Cost**	**Annual Credit**	**Credit Price**	**Amount**	**Amount**	**Credit Price**	**Annual Credit**	**% Cost**	**Annual Credits per Unit**		
PNC	LIHTC Equity	51.3%	$875,000	0.90	$7,874,213	$7,874,213	$0.8999	$875,000	51.3%	$53,204		
Deferred Developer Fees	Deferred Developer Fees	0.0%	(0% Deferred)		$0	$857,918	(58% Deferred)		5.6%	**Total Developer Fee:**		**$1,485,000**
Additional (Excess) Funds Req'd		0.0%			$1	$0			0.0%			
TOTAL EQUITY SOURCES		51.3%			$7,874,213	$8,732,131			56.8%	**15-Year Cash Flow:**		**$888,384**
TOTAL CAPITALIZATION					**$14,506,081**	**$15,363,999**			**15-Yr Cash Flow after Deferred Fee:**			**$30,467**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	**New Const. Rehab**			**Total Costs**	**Total Costs**			**New Const. Rehab**	**Acquisition**	**%**	**$**
Land Acquisition				$10,372 / Unit	$1,535,000	$1,535,000	$10,372 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
					$0	$0						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$0		$7,942 / Unit	$1,175,352	$1,175,352	$7,942 / Unit				0.0%	$0
Site Amenities		$689,308		$4,657 / Unit	$689,308	$689,308	$4,657 / Unit		$689,308		0.0%	$0
Building Costs		$6,241,570	$58.13 /sf	$43,753/Unit	$6,475,510	$7,333,428	$49,550/Unit	$65.83 /sf	$7,333,428		-11.7%	($857,918)
Contingency		$417,009	6.02%	5.00%	$417,009	$417,009	4.53%	5.20%	$417,009		0.0%	$0
Contractor's Fees		$1,167,623	15.89%	13.33%	$1,167,623	$1,167,623	12.14%	13.83%	$1,167,623		0.0%	$0
Soft Costs	0	$651,100		$4,467 / Unit	$661,100	$661,100	$4,467 / Unit		$651,100	$0	0.0%	$0
Developer's Fees	$0	$1,485,000	15.31%	13.37%	$1,485,000	$1,485,000	12.41%	13.29%	$1,433,654	$0	0.0%	$0
Financing	0	$530,000		$4,055 / Unit	$600,180	$600,180	$4,055 / Unit		$530,000	$0	0.0%	$0
Reserves				$2,027 / Unit	$300,000	$300,000	$2,027 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$11,181,610**		$98,014 / Unit	**$14,506,081**	**$15,363,999**	$103,811 / Unit		**$12,222,121**	**$0**	**-5.6%**	**($857,918)**
Acquisition Cost	$0				$0							
Contingency		$0										
Contractor's Fee		($138,919)										
Interim Interest		$0										
Developer's Fee	$0	($51,346)			$0							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$10,991,344**		$98,014/unit	**$14,506,081**	**$15,363,999**	$103,811/unit		**$12,222,121**	**$0**	**-5.6%**	**($857,918)**

TOTAL UNDERWRITTEN COSTS (Applicant's Uses are not within 5% of TDHCA Estimate): $15,363,999

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Westfall Baines, El Paso, 9% HTC #14129

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$10,991,344	$0	$12,222,121
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$10,991,344	$0	$12,222,121
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$14,288,747	$0	$15,888,757
Applicable Fraction	75.00%	75.00%	75.00%	75.00%
TOTAL QUALIFIED BASIS	$0	$10,716,561	$0	$11,916,568
Applicable Percentage	3.42%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON BASIS	$0	$861,611	$0	$958,092
CREDITS ON QUALIFIED BASIS	$861,611		$958,092	

CALCULATION BASED ON TDHCA BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$958,092	$8,621,967
Gap	$970,334	$8,732,131
Applicant Request	$875,000	$7,874,213

FINAL ANNUAL LIHTC ALLOCATION

Method	Applicant Request	Variance to Request
Credits	$875,000	$0
Total Equity Proceeds	$7,874,213	$0

Development Cost/SF

	Application	Underwritten
Acquisition & Hard Costs	89.09	110.57
Hard Costs	89.09	96.79
Building Costs	58.13	65.83
Total Points Claimed:		0

BUILDING COST ESTIMATE

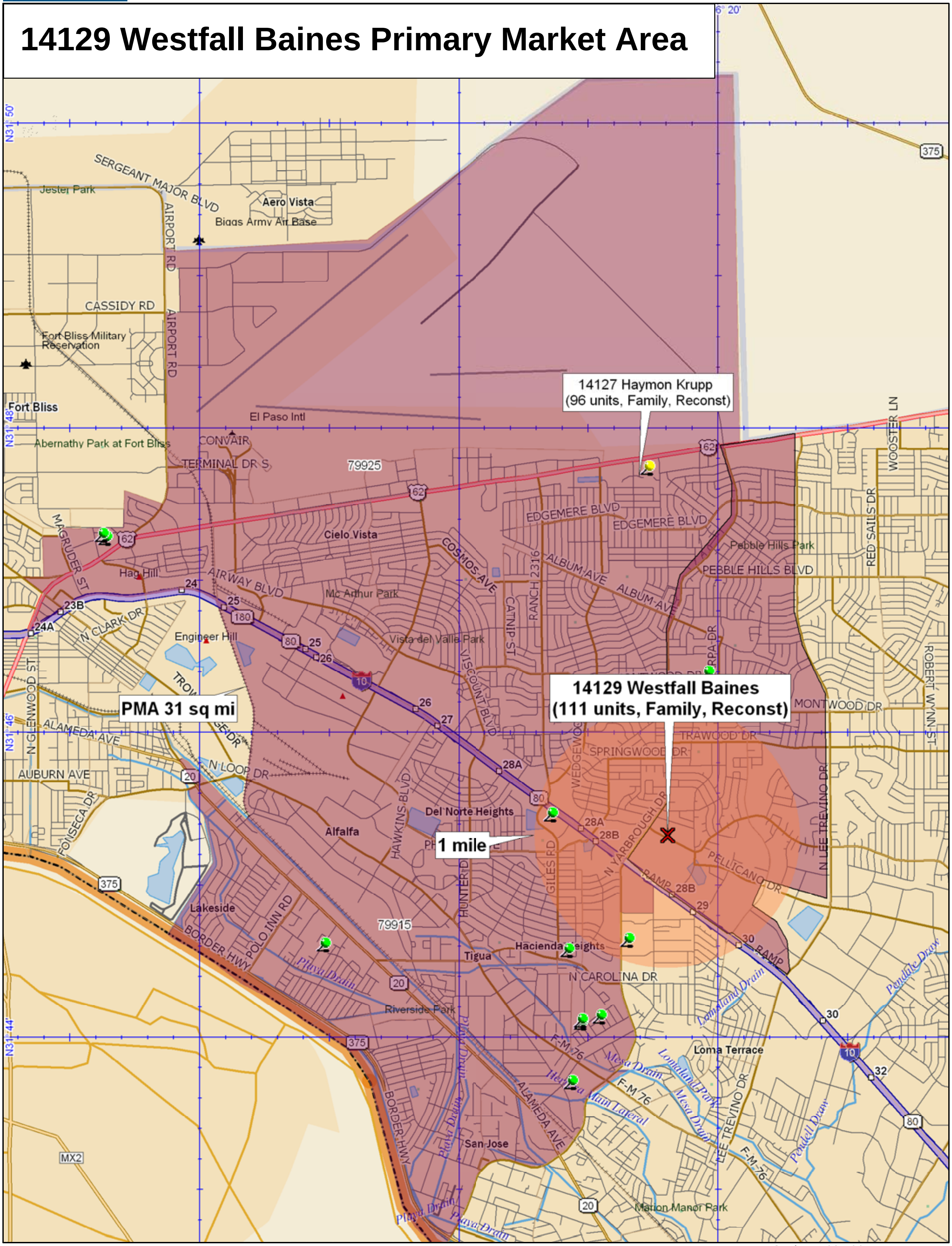
CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Townhome	111,400 SF	$67.97	7,571,629
Adjustments				
Exterior Wall Finish	0.00%		0.00	$0
	0.00%		0.00	0
9 ft. ceilings	3.00%		2.04	227,149
Roofing			(0.25)	(27,850)
Subfloor			(2.06)	(229,140)
Floor Cover			6.20	690,903
Breezeways	$0.00	0	0.00	0
Balconies	$23.10	17,139	3.55	395,903
Plumbing Fixtures	$940	-62	-0.52	(58,280)
Rough-ins	$465	148	0.62	68,820
Built-In Appliances	$1,750	148	2.32	259,000
Exterior Stairs	$2,125	0	0.00	0
Heating/Cooling			2.06	229,484
Enclosed Corridors	$51.76	0	0.00	0
Carports	$11.30	29,600	3.00	334,480
Garages		0	0.00	0
Comm &/or Aux Bldgs	$81.97	3,387	2.49	277,626
Elevators		0	0.00	0
Other:			0.00	0
Fire Sprinklers	$0.00	114,787	0.00	0
SUBTOTAL			**87.43**	**9,739,724**
Current Cost Multiplier	1.02		1.75	194,794
Local Multiplier	0.87		(11.37)	(1,266,164)
TOTAL BUILDING COSTS			**77.81**	**$8,668,354**
Plans, specs, survey, bldg permits	3.90%		(3.03)	($338,066)
Contractor's OH & Profit	11.50%		(8.95)	(996,861)
NET BUILDING COSTS		$49,550/unit	$65.83/sf	$7,333,428

30-Year Long-Term Pro Forma

Westfall Baines, El Paso, 9% HTC #14129

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	$779,421	$796,189	$813,329	$830,847	$848,754	$944,424	$1,051,220	$1,170,484	$1,303,731	$1,452,666
TOTAL EXPENSES	3.00%	$505,143	$519,967	$535,228	$550,941	$567,118	$655,470	$757,688	$875,960	$1,012,818	$1,171,198
NET OPERATING INCOME ("NOI")		$274,278	$276,223	$278,101	$279,906	$281,636	$288,954	$293,532	$294,525	$290,913	$281,468
MUST -PAY DEBT SERVICE											
PNC		$218,584	$218,584	$218,584	$218,584	$218,584	$218,584	$218,584	$218,584	$218,584	$218,584
City of El Paso		$7,589	$7,589	$7,589	$7,589	$7,589	$7,589	$7,589	$7,589	$7,589	$7,589
TOTAL DEBT SERVICE		$226,173	$226,173	$226,173	$226,173	$226,173	$226,173	$226,173	$226,173	$226,173	$226,173
NET CASH FLOW		$48,105	$50,050	$51,927	$53,733	$55,462	$62,781	$67,359	$68,352	$64,740	$55,295
CUMULATIVE NET CASH FLOW		$48,105	$98,154	$150,081	$203,814	$259,277	$559,493	$888,384	$1,229,780	$1,562,773	$1,860,746
DEBT COVERAGE RATIO		1.21	1.22	1.23	1.24	1.25	1.28	1.30	1.30	1.29	1.24
EXPENSE/INCOME RATIO		64.8%	65.3%	65.8%	66.3%	66.8%	69.4%	72.1%	74.8%	77.7%	80.6%
Deferred Developer Fee Balance		$809,813	$759,763	$707,836	$654,103	$598,641	$298,425	$0	$0	$0	$0
Residual Cash Flow		0	0	0	0	0	0	30,467	68,352	64,740	55,295

14129 Westfall Baines Primary Market Area



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Scale 1 : 62,500

1" = 5,208.3 ft Data Zoom 11-6

printed: 7/24/14

#14130 Tays

S. ANDERSON CONSULTING

July 28, 2014

Mr. Tim Irvine, Executive Director
TDHCA
PO Box 13941
Austin, TX 78711

RE: REA Underwriting Appeal for 14130 Tays

Dear Mr. Irvine:

This letter contains an appeal of the REA Underwriting Report for 14130 Tays We are appealing the inclusion of asbestos abatement in eligible basis. We believe that TDHCA is considering an ineligible item in eligible basis and such item must be removed.

At application submission, the applicant included asbestos abatement in eligible basis. At the time, it was thought that asbestos could potentially be included in eligible basis if it was considered a pre-development activity similar to the issuance of building permits. It was also understood that eligible basis items would be thoroughly reviewed by REA. In fact, the issue of asbestos was the subject of a challenge to this application and TDHCA staff confirmed that the Real Estate Analysis Division was underwriting the application and would make a recommendation after a full analysis.

Novogradac & Company LLP has since indicated that asbestos abatement is generally included in eligible basis for rehabilitation developments; however, reconstruction-type developments are less clear because demolition to tear down is capitalized to the land and cannot be capitalized to the building. The possible exception to this is when asbestos abatement would be a requirement of building permits prior to demolition, but this ultimately would need to be clarified with the syndicator.

In July, the Paisano Housing Redevelopment Corporation selected Hunt Capital Partners LLC to be the equity provider for this development. Hunt Capital has been consulted, and they have indicated that asbestos abatement would not be considered to be an eligible basis item. Please see the attached letter from Hunt Capital regarding this issue.

We ask that TDHCA reconsider the asbestos abatement item for this application and remove it from eligible basis. With confirmation that asbestos abatement should not be included in eligible basis, TDHCA should not calculate credits on an activity that is ineligible. The removal of asbestos abatement as an eligible basis item will result in a reduction of total eligible basis and will require a reduction in housing tax credits from those requested at application.

Section 42 of the Internal Revenue Code requires that tax credits allocated to a development not exceed the amount necessary to ensure feasibility. Furthermore, Section 10.302(a) of the 2014 Real Estate Analysis Division Rules states as follows:

1305 East 6th Street Suite 12 • Austin TX 78702 • (512) 789-1295 • ajcarpen@gmail.com

> *The rules of the Texas Government Code and the Code, resulting in a Credit Underwriting Analysis Report used by the Board in decision making with the goal to assist as many Texans as possible by providing no more financing than necessary based on an independent analysis of Development feasibility. The Report considers all information timely provided by the Applicant.*

The TDHCA rules specifically state that it provide no more financing than necessary to a development. In the current underwriting report, asbestos abatement is included as an eligible basis item when it should not be eligible. In accordance with the TDHCA rules, this issue must be considered so that the Department does not provide more housing tax credits than necessary to this application.

Additionally, the documentation in this REA appeal has been timely provided in accordance with the Appeals Process described in Section 10.902 of the 2014 Uniform Multifamily Rules. In accordance with Section 10.302(a) of the rules that states that the underwriting report "considers all information timely provided by the Applicant," we ask that the Department incorporate the information in this appeal into the underwriting analysis.

In the current application year, we understand that other applicants have been able to provide supplemental information to the Department as part of an appeal. We are asking for the same consideration. For example, the appeal for 14087 Cypress Creek Apartment Homes at Joshua Station was granted based on new information submitted with the Executive Director appeal. This supplemental information after the date of application included a letter from the Joshua ISD dated June 17, 2014, recapping a June 16, 2014, Joshua ISD Board Meeting that changed the elementary attendance school zones to benefit the proposed development and increase the application's score. Without the June 2014 change to the elementary school attendance zones, that application would not have been competitive.

To conclude, we are appealing the inclusion of asbestos abatement in eligible basis contained in the Underwriting Report for 14130 Tays. The current underwriting report is based on an eligible basis amount that includes an ineligible asbestos item. We believe that the Department cannot award credits based on ineligible items and therefore must reevaluate this application.

Thank you for your attention to this matter. Please contact me with any questions.

Regards,

Alyssa Carpenter
Applicant Representative

Vision. Integrity. Professionalism.

Hunt Capital Partners, LLC
15260 Ventura Boulevard, Suite 600
Los Angeles, California 91403
Phone (818) 380-6100 Facsimile (818) 380-6101

July 28, 2014

Brent Stewart
Director, Underwriting
TDHCA
221 E. 11th St.
Austin, TX 78701

RE: Eligible Basis Opinion

Mr. Stewart,

Hunt Capital was officially engaged to provide equity for the tax credit developments submitted by Paisano Housing Redevelopment Corporation in July of 2014. As such, we have been asked to opine on the eligibility of tax credit basis related to asbestos abatement.

We understand that the applicant submitted costs for asbestos as part of their application, believing that they might be an eligible basis expense. It is our official position that because of the nature of the reconstruction of these developments, that the asbestos abatement is not eligible for credits. As the syndicator we will not give credits for costs associated with them because the abatement will be part of demolition, which renders them ineligible.

Please feel free to call me if you have any questions.

Dana Mayo
SVP, Director of Acquisitions
Hunt Capital Partners, LLC
818-380-6130 (office)
310-717-5578 (cell)

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities

Real Estate Analysis Division
August 11, 2014

Addendum to Underwriting Report

TDHCA Application #: **14130** Program(s): **9% HTC**

Tays

Address/Location: 2114 Magoffin Ave (SEC of San Antonio Ave and Eucalyptus St)

City: El Paso County: El Paso Zip: 79901

Analysis Purpose: 2nd Addendum to Prior Report

	APPLICATION HISTORY
Report Date	**PURPOSE**
08/11/14	**Appeal Addendum**
07/25/14	Addendum - revised credit allocation
07/23/14	Original Underwriting Report

ALLOCATION

	Previous Report		RECOMMENDATION	
LIHTC (Annual)	$1,351,061		**$1,355,000**	

ANALYSIS

The original underwriting report for application 14130 Tays dated July 23, 2014 recommended a credit allocation limited to $1,322,000. That limit was incorrect because at the start of the application round the Applicant's original request was $1,355,000. REA posted an addendum on July 25 with a recommendation for $1,351,061 in annual credits based on the then-current analysis of eligible costs.

The Applicant appealed the recommendation on July 28. The appeal states that cost for asbestos abatement was incorrectly included in eligible basis, and that the credit award should be reduced by the amount related to the ineligible costs.

Development Cost

The Applicant correctly states that the cost for asbestos abatement from ineligible buildings that will be demolished is not eligible for tax credits. REA should have excluded this cost from the eligible basis in the Applicant's development cost schedule.

REA also did not consider the cost of asbestos abatement in the underwriting estimate for total development cost.

The Underwriter has reviewed the overall cost analysis for the application. The $337,500 cost for asbestos abatement (as stated by the Applicant) has been deducted from eligible cost in the Applicant's cost schedule. This causes the Applicant's stated amounts for eligible contingency, contractor fee and developer fee to exceed the limits.

After deducting the cost for asbestos abatement as ineligible, and adjusting contingency, contractor fee, and developer fee to the eligible limits, the Applicant's eligible cost is reduced to $16,839,568 (from $17,293,345 in the previous report).

The building configuration exhibit in the application states that the buildings will be equipped with fire sprinklers. But during underwriting the Applicant stated that local code did not require fire sprinklers, so fire sprinklers were not included in the Unerwriter's cost. The Applicant's architect has since confirmed that sprinklers are required because the buildings are more than 2 stories and contain more than 16 units, and that the cost for sprinklers was included in the Applicant's proposed cost.

The Underwriter's eligible cost has been increased by $386K to account for fire sprinklers, and total cost has been increased by $337.5K to account for asbestos abatement. As a result, the Underwriter's estimate of Total Development Cost increased to $20,203,489 (from $19,625,852 in the previous report).

Operating Pro Forma

The original underwriting analysis applied a 7.5% vacancy/collection factor to Potential Gross Income. REA rules allow this to be reduced to 5% in certain circumstances, including when a substantial number of the units are supported by rental assistance or otherwise subsidized. Since all of the subject units will be subsidized (73% RAD and 27% Public Housing), REA would typically utilize the lower assumption.

The vacancy/collection factor has been adjusted to 5.0% in the revised analysis. This increases the Underwriter's net operating income to $424.5K (from $399.6K in the original report).

Conclusion

As a result of the revised cost analysis, the Applicant's Total Development Cost is 5.26% lower than the Underwriter's estimate. Therefore, per REA rules, the recommended financing structure is based on the Underwriter's estimate.

The proposed financing structure results in a 1.34 times debt coverage ratio; this is within the underwriting guidelines.

The Underwriter recommends an allocation of $1,355,000 in annual credits, as requested by the Applicant. This provides $12,193,780 in equity proceeds.

The recommended capital structure indicates the need to defer $1,231,024 of the developer fee. This amount can be repaid within 11 years of stabilized operation.

Underwriter:	*Diamond Thompson*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

UNIT MIX/RENT SCHEDULE

Tays, El Paso, 9% HTC #14130

LOCATION DATA

CITY:	El Paso
COUNTY:	El Paso
PROGRAM REGION:	13
PIS Date:	On or After 2/1/2014
IREM REGION:	El Paso

UNIT DISTRIBUTION

# Beds	# Units	% Total
Eff	-	0.0%
1	40	20.2%
2	120	60.6%
3	38	19.2%
4	-	0.0%
TOTAL	**198**	**100.0%**

Income	# Units	% Total
30%	16	8.1%
40%	-	0.0%
50%	32	16.2%
60%	100	50.5%
MR	-	0.0%
TOTAL	**198**	**100.0%**

PHA	54	27%
RAD	144	73%

Applicable Programs

Applicable Programs
9% Housing Tax Credits

Pro Forma ASSUMPTIONS

Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	74.75%
APP % Acquisition	3.42%
APP % Construction	8.04%
Average Unit Size	848 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		PHA & RAD	UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	**Gross Rent**	**Type**	**# Units**	**# Beds**	**# Baths**	**NRA**	**Gross Rent**	**Utility Allow**	**Max Net Program Rent**	**Delta to Max**	**Rent psf**	**Net Rent per Unit**	**Total Monthly Rent**	**Total Monthly Rent**	**Rent per Unit**	**Rent psf**	**Delta to Max**	**Underwritten**		**Mrkt Analyst**
		PHA	33	1	1	650	$100	$0	$100	$102	$0.31	$202	**$6,666**	**$3,300**	$100	$0.15	$0	$810	$1.25	810
TC 30%	$282	RAD	2	1	1	650	$402	$0	$402	$0	$0.62	$402	**$804**	**$804**	$402	$0.62	$0	$810	$1.25	810
TC 50%	$471	RAD	5	1	1	650	$402	$0	$402	$0	$0.62	$402	**$2,010**	**$2,010**	$402	$0.62	$0	$810	$1.25	810
		PHA	13	2	2	850	$100	$0	$100	$122	$0.26	$222	**$2,886**	**$1,300**	$100	$0.12	$0	$810	$0.95	810
TC 30%	$339	RAD	10	2	2	850	$478	$0	$478	$0	$0.56	$478	**$4,780**	**$4,780**	$478	$0.56	$0	$950	$1.12	950
TC 50%	$565	RAD	23	2	2	850	$478	$0	$478	$0	$0.56	$478	**$10,994**	**$10,994**	$478	$0.56	$0	$950	$1.12	950
TC 60%	$678	RAD	74	2	2	850	$478	$0	$478	$0	$0.56	$478	**$35,372**	**$35,372**	$478	$0.56	$0	$950	$1.12	950
		PHA	4	3	2	1,050	$100	$0	$100	$142	$0.23	$242	**$968**	**$400**	$100	$0.10	$0	$950	$0.90	950
TC 30%	$391	PHA	4	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$2,744**	**$2,744**	$686	$0.65	$0	$1,120	$1.07	1120
TC 50%	$653	RAD	4	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$2,744**	**$2,744**	$686	$0.65	$0	$1,120	$1.07	1120
TC 60%	$783	RAD	26	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$17,836**	**$17,836**	$686	$0.65	$0	$1,120	$1.07	1120
TOTALS/AVERAGES:			**198**			**167,900**				**$28**	**$0.52**	**$443**	**$87,804**	**$82,284**	**$416**	**$0.49**	**$0**	**$942**	**$1.11**	**$1.11**
ANNUAL POTENTIAL GROSS RENT:													**$1,053,648**	**$987,408**						

STABILIZED PRO FORMA

Tays, El Paso, 9% HTC #14130

	STABILIZED FIRST YEAR PRO FORMA												
	COMPARABLES			APPLICANT				TDHCA				VARIANCE	
	Database		Other	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.52	$443	$1,053,648	$987,408	$416	$0.49		6.7%	$66,240
late, application, pet fees, retained sec. dep.						$20.00	$47,520						
interest income, vending						$0.00	$0						
						$0.00	$0						
Total Secondary Income						$20.00		$47,520	$20.00			0.0%	$0
POTENTIAL GROSS INCOME			**$ -**				$1,101,168	$1,034,928				6.4%	$66,240
Vacancy & Collection Loss						7.5% PGI	(82,588)	(51,746)	5.0% PGI			59.6%	(30,841)
Non-Rental Units/Concessions							-	$120,386				-100.0%	(120,386)
EFFECTIVE GROSS INCOME			**$ -**				$1,018,580	$1,103,568				-7.7%	($84,987)
General & Administrative	$60,623	$306/Unit	74,654	6.19%	$0.38	$318	$63,000	$60,623	$306	$0.36	5.49%	3.9%	2,377
Management	$73,277	5.7% EGI	56,498	5.00%	$0.30	$257	$50,929	$55,178	$279	$0.33	5.00%	-7.7%	(4,249)
Payroll & Payroll Tax	$237,607	$1,200/Unit	180,407	18.19%	$1.10	$936	$185,263	$185,263	$936	$1.10	16.79%	0.0%	-
Repairs & Maintenance	$70,179	$354/Unit	63,202	7.56%	$0.46	$389	$77,000	$108,900	$550	$0.65	9.87%	-29.3%	(31,900)
Electric/Gas	$59,931	$303/Unit	39,514	3.44%	$0.21	$177	$35,000	$39,514	$200	$0.24	3.58%	-11.4%	(4,514)
Water, Sewer, & Trash	$68,245	$345/Unit	82,280	8.44%	$0.51	$434	$86,000	$82,280	$416	$0.49	7.46%	4.5%	3,720
Property Insurance	$40,782	$0.24 /sf	32,407	2.95%	$0.18	$152	$30,000	$30,000	$152	$0.18	2.72%	0.0%	-
Property Tax 2.6853	$101,071	$510/Unit	113,884	4.42%	$0.27	$227	$45,000	$51,839	$262	$0.31	4.70%	-13.2%	(6,839)
Reserve for Replacements	$47,562	$240/Unit	30,944	4.86%	$0.29	$250	$49,500	$49,500	$250	$0.29	4.49%	0.0%	-
Supportive services			-	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees			4,752	0.58%	$0.04	$30	$5,920	$7,920	$40	$0.05	0.72%	-25.3%	(2,000)
Security			36,025	0.79%	$0.05	$40	$8,000	$8,000	$40	$0.05	0.72%	0.0%	-
TOTAL EXPENSES			**$727,418**	**62.40%**	**$3.79**	**$3,210**	**$ 635,612**	**$ 679,016**	**$3,429**	**$4.04**	**61.53%**	**-6.4%**	**$ (43,404)**
NET OPERATING INCOME ("NOI")				**37.60%**	**$2.28**	**$1,934**	**$382,968**	**$424,552**	**$2,144**	**$2.53**	**38.47%**	**-9.8%**	**$ (41,583)**

CONTROLLABLE EXPENSES		$2,508/Unit	$2,223/Unit			$2,254/Unit			$2,407/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Tays, El Paso, 9% HTC #14130

DEBT / GRANT SOURCES

DEBT (Must Pay)	MIP	APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE: Cumulative DCR UW	Cumulative DCR App	Pmt	Rate	Amort	Term	Principal	AS UNDERWRITTEN DEBT/GRANT STRUCTURE: Principal	Term	Amort	Rate	Pmt	Cumulative DCR	Cumulative LTC
PNC		2.57	2.32	165,249	6.50%	30	15	$2,178,685	$2,178,685	15	30	6.50%	165,249	2.57	10.8%
City of El Paso HFC		1.34	1.21	151,777	3.00%	30	15	$3,000,000	$3,000,000	15	30	3.00%	151,777	1.34	14.8%
City of El Paso		1.32	1.19	5,059	3.00%	30	15	$100,000	$100,000	15	30	3.00%	5,059	1.32	0.5%
CASH FLOW DEBT / GRANTS															
Housing Authority of the City of El Paso		1.32	1.19					$1,500,000	$1,500,000					1.32	7.4%
				$322,085	**TOTAL DEBT / GRANT SOURCES**			**$6,778,685**	**$6,778,685**			**TOTAL DEBT SERVICE**	**$322,086**		33.6%
NET CASH FLOW		$102,466	$60,883								**NET OPERATING INCOME**	**$424,552**	**$102,466**	**NET CASH FLOW**	

EQUITY SOURCES

EQUITY / DEFERRED FEES	APPLICANT'S PROPOSED EQUITY STRUCTURE: DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	AS UNDERWRITTEN EQUITY STRUCTURE: Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	
PNC	LIHTC Equity	58.9%	$1,355,000	0.88	$11,896,810	$12,193,780	$0.8999	$1,355,000	60.4%	$61,585	
Deferred Developer Fees	Deferred Developer Fees	1.6%	(14% Deferred)		$330,000	$1,231,024	(54% Deferred)		6.1%	**Total Developer Fee:**	**$2,274,352**
Additional (Excess) Funds Req'd		0.7%			$134,351	$0			0.0%		
TOTAL EQUITY SOURCES		61.2%			$12,361,161	$13,424,804			66.4%	**15-Year Cash Flow:**	**$1,910,165**
TOTAL CAPITALIZATION					**$19,139,846**	**$20,203,489**				**15-Yr Cash Flow after Deferred Fee:**	**$679,141**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS: Eligible Basis Acquisition	Eligible Basis New Const. Rehab			Total Costs	TDHCA COST / BASIS ITEMS: Total Costs			Eligible Basis New Const. Rehab	Eligible Basis Acquisition	COST VARIANCE %	COST VARIANCE $
Land Acquisition				$3,662 / Unit	$725,000	$725,000	$3,662 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
Asbestos Abatement					$337,500	$337,500						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$392,734		$4,164 / Unit	$824,444	$824,444	$4,164 / Unit		$392,734		0.0%	$0
Site Amenities		$340,896		$1,722 / Unit	$340,896	$340,896	$1,722 / Unit		$340,896		0.0%	$0
Building Costs		$10,183,736	$60.65 /sf	$51,433/Unit	$10,183,736	$11,247,379	$56,805/Unit	$66.99 /sf	$11,247,379		-9.5%	($1,063,643)
Contingency		$776,586	7.11%	7.11%	$806,374	$806,374	6.50%	6.48%	$776,586		0.0%	$0
Contractor's Fees		$1,680,794	14.37%	14.36%	$1,745,265	$1,745,265	13.20%	13.17%	$1,680,794		0.0%	$0
Soft Costs	0	$586,100		$3,516 / Unit	$696,100	$696,100	$3,516 / Unit		$586,100	$0	0.0%	$0
Developer's Fees	$0	$2,255,000	15.34%	15.33%	$2,325,000	$2,274,352	14.02%	13.93%	$2,196,465	$0	2.2%	$50,648
Financing	0	$740,000		$4,092 / Unit	$810,180	$810,180	$4,092 / Unit		$740,000	$0	0.0%	$0
Reserves				$2,000 / Unit	$396,000	$396,000	$2,000 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$16,955,845**		$96,922 / Unit	**$19,190,495**	**$20,203,489**	$102,038 / Unit		**$17,960,954**	**$0**	**-5.01%**	**($1,012,995)**
Acquisition Cost	$0				$0							
Contingency		($12,370)										
Contractor's Fee		($45,372)										
Interim Interest		$0										
Developer's Fee	$0	($58,535)			($50,648)							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$16,839,568**		$96,666/unit	**$19,139,846**	**$20,203,489**	$102,038/unit		**$17,960,954**	**$0**	**-5.3%**	**($1,063,643)**
TOTAL UNDERWRITTEN COSTS (Applicant's Uses are not within 5% of TDHCA Estimate):					**$20,203,489**							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Tays, El Paso, 9% HTC #14130

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$16,839,568	$0	$17,960,954
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$16,839,568	$0	$17,960,954
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$21,891,438	$0	$23,349,240
Applicable Fraction		74.75%		74.75%
TOTAL QUALIFIED BASIS	$0	$16,363,297	$0	$17,452,967
Applicable Percentage	0.00%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON BASIS	$0	$1,315,609	$0	$1,403,219
CREDITS ON QUALIFIED BASIS	$1,315,609		$1,403,219	

ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$1,403,219	$12,627,704
Gap	$1,491,794	$13,424,804
Applicant Request	$1,355,000	$12,193,780

FINAL ANNUAL LIHTC ALLOCATION

Method	Applicant Request	Variance to Request
Credits	**$1,355,000**	$0
Total Equity Proceeds		
	$12,193,780	$0

Development Cost/SF

	Application	Underwritten
Acquisition & Hard Costs	84.80	93.44
Hard Costs	84.80	89.13
Building Costs	62.66	66.99
Total Points Claimed:		0

BUILDING COST ESTIMATE

CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Garden (Up to 4-story)	167,900 SF	$62.03	10,414,595
Adjustments				
Exterior Wall Finish	0.00%		0.00	$0
	0.00%		0.00	0
9 ft. ceilings	3.00%		1.86	312,438
Roofing			(0.25)	(41,975)
Subfloor			(0.12)	(19,588)
Floor Cover			6.20	1,041,316
Breezeways	$25.64	21,490	3.28	551,048
Balconies	$25.56	15,011	2.29	383,674
Plumbing Fixtures	$940	276	1.55	259,440
Rough-ins	$465	396	1.10	184,140
Built-In Appliances	$1,750	198	2.06	346,500
Exterior Stairs	$2,125	14	0.18	29,750
Heating/Cooling			2.06	345,874
Enclosed Corridors	$45.82	0	0.00	0
Carports	$11.30	39,800	2.68	449,740
Garages		0	0.00	0
Comm &/or Aux Bldgs	$81.22	3,630	1.76	294,827
Elevators		0	0.00	0
Other:			0.00	0
Fire Sprinklers	$2.30	167,900	2.30	386,170
SUBTOTAL			**88.97**	**14,937,949**
Current Cost Multiplier	1.02		1.78	298,759
Local Multiplier	0.87		(11.57)	(1,941,933)
TOTAL BUILDING COSTS			**79.18**	**$13,294,774**
Plans, specs, survey, bldg permi	3.90%		(3.09)	($518,496)
Contractor's OH & Profit	11.50%		(9.11)	(1,528,899)
NET BUILDING COSTS		$56,805/unit	$66.99/sf	**$11,247,379**

30-Year Long-Term Pro Forma

Tays, El Paso, 9% HTC #14130

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	$1,103,568	$1,127,364	$1,151,688	$1,176,552	$1,201,968	$1,337,785	$1,489,444	$1,658,867	$1,848,217	$2,059,933
TOTAL EXPENSES	3.00%	$679,016	$698,921	$719,414	$740,512	$762,233	$880,856	$1,018,083	$1,176,847	$1,360,545	$1,573,112
NET OPERATING INCOME ("NOI")		$424,552	$428,443	$432,274	$436,040	$439,734	$456,928	$471,361	$482,020	$487,672	$486,822
MUST -PAY DEBT SERVICE											
PNC		$165,249	$165,249	$165,249	$165,249	$165,249	$165,249	$165,249	$165,249	$165,249	$165,249
City of El Paso HFC		$151,777	$151,777	$151,777	$151,777	$151,777	$151,777	$151,777	$151,777	$151,777	$151,777
City of El Paso		$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059
TOTAL DEBT SERVICE		$322,086	$322,086	$322,086	$322,086	$322,086	$322,086	$322,086	$322,086	$322,086	$322,086
NET CASH FLOW		$102,466	$106,357	$110,188	$113,954	$117,648	$134,842	$149,275	$159,934	$165,586	$164,736
CUMULATIVE NET CASH FLOW		$102,466	$208,823	$319,011	$432,964	$550,613	$1,191,363	$1,910,165	$2,690,256	$3,509,163	$4,337,481
DEBT COVERAGE RATIO		1.32	1.33	1.34	1.35	1.37	1.42	1.46	1.50	1.51	1.51
EXPENSE/INCOME RATIO		61.5%	62.0%	62.5%	62.9%	63.4%	65.8%	68.4%	70.9%	73.6%	76.4%
Deferred Developer Fee Balance		$1,128,558	$1,022,201	$912,013	$798,060	$680,411	$39,661	$0	$0	$0	$0
Residual Cash Flow		0	0	0	0	0	0	149,275	159,934	165,586	164,736

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Real Estate Analysis Division
July 25, 2014

Addendum to Underwriting Report

TDHCA Application #:	14130	Program(s):	9% HTC

Tays

Address/Location: 2114 Magoffin Ave (SEC of San Antonio Ave and Eucalyptus St)

City: El Paso County: El Paso Zip: 79901

	APPLICATION HISTORY
Report Date	**PURPOSE**
07/25/14	**Addendum - revised credit allocation**
07/23/14	Original Underwriting Report

ADDENDUM to UNDERWRITING REPORT

During the original review of the application by program staff, Applicant submitted revised application exhibits as part of a deficiency response. The revised exhibits included, among other items, changes to the development cost schedule and a reduction to the requested credit amount. These particular changes were not requested by staff and were not necessary to address the deficiency items.

The original development cost schedule and credit request amount as contained in the original application submission should have been used in the analysis, and the reduced credit request should not have been a limiting factor on the recommended credit allocation. The underwriting analysis has been amended to reflect the use of the original application documents. The development is eligible for an allocation of $1,351,061 in annual credits, as determined by eligible basis.

The CONCLUSIONS section of the underwriting report is amended as follows:

CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	$19,190,471
Permanent Sources	$6,778,685
Gap in Permanent Financing	$12,411,786

Possible Tax Credit Allocations:	**Equity Proceeds**	**Annual Credits**
Determined by Eligible Basis	$12,158,332	$1,351,061
Needed to Fill Gap in Financing	$12,411,786	$1,379,225
Requested by Applicant	$12,193,780	$1,355,000

RECOMMENDATION:					
	Amount	**Interest Rate**	**Amort**	**Term**	**Lien**
	Equity Proceeds	**Annual Credits**			
Tax Credit Allocation	**$12,158,332**	**$1,351,061**			
Deferred Developer Fee	**$253,454**				
Repayable in	**3 years**				

Comments:

Credit allocation is limited to $1,351,061 as determined by eligible basis.

Underwriter:	*Diamond Unique Thompson*
Manager of Real Estate Analysis:	*Thomas Cavanagh*
Director of Real Estate Analysis:	*Brent Stewart*

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Tays, El Paso, 9% HTC #14130

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	MIP	UW	App	Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	DCR	LTC
PNC		2.42	2.32	165,249	6.50%	30	15	$2,178,685	$2,178,685	15	30	6.50%	165,249	2.42	11.4%
City of El Paso HFC		1.26	1.21	151,777	3.00%	30	15	$3,000,000	$3,000,000	15	30	3.00%	151,777	1.26	15.6%
City of El Paso		1.24	1.19	5,059	3.00%	30	15	$100,000	$100,000	15	30	3.00%	5,059	1.24	0.5%
CASH FLOW DEBT / GRANTS															
Housing Authority of the City of El Paso		1.24	1.19					$1,500,000	$1,500,000					1.24	7.8%
				$322,085	**TOTAL DEBT / GRANT SOURCES**			**$6,778,685**	**$6,778,685**	**TOTAL DEBT SERVICE**			**$322,086**		35.3%
NET CASH FLOW		$77,547	$60,883							**NET OPERATING INCOME**		**$399,632**	**$77,546**	**NET CASH FLOW**	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	**DESCRIPTION**	**% Cost**	**Annual Credit**	**Credit Price**	**Amount**	**Amount**	**Credit Price**	**Annual Credit**	**% Cost**	**Annual Credits per Unit**	
PNC	LIHTC Equity	62.0%	$1,355,000	0.88	$11,896,810	$12,158,332	$0.8999	$1,351,061	63.4%	$61,406	
Deferred Developer Fees	Deferred Developer Fees	1.7%	(14% Deferred)		$330,000	$253,454	(11% Deferred)		1.3%	**Total Developer Fee:**	**$2,324,977**
Additional (Excess) Funds Req'd		1.0%			$184,976	$0			0.0%		
TOTAL EQUITY SOURCES		64.7%			$12,411,786	$12,411,786			64.7%	**15-Year Cash Flow:**	**$1,479,225**
TOTAL CAPITALIZATION					**$19,190,471**	**$19,190,471**				**15-Yr Cash Flow after Deferred Fee:**	**$1,225,771**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	**New Const. Rehab**	**Total Costs**			**Total Costs**			**New Const. Rehab**	**Acquisition**	**%**	**$**
Land Acquisition				$3,662 / Unit	$725,000	$725,000	$3,662 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
					$0	$0						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$392,734		$4,164 / Unit	$824,444	$824,444	$4,164 / Unit				0.0%	$0
Site Amenities		$340,896		$1,722 / Unit	$340,896	$340,896	$1,722 / Unit		$340,896		0.0%	$0
Building Costs		$10,521,236	$62.66 /sf	$53,138/Unit	$10,521,236	$10,956,616	$55,336/Unit	$65.26 /sf	$10,956,616		-4.0%	($435,380)
Contingency		$776,586	6.90%	6.90%	$806,374	$806,374	6.65%	6.87%	$776,586		0.0%	$0
Contractor's Fees		$1,680,794	13.97%	13.97%	$1,745,265	$1,745,265	13.50%	13.92%	$1,680,794		0.0%	$0
Soft Costs	0	$586,100		$3,516 / Unit	$696,100	$696,100	$3,516 / Unit		$586,100	$0	0.0%	$0
Developer's Fees	$0	$2,255,000	15.00%	15.00%	$2,325,000	$2,324,977	14.59%	14.95%	$2,255,000	$0	0.0%	$23
Financing	0	$740,000		$4,092 / Unit	$810,180	$810,180	$4,092 / Unit		$740,000	$0	0.0%	$0
Reserves				$2,000 / Unit	$396,000	$396,000	$2,000 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$17,293,345**		$96,922 / Unit	**$19,190,495**	**$19,625,852**	$99,120 / Unit		**$17,335,992**	**$0**	**-2.2%**	**($435,357)**
Acquisition Cost	$0				$0							
Contingency		$0										
Contractor's Fee		$0										
Interim Interest		$0										
Developer's Fee	$0	$0			($23)							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$17,293,345**		$96,922/unit	**$19,190,471**	**$19,625,852**	$99,120/unit		**$17,335,992**	**$0**	**-2.2%**	**($435,380)**
TOTAL UNDERWRITTEN COSTS (Applicant's Uses are within 5% of TDHCA Estimate):					**$19,190,471**							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Tays, El Paso, 9% HTC #14130

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$17,293,345	$0	$17,335,992
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$17,293,345	$0	$17,335,992
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$22,481,349	$0	$22,536,790
Applicable Fraction		74.75%		74.75%
TOTAL QUALIFIED BASIS	$0	$16,804,241	$0	$16,845,681
Applicable Percentage	0.00%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON BASIS	$0	$1,351,061	$0	$1,354,393
CREDITS ON QUALIFIED BASIS	$1,351,061		$1,354,393	

CALCULATION BASED ON APPLICANT BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$1,351,061	$12,158,332
Gap	$1,379,225	$12,411,786
Applicant Request	$1,355,000	$12,193,780

FINAL ANNUAL LIHTC ALLOCATION

Method	Eligible Basis	Variance to Request
Credits	**$1,351,061**	($3,939)
Total Equity Proceeds		
$12,158,332		($35,448)

Development Cost/SF

	Application	Underwritten
Acquisition & Hard Costs	84.80	91.71
Hard Costs	84.80	87.39
Building Costs	62.66	65.26
Total Points Claimed:		0

BUILDING COST ESTIMATE

CATEGORY		FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Garden (Up to 4-story)		167,900 SF	$62.03	10,414,595
Adjustments					
Exterior Wall Finish		0.00%		0.00	$0
		0.00%		0.00	0
9 ft. ceilings		3.00%		1.86	312,438
Roofing				(0.25)	(41,975)
Subfloor				(0.12)	(19,588)
Floor Cover				6.20	1,041,316
Breezeways		$25.64	21,490	3.28	551,048
Balconies		$25.56	15,011	2.29	383,674
Plumbing Fixtures		$940	276	1.55	259,440
Rough-ins		$465	396	1.10	184,140
Built-In Appliances		$1,750	198	2.06	346,500
Exterior Stairs		$2,125	14	0.18	29,750
Heating/Cooling				2.06	345,874
Enclosed Corridors		$45.82	0	0.00	0
Carports		$11.30	39,800	2.68	449,740
Garages			0	0.00	0
Comm &/or Aux Bldgs		$81.22	3,630	1.76	294,827
Elevators			0	0.00	0
Other:				0.00	0
Fire Sprinklers			0	0.00	0
SUBTOTAL				**86.67**	**14,551,779**
Current Cost Multiplier		1.02		1.73	291,036
Local Multiplier		0.87		(11.27)	(1,891,731)
TOTAL BUILDING COSTS				**77.14**	**$12,951,083**
Plans, specs, survey, bldg permits		3.90%		(3.01)	($505,092)
Contractor's OH & Profit		11.50%		(8.87)	(1,489,375)
NET BUILDING COSTS			$55,336/unit	$65.26/sf	$10,956,616

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities

Real Estate Analysis Division
Underwriting Report
July 23, 2014

DEVELOPMENT IDENTIFICATION

TDHCA Application #: **14130** Program(s): **9% HTC**

Tays

Address/Location: 2114 Magoffin Ave (SEC of San Antonio Ave and Eucalyptus St)

City: El Paso County: El Paso Zip: 79901

Population: General Program Set-Aside: At-Risk Area: Urban
Activity: New Construction Building Type: Garden (Up to 4-story) Region: 13

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

	REQUEST				RECOMMENDATION				
TDHCA Program	**Amount**	**Interest Rate**	**Amort**	**Term**	**Amount**	**Interest Rate**	**Amort**	**Term**	**Lien**
LIHTC (Annual)	$1,322,000				**$1,322,000**				

CONDITIONS

1 Receipt and acceptance by Commitment:

a: Firm commitment from HACEP to provide $1.5M in the form of a grant with no expectation of repayment.

b: Firm commitment from El Paso HFC a for $3.0M loan with minimum 15-year term, minimum 30-year amortization, and maximum 3% interest rate, specifying all terms and conditions including payment terms, and specifying any income or rent restrictions that will be imposed by this funding.

c: Firm commitment from City of El Paso for $100K HOME/CDBG loan with minimum 15-year term, minimum 30-year amortization, and maximum 3% interest rate, specifying all terms and conditions including payment terms, and specifying any income or rent restrictions that will be imposed by this funding.

2 Receipt and acceptance by Carryover:

Certification of the property tax exemption status of the property from El Paso CAD

3 Receipt and acceptance by 10% test:

a: Documentation of HUD approval of RAD rents as represented in the Application.

4 Receipt and acceptance by Cost Certification:

a: Certification from a tax attorney confirming that the source of the $1.5Mgrant is not federal funds for the purpose of IRC§42 (and therefore does not need to be deducted from eligible basis).

b: Certification of the property tax exemption status of the property from El Paso CAD.

c Documentation clearing environmental issues contained in the ESA report, specifically:

i: Further assessment of the site in connection with the identified RECs to evaluate whether chemicals of concern (COCs) above the Texas Commission on Environmental Quality (TCEQ) cleanup levels are present at the site.

ii: Any recommendations regarding testing for identification of asbestos-containing materials, lead-based paint, and lead in water were followed, and, if found, that appropriate abatement procedures were followed for the demolition, removal and/or elimination of any such materials or identified sources.

5 Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	16
50% of AMI	50% of AMI	32
60% of AMI	60% of AMI	100

DEAL SUMMARY

Tays is a public housing development comprised of 359 units that were constructed in approximately 1941. The application is in the At-Risk set aside and is a Section 8 development utilizing the RAD program. 73% of the Subject units will be LIHTC financed using RAD rents and the remaining 27% will remain mixed financed and will continue to be supported by public housing operating subsidy. The Subject Application proposes the re-development of a small portion (5.555 acres) of the larger Tays development. The existing 81 units on the 5.555 acre tract will be demolished initially and replaced with 198 units. The remaining 117 will be demolished once the residents have been relocated to the new units. This will be a one to one replacement of demolished to constructed units. Because the Applicant will be building a larger number of units than currently exists on the 5.555 site, it is considered New Construction; however, this would still be considered an At-Risk development because the additional units being constructed on the site will be demolished elsewhere.

RISK PROFILE

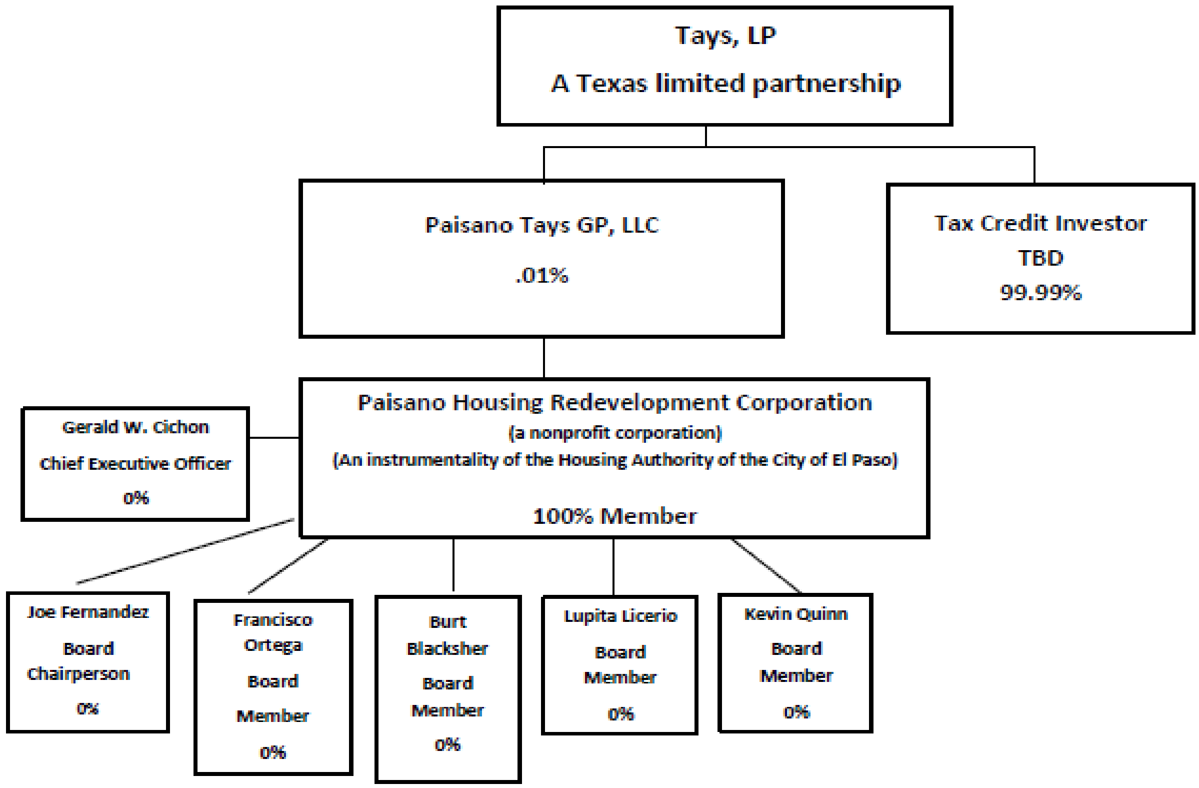
STRENGTHS/MITIGATING FACTORS	WEAKNESSES/RISKS
▫ The Housing Authority of the City of El Paso is providing a $1.5M grant	▫ Development is dependent on Housing Authority of the City of El Paso $1.5M grant
▫ Development will be receiving Public Housing Operating Subsidies on 54 units	▫ Feasibility is dependent on Public Housing Operating Subsidies
▫ 144 units converting to RAD program	▫ Dependent on approval and successful implementation of new RAD program
▫ Developer has extensive HTC experience	▫

DEVELOPMENT TEAM

PRIMARY CONTACTS

Name:	Juan Olvera	Name:	Alyssa Carpenter
Phone:	(915) 849-3813	Phone:	(512) 789-1295
Relationship:	GP/Developer	Relationship:	Consultant

OWNERSHIP STRUCTURE



- The Applicant and Developer are related entities.

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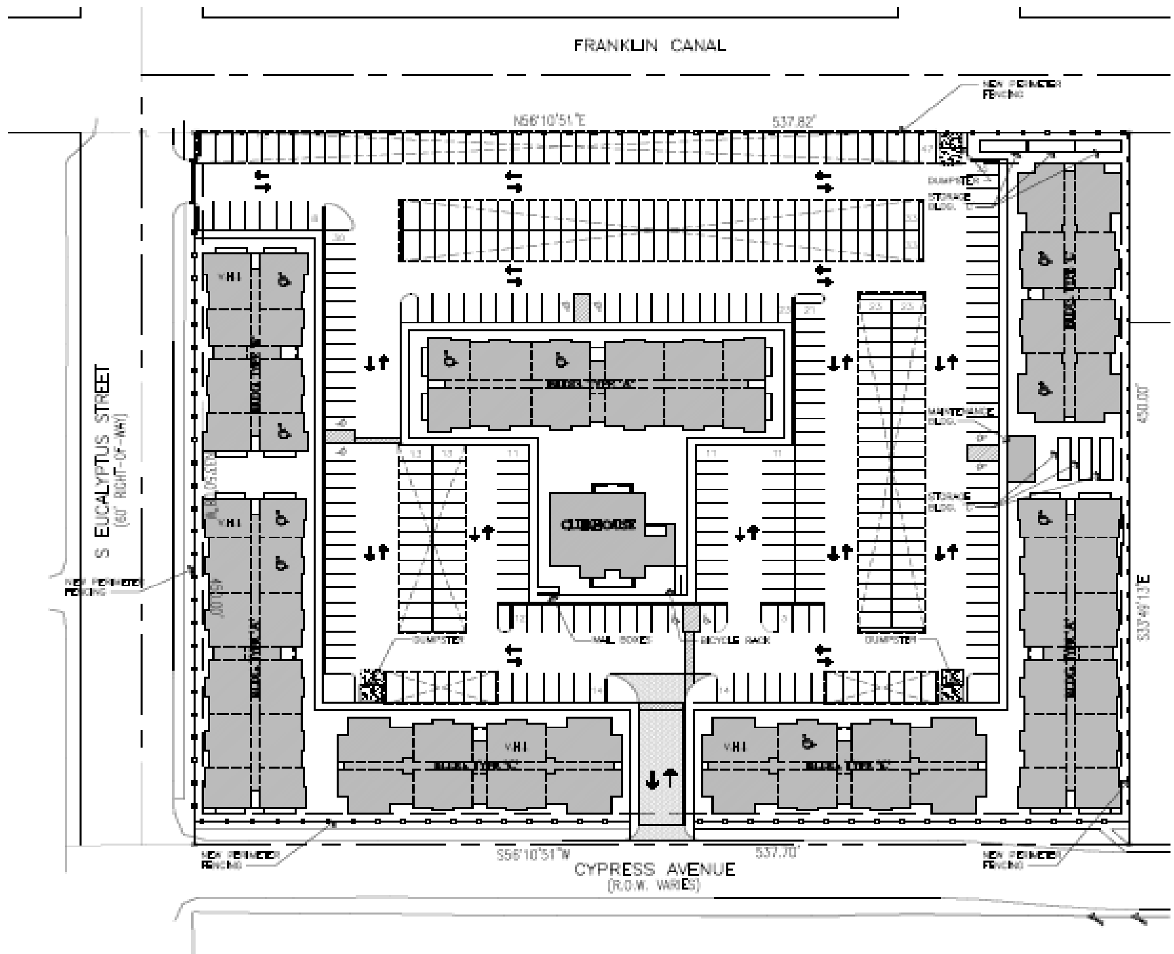
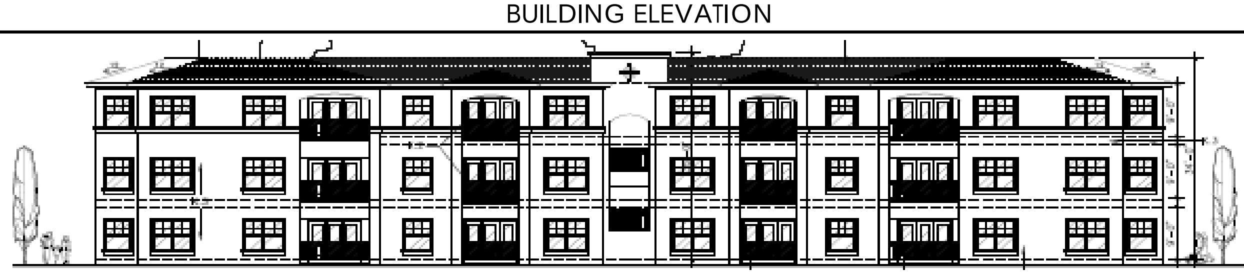
DEVELOPMENT SUMMARY

SITE PLAN



Parking	No Fee		Tenant-Paid		Total	
Open Surface	180	*0.9/unit*	0	--	180	*0.9/unit*
Carport	199	*1.0/unit*	0	--	199	*1.0/unit*
Total Parking	**379**	*1.9/unit*	**0**	--	**379**	*1.9/unit*

BUILDING ELEVATION



BUILDING CONFIGURATION

Building Type	A	B	C										Total Buildings
Floors/Stories	3	3	3										
Number of Bldgs	3	1	3										7
Units per Bldg	36	18	24										
Total Units	108	18	72										**198**
												Net Rentable SF	**167,900**
												Common Area SF	**3,630**

GENERAL INFORMATION

Total Size:	5.56 acres	Scattered Site?	No
Flood Zone:	Zone C	Within 100-yr floodplain?	No
Zoning:	A-3	Re-Zoning Required?	No
Density:	35.6 units/acre	Utilities at Site?	Yes
Year Constructed:	1941	Title Issues?	No
Free Parking Ratio:	1.9/unit		

Surrounding Uses:

North: E. San Antonio Ave, Nixon Way, residential and commercial development
East: Walnut St, S. Piedras St, vacant warehouse residential and commercial development
South: Cypress Ave & residential development
West: S. Eucalyptus, Douglass Elementary School, residential and commercial development

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: AMEC Environmental & Infrastructure Date: 2/14/2014

Recognized Environmental Conditions (RECs) and Other Concerns:

- "The "Lincoln Garage" facility was identified as being located at 2100 Magoffin Avenue. This location corresponds to the north side of the site. The facility appears to have operated as an auto service business from as early as 1925 to at least 1940. Based on the limited information obtained, it could not be determined what operations were performed at the Lincoln Garage facility. It is likely that this facility could have been a filling station with USTs, a mechanic shop, or some other auto related operation. Based on this data gap and that the facility being locate on the site itself, it is considered a REC."

  Based on the historical information reviewed for this assessment, there are several adjoining properties of concern which may pose an environmental concern to the site. Many of the identified service stations, filling stations and dry cleaners facilities are historic in nature and therefore, lack the regulatory documentation which is necessary to evaluate their potential to impact the site. This lack of documentation constitutes significant data gaps. Based on these data gaps and that the close proximity of these facilities to the site, these facilities are considered RECs.

  AMEC recommends further assessment of the site in connection with the above mentioned RECs to evaluate whether chemicals of concern (COCs) above the Texas Commission on Environmental Quality (TCEQ) cleanup levels are present at the site.

- "...unless a current compressive asbestos survey is available of the structures to be affected by renovation or demolition activities, one would need to be performed at the subject site. The asbestos survey must be performed in accordance with Texas Department of State Health Services (TDSHS) asbestos requirements for public buildings."

- "...unless a current survey is available, an LBP survey of the structures to be affected by renovation or demolition activities would need to be performed at the subject site. The LBP survey must be performed by individuals licensed by the TDSHS in accordance with US Housing and Urban Development (HUD) standards."
- "...unless a current lead in drinking water survey is available, the drinking water would need to be sampled via testing at the subject site. The drinking water testing must be done in accordance with current EPA or HUD standards."

MARKET ANALYSIS

Provider: Valbridge Property Advisors   Date: 3/24/2014

Contact: Tim N. Treadway   Phone: 713.467.5858

Primary Market Area (PMA): 26 sq. miles   3 mile equivalent radius

The PMA covers five zip codes in south central El Paso City.

ELIGIBLE HOUSEHOLDS BY INCOME								
El Paso County Income Limits								
HH	30% of AMI		40% of AMI		50% of AMI		60% of AMI	
size	min	max	min	max	min	max	min	max
1	$0	$10,560	---	---	$10,560	$17,600	---	---
2	$0	$12,060	---	---	$12,060	$20,100	$20,100	$24,120
3	$0	$13,560	---	---	$13,560	$22,600	$22,600	$27,120
4	$0	$15,060	---	---	$15,060	$25,100	$25,100	$30,120
5	$0	$16,290	---	---	$16,290	$27,150	$27,150	$32,580
6	---	---	---	---	---	---	---	---

Primary Market Occupancy Rates:

Rent-restricted developments are 98% occupied. The 81 units which will initially be demolished are at 96% occupancy.

Comments:

73% of the units will be covered by a RAD voucher contract, and 27% will remain public housing. All households below the maximum income level are eligible tenants. This results in Gross Demand for 14,374 units, and a Gross Capture Rate of 1.4% for the development's 198 rentable units.

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (TDHCA's Pro forma)					
NOI:	$399,632	Avg. Rent:	$416	Expense Ratio:	62.9%
Debt Service:	$322,086	B/E Rent:	$380	Controllable Expenses:	$2,407
Net Cash Flow:	$77,546	UW Occupancy:	92.5%	Property Taxes/Unit:	$262
Aggregate DCR:	1.24	B/E Occupancy:	85.0%	Program Rent Year:	2014

Fifty-four units will continue to be public housing-assisted. These units are supported by an Annual Contributions Contract with HUD. Tenants pay up to 30% of household income toward rent, and HUD provides a subsidy up to the operating expenses for the units.

Total income from the public housing units should be equal to the operating expenses for those units. Applicant's rent schedule shows rents of $202/$222/$242 for the PHU's, but the Applicant's pro forma indicates $268/unit average operating expense. Total income is therefore understated. The Underwriter's pro forma assumes $100 average tenant rent, and calculates an operating subsidy that covers the difference between the tenant rent and the average operating expenses for all the PHU's. As a result, the Underwriter's Effective Gross Income is $59K higher.

The remaining 144 units will operate under HUD's new Rental Assistance Demonstration (RAD) program, allowing the conversion of these public housing units to long-term project-based Section 8 contracts.

The pro forma indicates minimal operating risk, with break-even rent that is $36 below the average collected rent (7% lower). Break-even occupancy of 85% allows for 29 vacant units.

Applicant has several current applications. 14127 Haymon Krupp and 14129 Westfall Baines propose similar structures to the subject, with 27% Public Housing and 73% RAD. Underwritten operating expenses at the subject ($3,423/unit) are comparable to Westfall ($3,413/unit) & 14128 Sherman Plaza ($3,500/unit).

Applicant's total operating expenses ($635K) are 6% lower than underwriting estimate ($678K), and Applicant's NOI is 3% lower ($383K vs. $400K). As a result, the underwriting analysis is based on the Underwriter's pro forma.

Applicant's pro forma assumes a 50% tax exemption. However, the Applicant's attorneys believe there is a strong case that the property will be eligible for further tax exemption (up to 100%) since the landlord is the Housing Authority. With a full tax exemption debt coverage would increase to 1.32x; no adjustment to the tax credit allocation would be warranted.

ACQUISITION INFORMATION

APPRAISED VALUE

Appraiser: Wilkinson, Pendergras & Beard, LP

Date: 2/13/2014

Land as Vacant: 5.56 acres $725,000 Per Unit: 3661.616162

SITE CONTROL

Type: Ground Lease

Acreage: 5.55

Acquisition Cost: $725,000

Contract Expiration: N/A

Cost Per Unit: $3,662

Seller: Housing Authority of the City of El Paso

Related-Party Seller/Identity of Interest: Yes

Comments:

Ground Lease: $100 per yr for 75 yrs. The lease rate is to be $725K to reflect the appraised value of the land. It is to be paid in a single installment at the closing of the partnership.

Applicant reports the property was acquired in 1941, 1951, and 1972, and the total book value of the land is $209,964. A 3% rate of return would support a value greater than the $725K appraised value. The property will be capitalized on the books of the new partnership at the appraised value. It should also be noted the Housing Authority is providing a $1.5M grant to the partnership. So the net cash transfer for the related party acquisition is $775K

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	$130,631/ac	$3,662/unit	**$725,000**	Contractor Fee	**$1,745,265**
Off-site + Site Work		$5,886/unit	**$1,165,340**	Developer Fee	**$2,300,000**
Building Cost	$62.66/sf	$53,138/unit	**$10,521,236**	Soft Cost	**$1,346,280**
Contingency	6.90%	$4,073/unit	**$806,374**	Reserves	**$396,000**
Total Development Cost	$95,987/unit	**$19,005,495**		**Rehabilitation Cost**	**N/A**

Qualified for 30% Basis Boost?	Located in QCT

Building Cost:

Seven typical garden-style 3-story buildings with some differentiating features. REA costing consistent on the average with AIA schedule of values of Eastside Crossing, a comparable property currently under construction (adjusted for specifications including building mix, unit sizes and economies of scale).

Applicant's building costs are 4% or $435K lower than the REA estimate.

Comments:

Eastside Crossing is a similar development recently completed by the same developer. For the subject development (Tays), Applicant's cost per unit ($53K) is 8% lower than the actual contract cost for Eastside Crossing ($56K). Applicant explains that they are building more units (198 vs. 188 at Eastside) in less space (168K sf vs. 185K sf at Eastside). Per unit cost is lower due to smaller units, but cost per square foot is 7.3% higher ($62.66 psf compared to $58.39).

But Applicant's cost estimates are not consistent. Applicant has another application in the current cycle (14128 Sherman Plaza) that is essentially the same as Sherman Plaza - exact same number of units, exact same units sizes, and exact same net rentable area. But the Applicant's proposed cost for Sherman is $2 psf and $2,000 per unit lower than their estimates for Tays. The proposed costs for Tays are closer to the documented actual costs for Eastside. But the Underwriter's estimates are higher, they are consistent between Sherman and Tays, and they are consistent with the actual cost at Eastside.

Applicant's total development cost ($19.0M) is 2.2% lower than the underwriting estimate ($19.4M), and based on the comparison to Eastside Crossing the Underwriter believes the Applicant's cost is too low. But the Applicant's total cost is within 5%, so per REA guidelines, the recommended financing is based on the Applicant's cost schedule.

If actual cost matches the Underwriter's estimate, the long-term pro forma indicates sufficient cash flow such that the additional cost can be accounted for by additional deferred developer fee.

Applicant states that fire sprinklers are not required by local building code, so the cost for sprinklers was not included in the underwriting estimate.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
$19,005,495	**$17,103,345**	**$1,336,217**

UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
PNC	Conventional Loan	$2,178,685	4.00%	14%
City of El Paso HFC	Loan	$3,000,000	3.00%	19%
City of El Paso	Loan	$100,000	3.00%	1%
PNC	Bridge Loan	$6,506,842	4.00%	41%
PNC	HTC	$2,379,362	$0.90	15%
Housing Authority of the City of El Paso	Grant	$1,500,000		9%
Deferred Developer Fee	Fee	$330,000		2%
		$15,994,889	**Total Sources**	

Comments:

PNC construction / bridge loan at LIBOR + 250 basis points, underwritten at 4.00%.

PERMANENT SOURCES

Debt Source	PROPOSED Amount	PROPOSED Interest Rate	PROPOSED Amort	PROPOSED Term	UNDERWRITTEN Amount	UNDERWRITTEN Interest Rate	UNDERWRITTEN Amort	UNDERWRITTEN Term	UNDERWRITTEN LTC
PNC	$2,178,685	6.50%	30	15	$2,178,685	6.50%	30	15	11%
City of El Paso HFC	$3,000,000	3.00%	30	15	$3,000,000	3.00%	30	15	16%
City of El Paso	$100,000	3.00%	30	15	$100,000	3.00%	30	15	1%
HACEP	$1,500,000	Grant			$1,500,000	Grant			8%
Total	**$6,778,685**				**$6,778,685**				

Equity & Deferred Fees	PROPOSED Amount	PROPOSED Rate	PROPOSED % Def	UNDERWRITTEN Amount	UNDERWRITTEN Rate	UNDERWRITTEN % TC	UNDERWRITTEN % Def
PNC	$11,896,810	$0.90		$11,896,810	$0.90	63%	
Deferred Developer Fees	$330,000		14%	$330,000		2%	14%
Total	**$12,226,810**			**$12,226,810**			
				$19,005,495	**Total Sources**		

Comments:

All else equal, the credit price could increase to $0.92 before the allocation would be limited by the need for funds; the price could fall to $0.83 and the project would remain feasible.

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CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	$19,005,495
Permanent Sources	$6,778,685
Gap in Permanent Financing	$12,226,810

Possible Tax Credit Allocations:	**Equity Proceeds**	**Annual Credits**
Determined by Eligible Basis	$12,024,750	$1,336,217
Needed to Fill Gap in Financing	$12,226,810	$1,358,670
Requested by Applicant	$11,896,810	$1,322,000

RECOMMENDATION:					
	Amount	**Rate**	**Amort**	**Term**	**Lien**
	Equity Proceeds	**Annual Credits**			
Tax Credit Allocation	**$11,896,810**	**$1,322,000**			
Deferred Developer Fee	**$330,000**				
Repayable in	**4 years**				

Comments:

Credit allocation is limited to $1,322,000 as requested by the Applicant. Eligible cost would have supported an additional $14K in credits and $128K in additional equity.

Underwriter: *Diamond Unique Thompson*

Manager of Real Estate Analysis: *Thomas Cavanagh*

Director of Real Estate Analysis: *Brent Stewart*

UNIT MIX/RENT SCHEDULE

Tays, El Paso, 9% HTC #14130

LOCATION DATA

CITY:	El Paso
COUNTY:	El Paso
PROGRAM REGION:	13
PIS Date:	On or After 2/1/2014
IREM REGION:	El Paso

UNIT DISTRIBUTION

# Beds	# Units	% Total
Eff	-	0.0%
1	40	20.2%
2	120	60.6%
3	38	19.2%
4	-	0.0%
TOTAL	**198**	**100.0%**

Income	# Units	% Total
30%	16	8.1%
40%	-	0.0%
50%	32	16.2%
60%	100	50.5%
MR	-	0.0%
TOTAL	**198**	**100.0%**

PHA	54	27%
RAD	144	73%

Applicable Programs

9% Housing Tax Credits

Pro Forma ASSUMPTIONS

Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	74.75%
APP % Acquisition	3.42%
APP % Construction	8.04%
Average Unit Size	848 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		PHA & RAD	UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	**Gross Rent**	**Type**	**# Units**	**# Beds**	**# Baths**	**NRA**	**Gross Rent**	**Utility Allow**	**Max Net Program Rent**	**Delta to Max**	**Rent psf**	**Net Rent per Unit**	**Total Monthly Rent**	**Total Monthly Rent**	**Rent per Unit**	**Rent psf**	**Delta to Max**	**Underwritten**		**Mrkt Analyst**
		PHA	33	1	1	650	$100	$0	$100	$102	$0.31	$202	**$6,666**	**$3,300**	$100	$0.15	$0	$810	$1.25	810
TC 30%	$282	RAD	2	1	1	650	$402	$0	$402	$0	$0.62	$402	**$804**	**$804**	$402	$0.62	$0	$810	$1.25	810
TC 50%	$471	RAD	5	1	1	650	$402	$0	$402	$0	$0.62	$402	**$2,010**	**$2,010**	$402	$0.62	$0	$810	$1.25	810
		PHA	13	2	2	850	$100	$0	$100	$122	$0.26	$222	**$2,886**	**$1,300**	$100	$0.12	$0	$810	$0.95	810
TC 30%	$339	RAD	10	2	2	850	$478	$0	$478	$0	$0.56	$478	**$4,780**	**$4,780**	$478	$0.56	$0	$950	$1.12	950
TC 50%	$565	RAD	23	2	2	850	$478	$0	$478	$0	$0.56	$478	**$10,994**	**$10,994**	$478	$0.56	$0	$950	$1.12	950
TC 60%	$678	RAD	74	2	2	850	$478	$0	$478	$0	$0.56	$478	**$35,372**	**$35,372**	$478	$0.56	$0	$950	$1.12	950
		PHA	4	3	2	1,050	$100	$0	$100	$142	$0.23	$242	**$968**	**$400**	$100	$0.10	$0	$950	$0.90	950
TC 30%	$391	PHA	4	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$2,744**	**$2,744**	$686	$0.65	$0	$1,120	$1.07	1120
TC 50%	$653	RAD	4	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$2,744**	**$2,744**	$686	$0.65	$0	$1,120	$1.07	1120
TC 60%	$783	RAD	26	3	2	1,050	$686	$0	$686	$0	$0.65	$686	**$17,836**	**$17,836**	$686	$0.65	$0	$1,120	$1.07	1120
TOTALS/AVERAGES:			**198**			**167,900**				**$28**	**$0.52**	**$443**	**$87,804**	**$82,284**	**$416**	**$0.49**	**$0**	**$942**	**$1.11**	**$1.11**

ANNUAL POTENTIAL GROSS RENT:	**$1,053,648**	**$987,408**	

STABILIZED PRO FORMA

Tays, El Paso, 9% HTC #14130

	STABILIZED FIRST YEAR PRO FORMA												
	COMPARABLES			APPLICANT				TDHCA				VARIANCE	
	Database		Other	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	$
POTENTIAL GROSS RENT					$0.52	$443	$1,053,648	$987,408	$416	$0.49		6.7%	$66,240
late, application, pet fees, retained sec. dep.						$20.00	$47,520						
interest income, vending						$0.00	$0						
						$0.00	$0						
Total Secondary Income						$20.00		$47,520	$20.00			0.0%	$0
POTENTIAL GROSS INCOME			**$ -**				$1,101,168	$1,034,928				6.4%	$66,240
Vacancy & Collection Loss						7.5% PGI	(82,588)	(77,620)	7.5% PGI			6.4%	(4,968)
Non-Rental Units/Concessions							-	$120,029				-100.0%	(120,029)
EFFECTIVE GROSS INCOME			**$ -**				$1,018,580	$1,077,337				-5.5%	($58,757)
General & Administrative	$60,623	$306/Unit	74,654	6.19%	$0.38	$318	$63,000	$60,623	$306	$0.36	5.63%	3.9%	2,377
Management	$73,277	5.7% EGI	56,498	5.00%	$0.30	$257	$50,929	$53,867	$272	$0.32	5.00%	-5.5%	(2,938)
Payroll & Payroll Tax	$237,607	$1,200/Unit	180,407	18.19%	$1.10	$936	$185,263	$185,263	$936	$1.10	17.20%	0.0%	-
Repairs & Maintenance	$70,179	$354/Unit	63,202	7.56%	$0.46	$389	$77,000	$108,900	$550	$0.65	10.11%	-29.3%	(31,900)
Electric/Gas	$59,931	$303/Unit	39,514	3.44%	$0.21	$177	$35,000	$39,514	$200	$0.24	3.67%	-11.4%	(4,514)
Water, Sewer, & Trash	$68,245	$345/Unit	82,280	8.44%	$0.51	$434	$86,000	$82,280	$416	$0.49	7.64%	4.5%	3,720
Property Insurance	$40,782	$0.24 /sf	32,407	2.95%	$0.18	$152	$30,000	$30,000	$152	$0.18	2.78%	0.0%	-
Property Tax 2.6853	$101,071	$510/Unit	113,884	4.42%	$0.27	$227	$45,000	$51,839	$262	$0.31	4.81%	-13.2%	(6,839)
Reserve for Replacements	$47,562	$240/Unit	30,944	4.86%	$0.29	$250	$49,500	$49,500	$250	$0.29	4.59%	0.0%	-
Supportive services			-	0.00%	$0.00	$0	$0	$0	$0	$0.00	0.00%	0.0%	-
TDHCA Compliance fees			4,752	0.58%	$0.04	$30	$5,920	$7,920	$40	$0.05	0.74%	-25.3%	(2,000)
Security			36,025	0.79%	$0.05	$40	$8,000	$8,000	$40	$0.05	0.74%	0.0%	-
TOTAL EXPENSES			**$727,418**	**62.40%**	**$3.79**	**$3,210**	**$ 635,612**	**$ 677,705**	**$3,423**	**$4.04**	**62.91%**	**-6.2%**	**$ (42,093)**
NET OPERATING INCOME ("NOI")				**37.60%**	**$2.28**	**$1,934**	**$382,968**	**$399,632**	**$2,018**	**$2.38**	**37.09%**	**-4.2%**	**$ (16,664)**
CONTROLLABLE EXPENSES		$2,508/Unit	$2,223/Unit			$2,254/Unit			$2,407/Unit				

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Tays, El Paso, 9% HTC #14130

DEBT / GRANT SOURCES

		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
		Cumulative DCR												Cumulative	
DEBT (Must Pay)	**MIP**	**UW**	**App**	**Pmt**	**Rate**	**Amort**	**Term**	**Principal**	**Principal**	**Term**	**Amort**	**Rate**	**Pmt**	**DCR**	**LTC**
PNC		2.42	2.32	165,249	6.50%	30	15	$2,178,685	$2,178,685	15	30	6.50%	165,249	2.42	11.5%
City of El Paso HFC		1.26	1.21	151,777	3.00%	30	15	$3,000,000	$3,000,000	15	30	3.00%	151,777	1.26	15.8%
City of El Paso		1.24	1.19	5,059	3.00%	30	15	$100,000	$100,000	15	30	3.00%	5,059	1.24	0.5%
CASH FLOW DEBT / GRANTS															
Housing Authority of the City of El Paso		1.24	1.19					$1,500,000	$1,500,000					1.24	7.9%
				$322,085	**TOTAL DEBT / GRANT SOURCES**			**$6,778,685**	**$6,778,685**		**TOTAL DEBT SERVICE**		**$322,086**		35.7%
NET CASH FLOW		$77,547	$60,883								**NET OPERATING INCOME**	**$399,632**	**$77,546**	**NET CASH FLOW**	

EQUITY SOURCES

	APPLICANT'S PROPOSED EQUITY STRUCTURE					AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	**DESCRIPTION**	**% Cost**	**Annual Credit**	**Credit Price**	**Amount**	**Amount**	**Credit Price**	**Annual Credit**	**% Cost**	**Annual Credits per Unit**	
PNC	LIHTC Equity	62.6%	$1,322,000	0.90	$11,896,810	$11,896,810	$0.8999	$1,322,000	62.6%	$60,085	
Deferred Developer Fees	Deferred Developer Fees	1.7%	(14% Deferred)		$330,000	$330,000	(14% Deferred)		1.7%	**Total Developer Fee:**	**$2,300,000**
Additional (Excess) Funds Req'd		0.0%			($0)	($0)			0.0%		
TOTAL EQUITY SOURCES		64.3%			$12,226,810	$12,226,810			64.3%	**15-Year Cash Flow:**	**$1,479,225**
TOTAL CAPITALIZATION					**$19,005,495**	**$19,005,495**				**15-Yr Cash Flow after Deferred Fee:**	**$1,149,225**

DEVELOPMENT COST / ITEMIZED BASIS

	APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis								Eligible Basis			
	Acquisition	**New Const. Rehab**	**Total Costs**			**Total Costs**			**New Const. Rehab**	**Acquisition**	**%**	**$**
Land Acquisition				$3,662 / Unit	$725,000	$725,000	$3,662 / Unit				0.0%	$0
Building Acquisition	$0			$ / Unit	$0	$0	$ / Unit			$0	0.0%	$0
					$0	$0						$0
Off-Sites				$ / Unit	$0	$0	$ / Unit				0.0%	$0
Site Work		$392,734		$4,164 / Unit	$824,444	$824,444	$4,164 / Unit				0.0%	$0
Site Amenities		$340,896		$1,722 / Unit	$340,896	$340,896	$1,722 / Unit		$340,896		0.0%	$0
Building Costs		$10,521,236	$62.66 /sf	$53,138/Unit	$10,521,236	$10,956,616	$55,336/Unit	$65.26 /sf	$10,956,616		-4.0%	($435,380)
Contingency		$776,586	6.90%	6.90%	$806,374	$806,374	6.65%	6.87%	$776,586		0.0%	$0
Contractor's Fees		$1,680,794	13.97%	13.97%	$1,745,265	$1,745,265	13.50%	13.92%	$1,680,794		0.0%	$0
Soft Costs	0	$586,100		$3,516 / Unit	$696,100	$696,100	$3,516 / Unit		$586,100	$0	0.0%	$0
Developer's Fees	$0	$2,225,000	14.95%	14.99%	$2,300,000	$2,300,000	14.58%	14.91%	$2,225,000	$0	0.0%	$0
Financing	0	$580,000		$3,284 / Unit	$650,180	$650,180	$3,284 / Unit		$580,000	$0	0.0%	$0
Reserves				$2,000 / Unit	$396,000	$396,000	$2,000 / Unit				0.0%	$0
UNADJUSTED BASIS / COST	**$0**	**$17,103,345**		$95,987 / Unit	**$19,005,495**	**$19,440,875**	$98,186 / Unit		**$17,145,992**	**$0**	**-2.2%**	**($435,380)**
Acquisition Cost	$0				$0							
Contingency		$0										
Contractor's Fee		$0										
Interim Interest		$0										
Developer's Fee	$0	$0			$0							
Reserves					$0							
ADJUSTED BASIS / COST	**$0**	**$17,103,345**		$95,987/unit	**$19,005,495**	**$19,440,875**	$98,186/unit		**$17,145,992**	**$0**	**-2.2%**	**($435,380)**

TOTAL UNDERWRITTEN COSTS (Applicant's Uses are within 5% of TDHCA Estimate): **$19,005,495**

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

Tays, El Paso, 9% HTC #14130

CREDIT CALCULATION ON QUALIFIED BASIS

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	$0	$17,103,345	$0	$17,145,992
Deduction of Federal Grants	$0	$0	$0	$0
TOTAL ELIGIBLE BASIS	$0	$17,103,345	$0	$17,145,992
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	$0	$22,234,349	$0	$22,289,790
Applicable Fraction	74.75%	74.75%	74.75%	74.75%
TOTAL QUALIFIED BASIS	$0	$16,619,614	$0	$16,661,055
Applicable Percentage	0.00%	8.04%	3.42%	8.04%
ANNUAL CREDIT ON BASIS	$0	$1,336,217	$0	$1,339,549
CREDITS ON QUALIFIED BASIS	$1,336,217		$1,339,549	

CALCULATION BASED ON APPLICANT BASIS

Method	Annual Credits	Proceeds
Eligible Basis	$1,336,217	$12,024,750
Gap	$1,358,670	$12,226,810
Applicant Request	$1,322,000	$11,896,810

FINAL ANNUAL LIHTC ALLOCATION

Method	Applicant Request	Variance to Request
Credits	$1,322,000	$0
Total Equity Proceeds		
	$11,896,810	$0

Development Cost/SF

	Application	Underwritten
Acquisition & Hard Costs	84.80	91.71
Hard Costs	84.80	87.39
Building Costs	62.66	65.26
Total Points Claimed:		0

BUILDING COST ESTIMATE

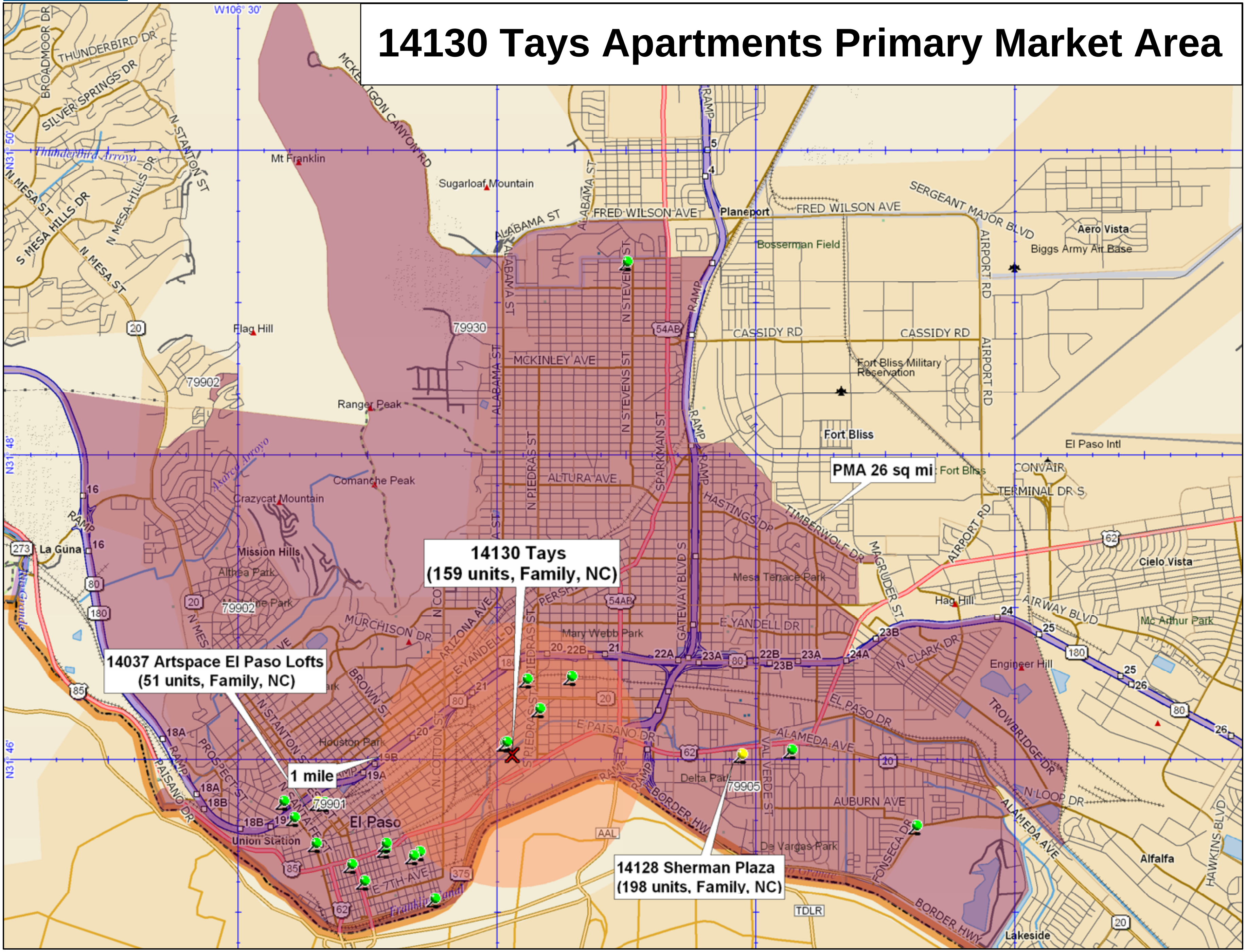
CATEGORY		FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Garden (Up to 4-story)		167,900 SF	$62.03	10,414,595
Adjustments					
Exterior Wall Finish		0.00%		0.00	$0
		0.00%		0.00	0
9 ft. ceilings		3.00%		1.86	312,438
Roofing				(0.25)	(41,975)
Subfloor				(0.12)	(19,588)
Floor Cover				6.20	1,041,316
Breezeways		$25.64	21,490	3.28	551,048
Balconies		$25.56	15,011	2.29	383,674
Plumbing Fixtures		$940	276	1.55	259,440
Rough-ins		$465	396	1.10	184,140
Built-In Appliances		$1,750	198	2.06	346,500
Exterior Stairs		$2,125	14	0.18	29,750
Heating/Cooling				2.06	345,874
Enclosed Corridors		$45.82	0	0.00	0
Carports		$11.30	39,800	2.68	449,740
Garages			0	0.00	0
Comm &/or Aux Bldgs		$81.22	3,630	1.76	294,827
Elevators			0	0.00	0
Other:				0.00	0
Fire Sprinklers			0	0.00	0
SUBTOTAL				**86.67**	**14,551,779**
Current Cost Multiplier		1.02		1.73	291,036
Local Multiplier		0.87		(11.27)	(1,891,731)
TOTAL BUILDING COSTS				**77.14**	**$12,951,083**
Plans, specs, survey, bldg permits		3.90%		(3.01)	($505,092)
Contractor's OH & Profit		11.50%		(8.87)	(1,489,375)
NET BUILDING COSTS			$55,336/unit	$65.26/sf	$10,956,616

30-Year Long-Term Pro Forma

Tays, El Paso, 9% HTC #14130

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	$1,077,337	$1,100,609	$1,124,397	$1,148,715	$1,173,574	$1,306,436	$1,454,833	$1,620,653	$1,806,026	$2,013,352
TOTAL EXPENSES	3.00%	$677,705	$697,583	$718,049	$739,120	$760,814	$879,289	$1,016,352	$1,174,936	$1,358,435	$1,570,782
NET OPERATING INCOME ("NOI")		$399,632	$403,025	$406,348	$409,595	$412,761	$427,147	$438,480	$445,717	$447,591	$442,569
MUST -PAY DEBT SERVICE											
PNC		$165,249	$165,249	$165,249	$165,249	$165,249	$165,249	$165,249	$165,249	$165,249	$165,249
City of El Paso HFC		$151,777	$151,777	$151,777	$151,777	$151,777	$151,777	$151,777	$151,777	$151,777	$151,777
City of El Paso		$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059	$5,059
TOTAL DEBT SERVICE		$322,086	$322,086	$322,086	$322,086	$322,086	$322,086	$322,086	$322,086	$322,086	$322,086
NET CASH FLOW		$77,546	$80,939	$84,262	$87,509	$90,675	$105,061	$116,395	$123,631	$125,505	$120,483
CUMULATIVE NET CASH FLOW		$77,546	$158,485	$242,747	$330,257	$420,931	$918,503	$1,479,225	$2,084,781	$2,710,989	$3,326,550
DEBT COVERAGE RATIO		1.24	1.25	1.26	1.27	1.28	1.33	1.36	1.38	1.39	1.37
EXPENSE/INCOME RATIO		62.9%	63.4%	63.9%	64.3%	64.8%	67.3%	69.9%	72.5%	75.2%	78.0%
Deferred Developer Fee Balance		$252,453	$171,514	$87,252	$0	$0	$0	$0	$0	$0	$0
Residual Cash Flow		0	0	0	257	90,675	105,061	116,395	123,631	125,505	120,483

14130 Tays Apartments Primary Market Area



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14130 Tays

Scale 1 : 62,500
1" = 5,208.3 ft
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EXECUTIVE SESSION