

BOARD MEETING OF DECEMBER 18, 2014

J. Paul Ozer, Chair
Juan Muñoz, Vice-Chair



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING**

**A G E N D A
9:30 AM**

December 18, 2014

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

CALL TO ORDER

OATH OF OFFICE BY JUSTICE JEFF ROSE

NEW BOARD MEMBERS

T. Tolbert Chisum

J. B. Goodwin

ROLL CALL

J. Paul Ozer, 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.

Recognition of J. Mark McWatters and Robert Thomas, former Board members.

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

LEGAL

- a) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Gateway Apartments (HTC 94093 / CMTS 1246)
- b) Presentation, Discussion and Possible Action regarding a Report to Board concerning administrative penalties and initiation of a consolidated contested case hearing for:
 - Amistad Apartments (HTC 0008 / CMTS 0026)
 - Padre de Vida Apartments (HTC 03002 / CMTS 3314)
 - Rio de Vida Apartments (HTC 03035 / CMTS 3341)
 - Vida Que Canta Apartments (HTC 05092 / CMTS 4257)

Jeff Pender
Deputy General Counsel

RULES

- c) Presentation, Discussion, and Possible Action regarding an order adopting the amendments to 10 TAC Chapter 10, Subchapter F, §10.601(b) concerning Compliance Monitoring Objectives and Applicability; §10.607 concerning Reporting Requirements; §10.609(5) concerning Notices to the Department; §10.612, concerning Tenant File Requirements; §10.613 concerning Lease Requirements; §10.614 concerning Utility Allowances; §10.618 concerning Onsite Monitoring; §10.620(b) concerning Monitoring for Non-Profit Participation or HUB Participation; and, §10.624 concerning Events of Noncompliance, and adoption of the repeal of 10 TAC §10.610, concerning Tenant Selection Criteria; and, §10.617, concerning Affirmative Marketing Requirements, and adoption of new 10 TAC §10.610, concerning Tenant Selection Criteria; and, §10.617, concerning Affirmative Marketing Requirements, and directing their publication in the *Texas Register*
- d) Presentation, Discussion, and Possible Action regarding proposed amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of Texas Low Income Housing Plan and Annual Report and directing their publication for public comment in the *Texas Register*
- e) Presentation, Discussion, and Possible Action regarding an order adopting the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules, and an order adopting the new 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules and directing their publication in the *Texas Register*

Stephanie Naquin
Dir., MF Compliance

Elizabeth Yevich
Dir., Housing Resource Ctr.

Jean Latsha
Dir., Multifamily Finance

ASSET MANAGEMENT

- f) Presentation, Discussion, and Possible Action regarding Housing Tax Credit Application Amendments
11406 Chatham Green Village Arlington

Tom Gouris
DED, Asset Analysis and
Mgmt

OFFICE OF COLONIA INITIATIVES

- g) Presentation, Discussion, and Possible Approval of a Memorandum of Understanding (“MOU”) between the Texas Department of Housing and Community Affairs and the Texas Department of Agriculture regarding the management of Community Development Block Grant (“CDBG”) funds for the Colonia Self-Help Center (“CSHC”) Program

Homero Cabello
Dir., Office of Colonia
Initiatives

HOUSING RESOURCE CENTER

- h) Presentation, Discussion, and Possible Action regarding the 2015-2019 State of Texas Consolidated Plan
- i) Presentation, Discussion, and Possible Action regarding, approving the draft 2015 State of Texas Low Income Housing Plan and Annual Report, to be published in the *Texas Register* for public comment

Elizabeth Yevich
Dir., Housing Resource Ctr.

SECTION 811 PRA PROGRAM

- j) Presentation, Discussion, and Possible Action regarding Authority to Award a contract to one or more responsive bidders generated from a previously authorized Request for Proposal that provides assistance for the Section 811 Project Rental Assistance (“PRA”) Program’s responsibilities related to the HUD required Tenant Rental Assistance Certification System (“TRACS”)

Brooke Boston
DED of SF, CA and
Metrics

SECTION 8 HOUSING PROGRAM

- k) Presentation, Discussion, and Possible Action regarding the 2015 Section 8 Payment Standards for Housing Choice Voucher Program (“HCVP”)

Brooke Boston
DED of SF, CA and
Metrics

HOME PROGRAM

- l) Presentation, Discussion and Possible Action regarding authorization of the issuance of a 2014 HOME Program Notice of Funding Availability (“NOFA”) for the Single Family Development Program and publication of the NOFA in the *Texas Register*

Brooke Boston
DED of SF, CA and
Metrics

BOND FINANCE

- m) Presentation, Discussion, and Possible Action regarding Resolution No. 15-006 authorizing a Mortgage Credit Certificate Program (“MCC”) for first-time homebuyers (“Program 83”) along with related program documents to be administered by the Texas Department of Housing and Community Affairs
- n) Presentation, Discussion, and Possible Action regarding Resolution No. 15-007 authorizing application to the Texas Bond Review Board for reservation of the 2014 single family private activity bond authority carry forward from the Unencumbered State Ceiling

Monica Galuski
Director, Bond Finance

TEXAS HOMEOWNERSHIP PROGRAM

- o) Presentation, Discussion, and Possible Action regarding Resolution No. 15-008 authorizing programmatic changes to the To Be Announced (“TBA”) Single Family Taxable Mortgage Program (“TMP-79”)

Eric Pike
Dir., Texas
Homeownership Div.

COMMUNITY AFFAIRS

- p) Presentation, Discussion, and Possible Action regarding Program Year 2014 Department of Energy Weatherization Assistance Program Awards
- q) Presentation, Discussion, and Possible Action regarding Program Year 2015 Low-Income Home Energy Assistance Program Awards
- r) Presentation, Discussion, and Possible Action regarding Program Year 2015 Community Services Block Grant Awards
- s) Presentation, Discussion, and Possible Action regarding Award of Recaptured State Fiscal Year (“SFY”) 2014 Homeless Housing and Services Program Funds
- t) Presentation, Discussion, and Possible Action regarding State Fiscal Year (“SFY”) 2015 Homeless Housing and Services Program Awards

Michael DeYoung
Director of Community
Affairs

MULTIFAMILY FINANCE

- u) Presentation, Discussion, and Possible Action regarding Determination Notices for Housing Tax Credits with other Issuers

Jean Latsha
Dir., Multifamily Finance

14404	Park at Cliff Creek	Dallas
14408	Fairmount Crossing	Dallas
14415	THF Palladium Midland	Midland

- v) Presentation, Discussion, and Possible Action regarding Inducement Resolution No. 15-009 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for Private Activity Bond Authority - 2015 Waiting List

14608	Chisolm Trace Apartments	San Antonio
14609	Cheyenne Village Apartments	San Antonio

REPORT ITEMS

The Board accepts the following reports:

1. TDHCA Outreach Activities for November
2. Executive Report of Multifamily Program Amendments, Extensions, and Ownership Transfers
3. Report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the Housing Trust Fund

Michael Lyttle
Chief of External Affairs

Tom Gouris
DED, Asset Analysis and Mgmt

David Cervantes
Chief Financial Officer

ACTION ITEMS

ITEM 2: MULTIFAMILY FINANCE

- a) Presentation, Discussion, and Possible Action Regarding the Issuance of Multifamily Housing Revenue Bonds with TDHCA as the Issuer, Resolution No. 15-010 and a Determination Notice of Housing Tax Credits for Patriot's Crossing Apartments
- b) Presentation, Discussion, and Possible Action regarding the Sufficiency of a Letter Submitted to meet a Condition of a Housing Tax Credit Award for Application #14130, Tays, El Paso

Jean Latsha
Dir., Multifamily Finance

ITEM 3: WAIVERS

Presentation, Discussion, and Possible Action regarding Waiver of §11.8(a)(2) of the Qualified Allocation Plan related to Pre-Application Requirements (Competitive HTC Only) in order to comply with statutory requirements

Jean Latsha
Dir., Multifamily Finance

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):

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, including the appointment of the Director of Internal Audit
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, and pending before the Supreme Court of the United States
 - b) *McCardell v. HUD et al.*
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.

J. Paul Oxer
Chairman

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 Elena Peinado, (512) 475-3814, 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 Elena Peinado al siguiente número (512) 475-3814 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

CONSENT AGENDA

1a

BOARD ACTION REQUEST

LEGAL DIVISION

DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning Gateway Apartments (HTC 94093 / CMTS 1246)

RECOMMENDED ACTION

WHEREAS, Gateway Apartments (“Property”), owned by Austin Gateway, Ltd., a Texas limited partnership (“Owner”), has a history of not timely resolving compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on September 23, 2014, an owner representative met with the Administrative Penalty Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$500.00, to be forgiven provided that all reporting and Uniform Physical Condition Standards (“UPCS”) findings are resolved on or before December 1, 2014;

WHEREAS, delinquent Annual Owners Compliance Reports for 2012 and 2013 have now been submitted in full;

WHEREAS, corrective documentation to resolve compliance findings discovered during the 2012 UPCS inspection have now been submitted in full;

WHEREAS, although all findings indicated above have been resolved, an Agreed Final Order remains appropriate, for purposes of TEX. GOV'T CODE § 2306.042(b)(2), to document the violations that accrued upon failure to timely correct undisputed compliance findings; 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 an administrative penalty of \$500, subject to forgiveness, for noncompliance at Gateway Apartments (HTC 94093 / CMTS 1246), 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

Austin Gateway, Ltd., owner of Gateway Apartments (the "Property"), a low income apartment complex comprised of 12 units located in Austin, Travis County. The Property is subject to a Land Use Restriction Agreement ("LURA") effective as of March 6, 1997, in consideration for an allocation of Housing Tax Credits in the amount of \$25,404.00.

Compliance violations that were not timely resolved and that were considered for an administrative penalty include:

1. 2012 UPCS inspection was performed December 6, 2012, and a corrective deadline was set for April 16, 2013. Acceptable corrective documentation was submitted on September 22, 2014, 564 days after the deadline and two days before the informal conference;
2. 2012 Annual Owner's Compliance Report was due on April 30, 2013, and, at the time of the informal conference, Part B remained outstanding. The final part was submitted on September 24, 2014, 512 days past the deadline; and
3. 2013 Annual Owner's Compliance Report was due on April 30, 2014, and was not submitted in full until September 22, 2014, the day before the informal conference and 145 days past the deadline.

A representative of the owner met with the Administrative Penalty Committee on September 23, 2014, and agreed to sign an Agreed Final Order with the following terms:

1. A \$500.00 administrative penalty, to be fully forgiven if the following requirements are completed on or before December 1, 2014;
2. Owner to watch Annual Owner's Compliance Report Webinar online;
3. 2012 UPCS Findings to be fully resolved. Work orders had been received on September 22, 2014, but had not yet been fully reviewed at the time of the informal conference due to late submission;
4. 2012 Annual Owner's Compliance Report to be submitted in full;
5. 2013 Annual Owner's Compliance Report to be submitted in full; and
6. Quarterly Vacancy Reports to be submitted for reporting periods April 10, 2013, through July 10, 2014.

All findings were resolved within a day of the informal conference and the associated administrative penalty is recommended to be forgiven as a result, but an Agreed Final Order remains appropriate in this case in order to document the above violations that accrued upon failure to timely correct undisputed compliance findings.

Consistent with direction from the Department's Administrative Penalty Committee, a forgivable administrative penalty in the amount of \$500.00 is recommended for Gateway Apartments, Ltd. with respect to the findings indicated above and further described in the Agreed Final Order.

ENFORCEMENT ACTION AGAINST
AUSTIN GATEWAY, LTD. WITH
RESPECT TO GATEWAY
APARTMENTS (HTC FILE # 94093)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 18th day of December, 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 **AUSTIN GATEWAY, 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. In 1994, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in the amount of \$25,404.00 to acquire and rehabilitate Gateway Apartments ("Property") (HTC file No. 94093 / CMTS No. 1246 / LDLD No. 331).

3. Respondent signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective March 6, 1997, and filed of record at Volume 13041, Page 0323 of the Official Public Records of Real Property of Travis 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 Violations¹:

5. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on December 6, 2012. Inspection reports showed numerous serious property condition violations as indicated at Attachment 1, a violation of 10 TEX. ADMIN. CODE § 60.118 (Property Condition Standards). Notifications of noncompliance were sent and an April 16, 2013, corrective action deadline was set. Partial corrective action was received to resolve exigent health and safety violations but fourteen violations were not corrected before the deadline. Additional work orders resolving those violations were received on September 22, 2014, 564 days after the deadline.
6. On May 1, 2013 and June 10, 2013, TDHCA sent notice that Respondent had failed to timely submit their 2012 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §10.603 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report.

The final parts were submitted on September 24, 2014, 512 days past the deadline.
7. On May 1, 2014 and June 16, 2014, TDHCA sent notice that Respondent had failed to timely submit their 2013 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §10.607 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report.

The final parts were submitted on September 22, 2014, 145 days past the deadline.
8. All findings indicated above have been resolved.
9. An informal conference with the Respondent was held September 23, 2014.

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TEX. ADMIN. CODE, CHAPTERS 10 AND 60 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.

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 § 60.118 in 2012 and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.
5. Respondent violated 10 TEX. ADMIN. CODE § 10.603 in 2013, and 10 TEX. ADMIN. CODE § 10.607 in 2014, by failing to submit Annual Owner's Compliance Reports for the years 2009, 2010, 2011, 2012, and 2013;
6. 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.
7. 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.
8. 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.
9. An administrative penalty of \$500 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 \$500.

IT IS FURTHER ORDERED that Respondent's submission of acceptable corrective action documentation between September 22, 2014 and September 24, 2014, is hereby accepted in lieu of payment of the administrative penalty.

IT IS FURTHER ORDERED that the terms of this Agreed Final Order shall be published on the TDHCA website.

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 Gateway 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:
AUSTIN GATEWAY, LTD.**

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

UPCS Violations

Texas Department of Housing and Community Affairs List of Deficiencies Found

Printed On: January 14, 2013

Inspectable Area	Inspectable Item	Deficiency	5	9	3	Comments
Gateway Apartments 505 Swanee Dr Austin, TX 78752						
Building:						
Unit:						
	Grounds	Overgrown/Penetrating Vegetation			L2	tree is growing onto the roof
	Health & Safety	Hazards - Tripping			L3	sidewalk leading from the parking area to the laundry has a change in height > 3/4"
	Parking/Drives	Potholes/Loose Material			L1	parking area & driveway has loose materials and potholes
Building: Bldg 1						
Unit:						
	Building Systems					
	Domestic Water	Leaking Central Water Supply			L3	water heater by unit 106 has a leaking pipe
	Fire Protection	Missing/Damaged/Expired Extinguishers			L3	fire extinguishers have no tags in units 206 and 201
	Health & Safety					
	Health & Safety	Hazards - Other			L3	other plug cover in laundry is missing/ has no exposed wires
	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels			L3	inside laundry room/ missing a plug cover
	Building Exterior					
	Roofs	Damaged Soffits/Fascia			L1	fascia is peeling on the backside of the bldg and the soffit is water damaged on the front side of the building
Unit: 101						
	Bathroom	Water Closet - Damaged/Clogged/Missing			L2	toilet is leaking water into the bowl
	Kitchen	Range/Stove - Missing/Damaged/Inoperable			L2	left rear burner is missing the control knob
	Smoke Detector	Missing/Inoperable			L3	missing smoke alarm - Fixed Onsite
Unit: 106						
	Bathroom	Water Closet - Damaged/Clogged/Missing			L2	toilet is leaking water into the bowl
	Kitchen	Range Hoods/Exhaust Fans -Excessive Grease/Inoperable			L1	missing filter screen
	Kitchen	Cabinets - Missing/Damaged			L2	missing cabinet door
	Kitchen	Refrigerator-Missing/Damaged/Inoperable			L1	seal damaged
Unit: 201						
	Smoke Detector	Missing/Inoperable			L3	missing - Fixed Onsite
Unit: 206						
	Bathroom	Lavatory Sink - Damaged/Missing			L1	missing stopper
	Doors	Damaged Frames/Threshold/Lintels/Trim			L3	front door/ can see daylight on the side of the door
	Doors	Damaged Hardware/Locks			L2	bedroom door lock does not function as designed

1b

BOARD ACTION REQUEST

LEGAL DIVISION

DECEMBER 18, 2014

Presentation, Discussion and Possible Action on Report to Board concerning administrative penalties and initiation of a consolidated contested case hearing for Amistad Apartments (HTC 0008 / CMTS 0026), Padre de Vida Apartments (HTC 03002 / CMTS 3314), Rio de Vida Apartments (HTC 03035 / CMTS 3341), and Vida Que Canta Apartments (HTC 05092 / CMTS 4257)

RECOMMENDED ACTION

WHEREAS, Staff has recommended to the Executive Director that administrative penalties be assessed against Amistad Apartments in Donna, Hidalgo County, owned by Amistad Apartments, L.P.; Padre de Vida Apartments in McAllen, Hidalgo County, owned by Padre de Vida Apartments, L.P.; Rio de Vida Apartments in Mission, Hidalgo County, owned by Rio De Vida Apartments, L.P.; and Vida Que Canta Apartments in Mission, Hidalgo County, owned by Vida Que Canta Apartments, L.P.

WHEREAS, TEXAS GOV'T CODE §2306.043 and 10 TEX. ADMIN. CODE §1.14(e)(1)¹ require the Executive Director to issue a Report to the Board in order to initiate a contested case hearing at SOAH with respect to an administrative penalty recommendation; and

WHEREAS, consistent with advice from the Committee and the requirements of TEX. GOV'T. CODE §2306.043, the Executive Director presents this Report to the Board;

NOW, therefore, it is hereby

RESOLVED, that the Board accepts the issuance by the Executive Director of a Notice of Report to the Board relating to Amistad Apartments, L.P., Padre de Vida Apartments, L.P., Rio De Vida Apartments, L.P. and Vida Que Canta Apartments, L.P.

¹ References to the procedures at 10 TEX. ADMIN. CODE §1.14 (Administrative Penalties) refer to the version of the code in effect on February 26, 2013, when the Administrative Penalty Committee held an informal conference with Respondent and recommended an administrative penalty. Procedures have since been replaced by 10 TEX. ADMIN. CODE §2 (Enforcement), but the requirements within remain the same for the procedural requirements of a contested case.

BACKGROUND

The following four properties received tax credit allocations from TDHCA for the construction and operation of four apartment complexes located in Hidalgo County:

Property	Owner	Annual HTC Allocation	LURA Effective	# Units
Amistad Apartments	Amistad Apartments, L.P.	\$376,409	2001	76 total units, 75% restricted
Padre de Vida Apartments	Padre de Vida Apartments, L.P.	\$1,025,408	2003	180 units, 100% restricted
Rio de Vida Apartments	Rio De Vida Apartments, L.P.	\$1,004,228	2008	208 units, 84.60% restricted
Vida que Canta Apartments	Vida Que Canta Apartments, L.P.	\$953,820	2006	160 units, 100% restricted

All four properties were determined by staff to be in material noncompliance with the applicable Land Use Restriction Agreements (“LURAs”) and the associated statutory sections and rules, and were referred for an administrative penalty for the following violations, all of which remained unresolved at the time of the February 26, 2013 informal conference:

1. Amistad Apartments:
 - a. 2012 Compliance Fees;
 - b. 2010 Uniform Physical Condition Standards Violations (“UPCS”);
 - c. Household income above limit upon initial occupancy for unit 101;
 - d. No evidence of material participation by a qualified nonprofit;
 - e. Failure to execute required lease provisions; and
 - f. Failure to provide affirmative marketing plan.
2. Padre de Vida Apartments
 - a. No evidence of material participation by a qualified Historically Underutilized Business (“HUB”).
3. Rio de Vida Apartments
 - a. 2012 UPCS violations;
 - b. Household income above limit upon initial occupancy for units 111, 126, 817;
 - c. Failure to maintain or provide tenant income certification and documentation units 113, 121, 215, 217, 414, 421, 425, 426, 428, 511, 514, 521, 523, 616, 625, 627, 628, 1116, 1118, 1213, 1215, 1226, 1313, 1316;

- d. No evidence of material participation by a qualified nonprofit; and
 - e. Failure to provide affirmative marketing plan.
4. Vida que Canta Apartments
- a. 2011 UPCS violations.

Per Committee direction, the Legal Division set a deadline whereby owner representatives could submit corrective documentation in order to avoid attending an administrative penalty informal conference. A large corrective submission was received in response. THDCA staff performed a full review, and found that all of the violations listed above remained unresolved. Examples of problems observed:

1. Work orders indicating that no work had been completed and no parts had been used were submitted as corrective documentation for UPCS violations at Amistad Apartments.
2. Nothing was provided to show material participation of a qualified nonprofit at multiple properties.
3. Documentation submitted with respect to the HUB material participation violation at Padre de Vida included an expired HUB certification.
4. Affirmative marketing plans were submitted, but did not include the required and clearly requested supplemental marketing materials proving that the plan had been implemented.
5. Tenants at multiple properties were not properly screened for all sources of income and assets, and the property managers did not verify all of the sources of income and assets that had been reported.
6. For multiple violations, the owner representative had simply submitted copies of TDHCA compliance monitoring letters, with the word "need" written beside the listed violation, without attaching the document that was needed to address the violation.

An informal conference was held on January 22, 2013, but Respondent did not appear. The informal conference was reset and was attended by Respondent on February 26, 2013. The Committee recommended administrative penalties and training, and set a deadline of June 3, 2013, to submit fully acceptable corrective documentation. All violations were resolved, with the exception of the following violations at Rio de Vida Apartments:

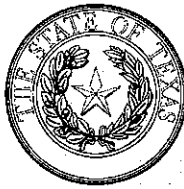
1. Failure to maintain or provide tenant's annual income recertification for unit 217;
2. Failure to maintain or provide tenant's annual income recertification for unit 1118; and
3. Failure to provide evidence of material participation by a qualified nonprofit.

Although Respondent did not object to the penalty recommendation during the administrative penalty informal conference, Respondent later responded by email, indicating that they would not accept the penalty recommendations and that they intended to appeal at the appropriate time. The appropriate appeal at this stage of the administrative penalty process is to proceed with a hearing at SOAH.

The Department is now actively referring contested cases to SOAH and is ready to initiate the formal hearing process for Respondent, as recommended by the Committee and reported to the Board. TDHCA statutes and rules outline the procedure for initiating a contested case:

1. Executive Director issues Report to the Board: Required by TEXAS GOV'T CODE §2306.043 and 10 TEX. ADMIN. CODE §1.14(e)(1).
2. Notice of Report to the Board sent to Owner within 14 days: Required by TEXAS GOV'T CODE §2306.043 and 10 TEX. ADMIN. CODE §1.14(e)(2).
3. Request to Docket with SOAH: Required by 10 TEX. ADMIN. CODE §1.13.

Staff recommends that the administrative penalty amount of \$3,895.00 for Amistad Apartments, \$2,800.00 for Padre de Vida Apartments, \$10,670.00 for Rio de Vida Apartments, and \$0.00 for Vida que Canta Apartments, for a total administrative penalty of \$17,365.00 is appropriate under the penalty matrix that was in place at 10 TEX. ADMIN. CODE §60.309 when the Committee recommended an administrative penalty on February 26, 2013. The administrative penalty is suitable given the five factors identified in TEX. GOV'T. CODE §2306.042, and is an appropriate amount necessary to deter future violations.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

To: TDHCA Governing Board
From: Timothy K. Irvine, Executive Director
Date: December 18, 2014
Subject: Report to the Board

REPORT TO THE BOARD

An administrative penalty informal conference was scheduled with Amistad Apartments, L.P., Padre de Vida Apartments, L.P., Rio De Vida Apartments, L.P., and Vida Que Canta Apartments, L.P. (collectively, "Respondent") for January 22, 2013, but Respondent did not appear and provided no prior notice that they would be unable to attend. The informal conference was reset as a courtesy and held with the Respondent on February 26, 2013. The Administrative Penalty Committee ("Committee") recommended an administrative penalty for the violations indicated in this Report to the Board. Although Respondent did not object to the penalty recommendation during the administrative penalty informal conference, Respondent later responded by email, indicating that they would not accept the penalty recommendation and that they intended to appeal at the appropriate time. The appropriate appeal at this stage of the administrative penalty process is to proceed with a hearing at the State Office of Administrative Hearings ("SOAH").

The Department is now actively referring contested cases to SOAH and is ready to initiate the formal hearing process for Respondent, as recommended by the Committee. In order to do so, TEX. GOV'T. CODE §2306.043 requires that the Executive Director issue a report to the Board stating the facts upon which a determination of violations is based, including any recommendation on the amount of penalty. Therefore, I am issuing this report so that the Department can proceed with the contested case and schedule a hearing with SOAH. I have, in my capacity as Executive Director of the Department, made the following **PRELIMINARY DETERMINATIONS**:

I. JURISDICTION:

1. The Department has personal and subject matter jurisdiction pursuant to TEX. GOV'T. CODE §§ 2306.041 - 2306.0503, TEX. GOV'T. CODE §§ 2306.185, TEX. GOV'T. CODE §§ 2306.261-2306.273, and 10 TEX. ADMIN. CODE¹ §§ 60.101, 10 TEX. ADMIN. CODE §60.108, 10 TEX. ADMIN. CODE §60.110, 10 TEX. ADMIN. CODE §60.111, 10 TEX. ADMIN. CODE §60.114, 10 TEX. ADMIN. CODE § 60.116, 10 TEX. ADMIN. CODE §60.117, and 10 TEX. ADMIN. CODE § 60.118.

¹ All references to 10 TEX. ADMIN. CODE § 60 refer to the versions of the code in effect at the time of the desk reviews or compliance monitoring reviews that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.



2. Amistad Apartments (HTC File No. 00008 / CMTS No. 26 / LDLD No. 324) is a 76-unit apartment complex located in Donna, Hidalgo County, Texas, and owned by Amistad Apartments, L.P. 75% of the units are restricted by a Land Use Restriction Agreement ("Amistad LURA") signed and filed in consideration for an annual allocation of housing tax credits in the amount of \$376,409.00. The Amistad LURA was effective September 30, 2001, and filed of record at Document Number 1025783 of the Official Public Records of Real Property of Hidalgo County, Texas ("Records").
3. Padre de Vida Apartments (HTC File No. 03002 / CMTS No. 3314 / LDLD No. 314) is a 180-unit apartment complex located in McAllen, Hidalgo County, Texas, and owned by Padre de Vida Apartments, L.P. 100% of the units are restricted by a Land Use Restriction Agreement ("Padre LURA") signed and filed in consideration for an annual allocation of housing tax credits in the amount of \$1,025,408. The Padre LURA was effective December 29, 2003, and filed of record at Document Number 1283664 of the Records.
4. Rio de Vida Apartments (HTC File No. 03035/ CMTS No. 3341 / LDLD No. 317) is a 208-unit apartment complex located in Mission, Hidalgo County, Texas, and owned by Rio De Vida Apartments, L.P. 84.60% of the units are restricted by a Land Use Restriction Agreement ("Rio LURA") signed and filed in consideration for an annual allocation of housing tax credits in the amount of \$1,004,228.00. The Rio LURA was effective November 1, 2004, and filed of record at Document Number 1418987 of the Records, as amended by a First Amendment executed on May 22, 2008, and filed at Document Number 1900766 of the Records.
5. Vida que Canta Apartments (HTC File No. 05092/ CMTS No. 4257 / LDLD No. 322) is a 160-unit apartment complex located in Mission, Hidalgo County, Texas, and owned by Vida Que Canta Apartments, L.P. 100% of the units are restricted by a Land Use Restriction Agreement ("Vida LURA") signed and filed in consideration for an annual allocation of housing tax credits in the amount of \$953,820.00. The Vida LURA was effective December 12, 2006, and filed of record at Document Number 1712424 of the Records.

II. COMPLIANCE VIOLATIONS AT AMISTAD APARTMENTS:

1. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on June 10, 2010. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.116 (Property Condition Standard). Notifications of noncompliance were sent and an October 25, 2010, corrective action deadline was set. Partial corrective action was received but 21 violations were not corrected before the deadline. Further corrective documentation was received in response to an administrative penalty informal conference notice, but the following 4 violations remained unresolved for unit 184 because work orders did not meet minimum requirements.

Location / Type	Description	Problem with documentation submitted
Health & Safety	mold/mildew observed	Work order indicates a/c closet was checked, however, mold/mildew was observed in hot water heater closet. Violation uncorrected.
Kitchen	broken / damaged refrigerator seal	Work order indicates "refrigerator working fine-no parts needed". Refrigerator was functioning at the time of inspection, but was

		not functioning as required because of damage to the refrigerator seal. No work was done to refrigerator seal. Violation uncorrected.
Walls	water stains/water damage/mold/mildew	Work order indicates air conditioning closet was checked and there was no damage observed. Damage was in the hot water heater closet. Violation uncorrected.
Windows	deteriorated/missing caulking/seals. foggy/failure requires replacement	Invoice submitted indicates window not installed as of 12-6-10, but the work order indicates completion on 10/20/10 (prior to receipt of window). Violation uncorrected. Window needs to be replaced and documentation must include correct dates.

The Administrative Penalty Committee recommended a penalty and training, and set a deadline of June 3, 2013, to submit fully acceptable corrective documentation. Acceptable documentation was submitted in response to the Committee's deadline and the above violations are considered resolved.

2. An on-site monitoring review was conducted on October 17, 2011, 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 March 29, 2012, corrective action deadline was set, however, the following violations were not fully corrected before the deadline:
 - a. Respondent failed to provide documentation that household income was within prescribed limits upon initial occupancy for unit 101, a violation of 10 TEX. ADMIN. CODE §60.108 (Determination, Documentation and Certification of Annual Income) and the Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. Corrective documentation was received in response to an administrative penalty informal conference notice, but the documentation did not meet minimum requirements and was not accepted.
 - b. Respondent failed to provide evidence of material participation by a qualified nonprofit, a violation of 10 TEX. ADMIN. CODE §60.117 (Monitoring for Non-Profit or HUB Participation) which outlines requirements for material participation, and a violation of Appendix A of the LURA which requires Bozrah International Ministries, Inc. to control the property and materially participate in its operation and development, as defined by Section 469(h) of the Internal Revenue Code.
 - c. Respondent failed to execute required lease provisions or exclude prohibited lease language, a violation of 10 TEX. ADMIN. CODE §60.110 (Lease Requirements), which requires leases to include specific language protecting tenants from eviction without good cause and prohibiting owners from taking certain actions such as locking out or seizing property, or threatening to do so, except by judicial process. Partial corrective documentation was received in response to an administrative penalty informal conference notice, including a signed lease addendum for unit 101 but omitting the required certification indicating that the form had been implemented property-wide.

- d. Respondent failed to provide an affirmative marketing plan, a violation of 10 TEX. ADMIN. CODE §60.114 (Requirements Pertaining to Households with Rental Assistance), which requires developments to approve and distribute an affirmative marketing plan and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. An affirmative marketing plan was received in response to an administrative penalty informal conference notice, but the plan omitted the required marketing materials to prove that the development was carrying out marketing to the disabled.

The Administrative Penalty Committee recommended a penalty and training, and set a deadline of June 3, 2013, to submit fully acceptable corrective documentation. Acceptable documentation was submitted in response to the Committee's deadline and the above violations are considered resolved.

3. On January 1, 2012, TDHCA sent an invoice for annual compliance fees that had come due. The invoice required payment within 30 days. Respondent failed to pay the invoice timely, a violation of Section 7 of the LURA which requires owner to pay an annual compliance fee to the Department in the amount of \$25.00 per unit, for a total of \$1,425.00 per year. A partial fee payment in the amount of \$1,400.00 was submitted late on March 29, 2012, then the final \$25.00 payment was submitted on April 8, 2013, after an informal conference with the Administrative Penalty Committee.
4. An informal conference was held on January 22, 2013, but Respondent did not appear. The informal conference was reset as a courtesy and was attended by Respondent on February 26, 2013. The Administrative Penalty Committee recommended a penalty and training, and set a deadline of June 3, 2013, to submit fully acceptable corrective documentation.
5. All findings indicated above have been resolved.

III. COMPLIANCE VIOLATIONS AT PADRE DE VIDA APARTMENTS:

1. An on-site monitoring review was conducted on April 12, 2011, 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 an August 16, 2011, corrective action deadline was set, however, the following violation was not corrected before the corrective action deadline:
 - b. Respondent failed to provide evidence of material participation by a Historically Underutilized Business ("HUB"), a violation of 10 TEX. ADMIN. CODE §60.117 (Monitoring for Non-Profit or HUB Participation) which outlines requirements for material participation, and a violation of Appendix A of the LURA which requires Charissa Seipp Interiors and Associates to hold an ownership interest in the property and materially participate in its operation and development

The Administrative Penalty Committee recommended a penalty and training, and set a deadline of June 3, 2013, to submit fully acceptable corrective documentation. Acceptable documentation was submitted in response to the Committee's deadline. All of the above violations are considered resolved.

IV. COMPLIANCE VIOLATIONS AT RIO DE VIDA APARTMENTS:

1. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on January 10, 2012. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.118 (Property Condition Standards). Notifications of noncompliance were sent and an April 23, 2012, corrective action deadline was set. Partial corrective action was received but the violations at Exhibit 1 of this Report (Attachment 1 in the Agreed Final order) were not corrected before the deadline.
2. An on-site monitoring review was conducted on October 19, 2011, 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 March 29, 2012, corrective action deadline was set, however, the following violations, as further described in Exhibit 2 of this Report and Attachment 2 of the Agreed Final order, were not fully corrected before the deadline:
 - a. Respondent failed to provide documentation that household income was within prescribed limits upon initial occupancy for units 111, 126, or 817, a violation of 10 TEX. ADMIN. CODE §60.108 (Determination, Documentation and Certification of Annual Income) and the Section 4 of the LURA, which require screening of tenants to ensure qualification for the program.
 - b. Respondent failed to maintain or provide tenant income certification and documentation for units 113, 121, 215, 217, 414, 421, 425, 426, 428, 511, 514, 521, 523, 616, 625, 627, 628, 1116, 1118, 1213, 1215, 1226, 1313, and 1316, a violation of 10 TEX. ADMIN. CODE §60.111 (Annual Recertification), which requires developments to annually collect an Annual Eligibility Certification form from each household.
 - c. Respondent failed to provide evidence of material participation by a qualified nonprofit, a violation of 10 TEX. ADMIN. CODE §60.117 (Monitoring for Non-Profit or HUB Participation) which outlines requirements for material participation, and a violation of Appendix A of the LURA which requires Bozrah International Ministries, Inc. to materially participate as one of the general partners or managing members in the development and operation of the property.
 - d. Respondent failed to provide an affirmative marketing plan, a violation of 10 TEX. ADMIN. CODE §60.114 (Requirements Pertaining to Households with Rental Assistance), which requires developments to approve and distribute an affirmative marketing plan and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled.
3. An informal conference was held on January 22, 2013, but Respondent did not appear. The informal conference was reset as a courtesy and was attended by Respondent on February 26, 2013. The Administrative Penalty Committee recommended a penalty and training, and set a deadline of June 3, 2013, to submit fully acceptable corrective documentation.
4. Partial documentation was submitted in response to the Committee's deadline and the following violations from above remain unresolved at the time of this order:
 - a. Failure to maintain or provide tenant's annual income recertification for unit 217, described at FOF #6b in the Agreed Final Order. Documentation submitted indicated that

a new household occupied the unit on January 9, 2013, but the tenant is not eligible for the program.

- b. Failure to maintain or provide tenant's annual income recertification for unit 1118, described at FOF #6b in the Agreed Final Order . Documentation submitted for this unit actually related to unit 1313. Nothing submitted for unit 1118.
- c. Failure to provide evidence of material participation by a qualified nonprofit, described at FOF #6c. No documentation was provided.

V. COMPLIANCE VIOLATIONS AT VIDA QUE CANTA APARTMENTS:

1. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on June 8, 2011. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.118 (Property Condition Standards). Notifications of noncompliance were sent and an October 25, 2011, corrective action deadline was set. Partial corrective action was received but violations listed at Exhibit 3 of this Report (Attachment 1 of the Agreed Final Order) were not corrected by the deadline.
2. An informal conference was held on January 22, 2013, but Respondent did not appear. The informal conference was reset as a courtesy and was attended by Respondent on February 26, 2013. The Administrative Penalty Committee recommended a penalty and training, and set a deadline of June 3, 2013 to submit fully acceptable corrective documentation.
3. All findings indicated above have been resolved.

VI. LAW/RULE VIOLATIONS:

1. Pursuant to TEX GOV'T CODE §2306, Subchapter DD and TEX GOV'T CODE §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance;
2. 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;
3. Amistad Apartments, L.P. violated:
 - a. 10 TEX. ADMIN. CODE § 60.116 in 2010, and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected;²
 - b. Section 4 of the LURA and 10 TEX. ADMIN. CODE §60.108 in 2011, by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for unit 101;
 - c. 10 TEX. ADMIN. CODE §60.117 and Appendix A of the LURA in 2011, by failing to provide evidence of material participation by a qualified nonprofit;
 - d. 10 TEX. ADMIN. CODE §60.110 in 2011, by failing to execute required lease provisions or exclude prohibited lease language;

² HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.616(a)

- e. Respondent violated 10 TEX. ADMIN. CODE § 60.114 in 2011 by failing to provide an affirmative marketing plan, complete with marketing materials; and
 - f. Respondent violated Section 7 of the LURA by failing to pay required annual compliance fees for 2012.
4. Padre de Vida Apartments, L.P. violated 10 TEX. ADMIN. CODE §60.117 and Appendix A of the LURA in 2011, by failing to provide evidence of material participation by a qualified nonprofit.
 5. Rio De Vida Apartments, L.P. violated:
 - a. 10 TEX. ADMIN. CODE § 60.118 in 2012, and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected;³
 - b. Section 4 of the LURA and 10 TEX. ADMIN. CODE §60.108 in 2011, by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 111, 126, and 817;
 - c. 10 TEX. ADMIN. CODE §60.111 in 2011, by failing to maintain or provide tenant income certification and documentation for units 113, 121, 215, 217, 414, 421, 425, 426, 428, 511, 514, 521, 523, 616, 625, 627, 628, 1116, 1118, 1213, 1215, 1226, 1313, and 1316;
 - d. 10 TEX. ADMIN. CODE §60.117 and Appendix A of the LURA in 2011, by failing to provide evidence of material participation by a qualified nonprofit; and
 - e. 10 TEX. ADMIN. CODE § 60.114 in 2011, by failing to provide an affirmative marketing plan, complete with marketing materials.
 6. Vida Que Canta Apartments, L.P. violated 10 TEX. ADMIN. CODE § 60.118 in 2011 and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.⁴

VII. RECOMMENDED PENALTY:

The total administrative penalty amount of \$17,365.00 is appropriate under the penalty matrix that was in place under 10 TEX. ADMIN. CODE §60.309⁵ when the Committee recommended an administrative penalty on February 26, 2013. The administrative penalty is suitable given the factors identified in TEX. GOV'T. CODE §2306.042, and is an appropriate amount necessary to deter future violations. The total penalty amount includes the following individual administrative penalty for each property:

Property	Administrative Penalty Amount
Amistad Apartments	\$3,895.00

³ HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.616(a)

⁴ HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.616(a)

⁵ Reference to the rules at 10 TEX. ADMIN. CODE § 60, including but not limited to the administrative penalty matrix at 10 TEX. ADMIN. CODE § 60.309 (Penalty Table), refers to the version of the code in place on February 26, 2013, when the Committee recommended an administrative penalty during an administrative penalty informal conference.

Padre de Vida Apartments	\$2,800.00
Rio de Vida Apartments	\$10,670.00
Vida que Canta Apartments	\$0.00

Accordingly, after consideration of the factors set out in TEX. GOV'T CODE 2306.042, 10 TEX. ADMIN. CODE § 60.304 and 10 TEX. ADMIN. CODE § 60.309, I recommend that Respondent correct the outstanding violations outlined above and pay an administrative penalty in the total amount of \$17,365.00, as separated individually by property above.

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Exhibit 1

2012 UPCS Violations – Rio de Vida

(see attached)

**Note – violations with a checkmark or a date beside them were considered corrected at the time of the 2/26/2013 administrative penalty informal conference. All other violations were considered uncorrected.*

**Texas Department of Housing and Community Affairs
List of Deficiencies Found**

Printed On: January 23, 2012

Inspectable Area	Inspectable Item	Deficiency		3	Comments
Rio De Vida Apartments 301 South Inspiration Road Mission, TX 78572					
Building: Unit: TX0303602					
	Fencing and Gates	Damaged/Falling/Leaning		L3	Cyclone exterior fence is damaged at east and south sides, Pedestrian gate/entrance at automatic entry gate did not lock, missing hardware
	Fencing and Gates	Holes		L3	Large hole in exterior fencing at south side
	Grounds	Erosion/Rutting Areas		L2	Soil erosion at NW corner of laundry building and under side walk near gas meter at laundry building.
	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels		L3	Flower bed at front of office has broken landscape lighting at ground level, exposed wires.
Building: Bldg 1					
Unit: TX0303501					
	Mailbox/Signs	Mailbox Missing/Damaged		L3	Several mail boxes are missing front panels
	Market Appeal	Graffiti		L1	Graffiti on play ground equipment.
	Market Appeal	Litter		L2	Cigarette butts and trash in front of unit 1213
Unit: 3510					
	Community Room	Damaged Hardware/Locks		L3	Back exterior double door to pool, self closing latch is broken.
Building: Bldg 10					
	Building Systems	Missing Covers 4-25-12		L3	Damaged/missing plastic main breaker covers near electric meters. Missing exterior outlet cover near panels.
	Electrical System				
	Fire Protection	Missing/Damaged/Expired Extinguishers ✓		L3	Fire extinguishers expired
	Building Exterior	Electrical Hazards - Exposed Wires/Open Panels 4-25-12		L3	Missing inner safety panel at electrical panel at west side, exposed wires
	Health & Safety				
Building: Bldg 10					
	Building Systems	General Rust/Corrosion		L2	Rusted corroded AC cutoff boxes at the west side.
	HVAC				
	Kitchen	Refrigerator-Missing/Damaged/Inoperable		L1	Refrigerator seal at kitchen area is deteriorated.
	Kitchen				
	Building Exterior	Broken Fixtures/Bulbs		L2	Exterior light is broken at south side.
	Lighting	Cracks/Gaps		L2	Open gap at east side, missing dryer vent cover
	Walls				
Unit: Unit 112					
	Doors	Missing Door		L1	Closet door is missing
	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Inusable		L3	Window egress blocked at 1st bedroom
	Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable		L2	Disposer inoperable
	Kitchen	Refrigerator-Missing/Damaged/Inoperable		L1	Replace seal
	Kitchen	Range/Stove - Missing/Damaged/Inoperable		L1	Oven door is damaged does not close properly
	Walls	Needs Paint		L1	Marking on wall
Unit: Unit 115					
	Kitchen	Refrigerator-Missing/Damaged/Inoperable		L1	Replace seal
Building: Bldg 10					
Unit: 3510					
	Building Systems	Missing/Damaged/Expired Extinguishers ✓		L3	Fire extinguishers expired
	Fire Protection				
Building: Bldg 10					
	Building Exterior	Broken Fixtures/Bulbs		L2	Missing exterior light fixture
	Lighting	Stained/Peeling/Needs Paint 4-25-12		L1	Graffiti at wall at backside.
	Walls				
Unit: Unit 1012					
	Doors	Missing Door		L1	Missing master bedroom door.
	Floors	Water Stains/Water Damage/Mold/Mildew		L2	Heavy stains at master bedroom carpet
	Health & Safety	Infestation - Insects ✓		L3	Roaches at kitchen
	Kitchen	Refrigerator-Missing/Damaged/Inoperable		L1	Replace seal
	Outlets/Switches	Missing		L3	Missing outlet cover master bedroom.
Unit: Unit 1026					
	Doors	Damaged Hardware/Locks		L3	Damaged self closing entry door hinge.

**Texas Department of Housing and Community Affairs
List of Deficiencies Found**

Printed On: January 23, 2012

Inspectable Area	Inspectable Item	Deficiency	1	2	3	Comments
3511	Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable	L1			Missing exhaust fan filter
	Building: Bldg 11					
	Unit:					
	Building Systems					
	Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
	Building Exterior					
	Lighting	Broken Fixtures/Bulbs			L2	Missing exterior light fixtures at the west side
	Unit: Unit 1113					
	Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable	L1			Exhaust fan filter is dirty
	Unit: Unit 1127					
Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	Fire egress blocked at 1st bedroom	
Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable	L1			Exhaust filter dirty	
3512	Kitchen	Range/Stove - Missing/Damaged/Inoperable	L1			Oven door did not close
	Outlets/Switches	Missing/Broken Cover Plates	L1			Crack outlet cover at kitchen
	Building: Bldg 12					
	Unit:					
	Building Systems					
	Electrical System	Missing Covers			L3	Missing exterior outlet cover at south side
	Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
	Unit: Unit 1213					
	Floors	Floor Covering Damage			L2	Tile floor damaged at master bedroom
	Outlets/Switches	Missing/Broken Cover Plates	L1			Broken outlet master bedroom
Walls	Needs Paint	L1			Drawing on walls at 2nd bedroom	
Unit: Unit 1223						
Doors	Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.	
Electrical	GFI Inoperable			L3	GFCI at master bath & kitchen failed to trip	
Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1			Replace seal	
Unit: Unit 1224						
Doors	Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.	
Doors	Damaged Frames/Threshold/Intels/Trim			L2	Door frame is damaged at guest bath	
Health & Safety	Infestation - Insects ✓			L3	Roaches at kitchen	
Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1			Replace seal	
Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2			Dishwasher did not work	
3575	Building: Bldg 13					
	Unit:					
	Building Systems					
	Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
	Building Exterior					
	Lighting	Broken Fixtures/Bulbs			L2	Missing exterior light fixtures.
	Roofs	Missing/Damaged Components from Downspout/Gutter			L2	Missing downspout at south side
	Unit: Unit 1317					
	Bathroom	Cabinets - Damaged/Missing	L1			Missing drawer fronts at master bath
	Doors	Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.
Doors	Deteriorated/Missing Seals (Entry Only)			L3	Daylight at back patio door. Bad seal.	
Kitchen	Range/Stove - Missing/Damaged/Inoperable			L3	Oven door missing.	
Kitchen	Cabinets - Missing/Damaged	L2			Missing drawer fronts at kitchen	
Unit: Unit 1326						
Bathroom	Shower/Tub - Damaged/Missing	L2			Missing shower head	
Unit: Unit 1328						
Bathroom	Water Closet - Damaged/Clogged/Missing	L2			Missing both toilet tank lids	
Outlets/Switches	Missing/Broken Cover Plates	L1			Missing cover plates at bedroom #2	
Building: Bldg 14						
Unit:						
Building Systems						
Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired	
Building: Bldg 15						

Texas Department of Housing and Community Affairs
List of Deficiencies Found

Printed On: January 23, 2012

inspectable Area	Inspectible Item	Deficiency	5	9	3	Comments
Unit:	Building Systems					
	Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Building:	Bldg 16					
Unit:	Building Systems					
	Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Building:	Bldg 2					
Unit:	Building Systems					
	Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Building:	Bldg 3					
Unit:	Unit 224					
	Health & Safety	Stained/Peeling/Needs Paint			L1	Graffiti at the east stairwell
Building:	Bldg 3					
Unit:	Unit 312					
	Doors	Hazards - Tripping ✓ 4-25-12			L3	Tripping hazard, TV cable on the ground
Building:	Bldg 4					
Unit:	Unit 312					
	Doors	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Building:	Bldg 4					
Unit:	Unit 328					
	Doors	Damaged/Missing Screens			L1	More than three screens are damaged. (7)
Building:	Bldg 4					
Unit:	Unit 312					
	Doors	Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.
Building:	Bldg 4					
Unit:	Unit 328					
	Doors	Damaged Hardware/Locks			L2	Missing shiker plate at master bedroom door.
Building:	Bldg 4					
Unit:	Unit 312					
	Doors	Range/Stove - Missing/Damaged/Inoperable			L1	Left Rear burner did not function.
Building:	Bldg 4					
Unit:	Unit 328					
	Doors	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Building:	Bldg 4					
Unit:	Unit 312					
	Doors	Broken Fixtures/Bulbs			L2	Damaged exterior light at east side
Building:	Bldg 4					
Unit:	Unit 328					
	Doors	Missing/Damaged Components from			L2	Missing downspout at west side
Building:	Bldg 4					
Unit:	Unit 312					
	Doors	Downspout/Gutter			L2	Missing downspout at west side
Building:	Bldg 5					
Unit:	Unit 424					
	Doors	Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.
Building:	Bldg 5					
Unit:	Unit 517					
	Bathroom	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Building:	Bldg 5					
Unit:	Unit 524					
	Bathroom	Plumbing - Leaking Faucet/Pipes			L1	Shower fixtures loose at wall at guest bath
Building:	Bldg 5					
Unit:	Unit 517					
	Bathroom	GFI Inoperable			L3	GFCI at kitchen failed to trip
Building:	Bldg 5					
Unit:	Unit 524					
	Bathroom	Emergency Fire Exits - Emergency/Fire Exits			L3	Fire egress blocked at master bedroom.
Building:	Bldg 5					
Unit:	Unit 517					
	Bathroom	Blocked/Unusable			L3	Missing toilet tank
Building:	Bldg 5					
Unit:	Unit 524					
	Bathroom	Water Closet - Damaged/Clogged/Missing			L3	Deteriorated back door seat.
Building:	Bldg 5					
Unit:	Unit 517					
	Bathroom	Deteriorated/Missing Seals (Entry Only)			L3	Front door blinds when closed.
Building:	Bldg 5					
Unit:	Unit 524					
	Bathroom	Damaged Frames/Threshold/Lintels/Trim			L2	Damaged self closing entry door hinge.
Building:	Bldg 5					
Unit:	Unit 517					
	Bathroom	Damaged Hardware/Locks			L3	Damaged cabinets at kitchen and bath.
Building:	Bldg 5					
Unit:	Unit 524					
	Bathroom	Cabinets - Missing/Damaged			L3	Missing - Vacant
Building:	Bldg 5					
Unit:	Unit 517					
	Bathroom	Refrigerator-Missing/Damaged/Inoperable			L3	Missing - Vacant
Building:	Bldg 5					
Unit:	Unit 524					
	Bathroom	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Building:	Bldg 5					
Unit:	Unit 517					
	Bathroom	Missing Drain/Cleanout/Manhole Covers			L3	Sewer drain cap damaged at west and south sides.
Building:	Bldg 5					
Unit:	Unit 524					
	Bathroom	Water Closet - Damaged/Clogged/Missing			L2	Missing toilet seat at guest bath
Building:	Bldg 5					
Unit:	Unit 517					
	Bathroom	Damaged Hardware/Locks ✓			L3	Damaged self closing entry door hinge.
Building:	Bldg 5					
Unit:	Unit 524					
	Bathroom	Missing/Inoperable Fixture ✓			L2	Light fixture in master closet hanging from electrical wire

**Texas Department of Housing and Community Affairs
List of Deficiencies Found**

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Inspectable Area	Deficiency	F	S	C	Comments
Unit: Unit 617	Windows Deteriorated/Missing Caulking/Seals			L3	Fogged window at living area
Unit: Unit 617	Doors Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.
Unit: Unit 617	Health & Safety Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	Egress blocked 2nd bedroom
Unit: Unit 618	Doors Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.
Unit: Unit 618	Health & Safety Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	Fire egress blocked at master bedroom
Unit: Unit 618	Kitchen Dishwasher/Garbage Disposal - Damaged/inoperable			L2	Inoperable
Unit: Unit 625	Doors Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.
Unit: Unit 625	Kitchen Dishwasher/Garbage Disposal - Damaged/inoperable			L2	Disposer inoperable
Unit: Unit 625	Kitchen Range/Stove - Missing/Damaged/inoperable			L2	Oven door does not close, missing control knobs at oven
Unit: Unit 628	Bathroom Water Closet - Damaged/Clogged/Missing			L2	Missing toilet tank lid at master bath
Unit: Unit 628	Bathroom Cabinets - Damaged/Missing			L1	Missing drawer fronts at both baths
Unit: Unit 628	Doors Deteriorated/Missing Seals (Entry Only)			L3	Daylight at patio door, need weather stripping.
Unit: Unit 628	Doors Missing Door			L3	Missing doors at both baths and hall closet
Unit: Unit 628	Kitchen Refrigerator-Missing/Damaged/inoperable			L3	Mold in refrigerator, sat for 124 days
Unit: Unit 628	Kitchen Plumbing - Leaking Faucet/Pipes			L3	Missing drain pipes at kitchen sink, not connected
Unit: Unit 628	Outlets/Switches Missing/Broken Cover Plates			L1	Damaged plate 1st bedroom
Building: Bldg 7					
Unit: Building Systems					
Unit: Building Systems	Fire Protection Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Unit: Unit 724	Health & Safety Infestation - Insects ✓			L3	Roaches Kitchen
Unit: Unit 724	Health & Safety Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	Fire egress blocked at bedroom
Building: Bldg 8					
Unit: Walls	Water Stains/Water Damage/Mold/Mildew			L1	Mildew at master bath tub/shower
Unit: Building Systems					
Unit: Building Systems	Electrical System Missing Covers			L3	Missing exterior outlet weather cover at east side
Unit: Building Systems	Fire Protection Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Unit: Unit 813	Health & Safety Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	Fire egress blocked master bedroom
Unit: Unit 813	Health & Safety Infestation - Insects ✓			L3	Roaches in kitchen
Unit: Unit 815	Bathroom Cabinets - Damaged/Missing			L1	Missing drawer fronts at master bath
Unit: Unit 815	Doors Damaged Hardware/Locks			L3	Missing deadbolt lock assembly at patio door.
Unit: Unit 815	Outlets/Switches Missing/Broken Cover Plates			L1	Missing cover plate at kitchen sink
Unit: Unit 824	Housekeeping Housekeeping			L3	Skippers, unit was left full of trash.
Unit: Unit 824	Bathroom Cabinets - Damaged/Missing			L1	Bathroom drawer front damaged/missing
Unit: Unit 824	Bathroom Water Closet - Damaged/Clogged/Missing			L2	Toilet at guest bath runs.
Unit: Unit 824	Doors Missing Door			L1	Bedroom closet door missing.
Unit: Unit 824	Floors Water Stains/Water Damage/Mold/Mildew			L2	Heavy carpet stains at master bedroom.
Unit: Unit 824	Health & Safety Infestation - Insects			L3	Roaches kitchen
Unit: Unit 824	Kitchen Range Hoods/Exhaust Fans -Excessive Grease/Inoperable			L1	Exhaust fan filter is dirty
Unit: Unit 824	Outlets/Switches Missing/Broken Cover Plates			L1	Missing cover at living area
Building: Bldg 9					
Unit: Building Systems					
Unit: Building Systems	Domestic Water Leaking Central Water Supply			L3	Leak at water supply pipes near foundation at North side.

3507

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3509

**Texas Department of Housing and Community Affairs
List of Deficiencies Found**

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Inspectible Area	Deficiency	5	9	3	Comments
Unit: Unit 926	Fire Protection Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Bathroom	Plumbing - Clogged Drains		L1		Master bedroom sink drains slow
Doors	Damaged Hardware/Locks			L3	Damaged self closing entry door hinge.
Doors	Damaged Frames/Threshold/Linte/Trim		L2		Door frame is damaged at the 1st bedroom
Health & Safety	Emergency Fire Exite - Emergency/Fire Exits Blocked/Unusable			L3	Fire egress blocked at master bedroom.
Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable.		L2		Dishwasher and disposer inoperable
Building: Laundry Building					
Unit:					
Building Exterior					
Doors	Damaged Hardware/Locks			L3	Missing hardware lock assembly at front door.
Doors	Damaged Surface (Holes/Paint/Rusting)		L2		Rust at water heater closet door at back side.
Building Systems					
Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	expired fire extinguisher
Building Exterior					
Health & Safety	Hazards - Sharp Edges			L3	Broken glass at back side window
Health & Safety	Electrical Hazards - Exposed Wires/Open Panels			L3	Missing cover plate at exterior outlet near coke machine
Health & Safety	Hazards - Other			L3	Loose exterior outlet at south side
Roofs	Missing/Damaged Components from Downspout/Gutter		L1		Damaged downspout at front corner
Walls	Cracks/Gaps		L2		Front exterior siding damaged due to front door hitting it. Need door stops, add trim and caulk corner.
Windows	Broken/Missing/Cracked Panes			L3	Broken window outer pane
Building: Office/Pool					
Unit:					
Restrooms/Pool Structures					
Doors	Damaged Hardware/Locks 4-05-12			L3	Door latch at womens bath is damaged.
Building Systems					
Fire Protection	Missing/Damaged/Expired Extinguishers ✓			L3	Fire extinguishers expired
Building Exterior					
Health & Safety	Electrical Hazards - Exposed Wires/Open Panels			L3	Exposed wires rusted cover of outlet near downspout and fence north side. Missing Cutoff at AC disconnect south side.
Health & Safety					
Health & Safety	Electrical Hazards - Exposed Wires/Open Panels			L3	Exposed wires at misang exterior light poles around the pool area.
Restrooms/Pool Structures					
Lighting	Missing/Inoperable Fkture			L3	Damaged/missing exterior light poles around pool area, exposed wires. Missing cover or light fixture at wall near pool bathrooms.
Community Room					
Windows	Cracked/Broken/Missing Panes		L1		Cracked window at the north side TV room near NE corner.

Exhibit 2

Instructions regarding file monitoring violations at Rio de Vida Apartments

(see attached)

**Note – corrections must be uploaded to CMTS. See link for upload instructions:
<http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>*



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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December 3, 2014

Writer's direct phone # (512) 475-4603
Email: cody.campbell@tdhca.state.tx.us

Rowan Smith
Rio De Vida Aparments
Houston, Texas
Rowan@texasreg.com

RE: RIO DE VIDA APARTMENTS

CMTS ID: 3341

Dear Mr. Smith:

The Texas Department of Housing and Community Affairs (Department) has received documentation addressing the noncompliance identified during the monitoring review conducted at Rio de Vida Apartments on October 19, 2011. The corrective action deadline ended March 29, 2012. Please note, noncompliance that is corrected but that was not corrected during the applicable corrective action period will be considered for a three (3) year period in future funding decisions. Please see 10TAC §1.5 for additional details. The Department's Administrative Penalties Committee will be updated with the status of this finding. Below is a summary of the status of each finding of noncompliance identified during the monitoring review:

The documents submitted are sufficient to correct the following findings:

- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household:** affecting units 111, 126, and 817
- **Failure to provide Tenant Income Certification and documentation:** affecting units 113, 121, 215, 414, 421, 425, 426, 428, 511, 514, 521, 523, 616, 625, 627, 628, 1116, 1213, 1215, 1226, 1313, and 1316
- **Noncompliance related to Affirmative Marketing Requirements described in 10.617**

The following findings remain uncorrected:

- **No Evidence of, or failure to certify to, material participation of a qualified nonprofit organization as defined in IRC 469 (h)(1)** Property-Wide: No documentation was submitted regarding this finding. No new information was submitted for consideration. Please see attached Detailed Findings Report for appropriate corrective action.
- **Owner failed to correctly complete or document tenant's annual income recertification** Unit 217: Documentation as evidence that a new household occupied the unit on January 9, 2013;



however, the household is not income eligible. To correct, 1) if household's circumstances have changed, the property can perform a new certification using current income and asset sources and current income limits to show eligibility; or, 2) occupy the unit with an eligible household. In either case, submit copies of the current application, income/asset verification(s), Income Certification, Lease/Lease Addendum and Notices.

- **Owner failed to correctly complete or document tenant's annual income recertification** Unit 1118: The certification submitted appears to be for unit 1313. Please see attached Detailed Findings Report for appropriate corrective action for unit 1118.

Section 42 of the Internal Revenue Code requires that the Department report all noncompliance under the Housing Tax Credit (HTC) program to the Internal Revenue Service (IRS), even if the noncompliance is corrected. Enclosed please find a copy of the IRS forms 8823 (Notice of Noncompliance) that has been sent to the IRS reporting the corrected noncompliance for corrected findings.

If you have any questions, please contact Cody Campbell toll free in Texas at (800) 643-8204, directly at (512) 4603, or email: cody.campbell@tdhca.state.tx.us.

Sincerely,



Cody Campbell
Compliance Monitor

Digitally signed by Stephanie
Naquin
Date: 2014.12.03 15:30:29 -06'00'

cc: Ysella Kaseman, Jacki Dills

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
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Property ID # 3341
Property Rio De Vida Apartments
Address 301 South Inspiration Rd, Mission, TX-78572

Last Desk Review Date:
Last Onsite Review Date: 10/19/11
Program(s): LIHTC File # 03035
Occupancy as of 10/03/11

PROGRAM: ALL FILE#

UNIT FINDINGS

Unit # 113	Bldg. # 1	BIN # TX0303501	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	06/25/2011	Current Status Corrected	Correction Date 08/20/2012
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 06/25/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		
Unit # 121	Bldg. # 1	BIN # TX0303501	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	12/04/2010	Current Status Corrected	Correction Date 11/07/2012
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 12/04/2010 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		
Unit # 215	Bldg. # 2	BIN # TX0303502	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	08/08/2011	Current Status Corrected	Correction Date 02/04/2013
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/08/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		

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UNIT FINDINGS

Unit # 217	Bldg. # 2	BIN # TX0303502	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	03/16/2011	Current Status Uncorrected	Correction Date
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 03/16/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		
Unit # 414	Bldg. # 4	BIN # TX0303504	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	08/13/2011	Current Status Corrected	Correction Date 03/20/2013
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/13/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		
Unit # 421	Bldg. # 4	BIN # TX0303504	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	08/08/2011	Current Status Corrected	Correction Date 08/24/2012
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/08/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		

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UNIT FINDINGS

Unit # 425	Bldg. # 4	BIN # TX0303504		
Finding	Failure to provide Tenant Income Certification and documentation			
Noncompliance Date	04/01/2011	Current Status	Corrected	Correction Date 11/25/2011
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 04/01/2011 was not completed.			
Corrective Action				
Potential Administrative Penalty	\$250 per violation			
Unit # 426	Bldg. # 4	BIN # TX0303504		
Finding	Failure to provide Tenant Income Certification and documentation			
Noncompliance Date	04/01/2011	Current Status	Corrected	Correction Date 10/15/2012
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 04/01/2011 was not completed.			
Corrective Action				
Potential Administrative Penalty	\$250 per violation			
Unit # 428	Bldg. # 4	BIN # TX0303504		
Finding	Failure to provide Tenant Income Certification and documentation			
Noncompliance Date	08/06/2011	Current Status	Corrected	Correction Date 12/07/2011
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/06/2011 was not completed.			
Corrective Action				
Potential Administrative Penalty	\$250 per violation			

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UNIT FINDINGS

Unit # 511 **Bldg. # 5** **BIN # TX0303505**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 08/06/2011 **Current Status** Corrected **Correction Date** 03/01/2013
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/06/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

Unit # 514 **Bldg. # 5** **BIN # TX0303505**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 10/15/2011 **Current Status** Corrected **Correction Date** 10/15/2012
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 03/01/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

Unit # 521 **Bldg. # 5** **BIN # TX0303505**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 06/13/2011 **Current Status** Corrected **Correction Date** 07/02/2012
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 06/13/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

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UNIT FINDINGS

Unit # 523	Bldg. # 5	BIN # TX0303505	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	06/24/2011	Current Status Corrected	Correction Date 11/04/2011
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 06/24/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		
Unit # 616	Bldg. # 6	BIN # TX0303506	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	08/26/2011	Current Status Corrected	Correction Date 04/25/2012
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/26/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		
Unit # 625	Bldg. # 6	BIN # TX0303506	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	07/19/2011	Current Status Corrected	Correction Date 08/14/2012
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 07/19/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		

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UNIT FINDINGS

Unit # 627	Bldg. # 6	BIN # TX0303506	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	07/31/2011	Current Status Corrected	Correction Date 11/15/2011
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 07/31/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		
Unit # 628	Bldg. # 6	BIN # TX0303506	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	08/29/2011	Current Status Corrected	Correction Date 04/19/2012
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/29/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		
Unit # 1116	Bldg. # 11	BIN # TX0303511	
Finding	Failure to provide Tenant Income Certification and documentation		
Noncompliance Date	05/30/2011	Current Status Corrected	Correction Date 05/30/2011
Reason	Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 05/30/2011 was not completed.		
Corrective Action			
Potential Administrative Penalty	\$250 per violation		

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UNIT FINDINGS

Unit # 1118 **Bldg. # 11** **BIN # TX0303511**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 08/31/2011 **Current Status** Uncorrected **Correction Date**
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/31/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

Unit # 1213 **Bldg. # 12** **BIN # TX0303512**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 06/28/2011 **Current Status** Corrected **Correction Date** 01/29/2013
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 06/28/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

Unit # 1215 **Bldg. # 12** **BIN # TX0303512**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 08/31/2011 **Current Status** Corrected **Correction Date** 05/01/2013
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/31/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

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UNIT FINDINGS

Unit # 1226 **Bldg. # 12** **BIN # TX0303512**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 09/29/2011 **Current Status** Corrected **Correction Date** 09/19/2012
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 02/05/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

Unit # 1313 **Bldg. # 13** **BIN # TX0303513**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 08/06/2011 **Current Status** Corrected **Correction Date** 03/15/2013
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/06/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

Unit # 1316 **Bldg. # 13** **BIN # TX0303513**
Finding Failure to provide Tenant Income Certification and documentation
Noncompliance Date 08/23/2011 **Current Status** Corrected **Correction Date** 11/27/2012
Reason Mixed income Housing Tax Credit (HTC) Developments must complete an annual income recertification. The recertification due on 08/23/2011 was not completed.
Corrective Action
Potential Administrative Penalty \$250 per violation

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PROGRAM: LIHTC FILE# 03035

PROPERTY FINDINGS

Finding	Noncompliance related to Affirmative Marketing requirements described in 10.617		
Noncompliance Date	10/19/2011	Current Status Corrected - Not Reportable to IRS	Correction Date 05/22/2013
Reason	Title 10 of the Texas Administrative Code §60.114 stipulates that the Affirmative Marketing plan must identify methods to market the property to persons with disabilities, as well as other groups selected on the plan. The day of the monitoring review, there was no documentation of marketing to persons with disabilities. The Development must maintain all marketing material that specifically market to persons with disabilities such as flyers, advertisements and community outreach letters		
Corrective Action	Submit to the Department all marketing material that specifically market to persons with disabilities such as flyers, advertisements and community outreach letters		
Potential Administrative Penalty	\$5 per day per violation		
Finding	No Evidence of, or failure to certify to, material participation of a qualified nonprofit organization as defined in IRC 469 (h)(1)		
Noncompliance Date	10/19/2011	Current Status Uncorrected - Not Reportable to IRS	Correction Date
Reason	In accordance with the Land Use Restriction Agreement, throughout the Compliance Period, a qualified nonprofit organization shall own interest and materially participate in the development and operation of the Project. At the time the LURA was recorded, Bozrah International Ministries was identified to fulfill this requirement. The Department could not determine an ownership interest in the Project or participation in the development and operation of the Project. Bozrah International Ministries is in good standing as a nonprofit but cannot be confirmed with the Secretary of State to hold the required ownership interest as the General Partner in the Project. According to the Secretary of State, the current general partner, Rio De Vida Apartments I, LLC has forfeited existence.		
Corrective Action	Provide documentation to the Department that Bozrah International Ministries links as Managing General Partner of the Development with the Secretary of State as well as provide a narrative on how it maintains regular, continuous, substantial participation and operation in the Development.		
Potential Administrative Penalty	\$5 per day per violation		

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
COMPLIANCE REVIEW
DETAIL FINDINGS AND CORRECTIVE ACTION
By program

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PROGRAM: LIHTC FILE# 03035

Continued

UNIT FINDINGS

Unit # 111	Bldg. # 1	BIN # TX0303501
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	04/20/2011	Current Status Corrected Correction Date 12/01/2011
Reason	The day of the monitoring review, the Income Certification form in the tenant file was not executed by any household members. The Development staff reports that the unit was abandoned in August and is currently vacant.	
Corrective Action	Occupy the unit with an income eligible household and submit to the Department copies of the application, necessary verifications, Income Certification, first and signatory page of the lease along with Affordable Housing Addendum.	
Potential Administrative Penalty	\$1000 per violation	
Unit # 126	Bldg. # 1	BIN # TX0303501
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	05/25/2011	Current Status Corrected Correction Date 02/29/2012
Reason	The day of the monitoring review, the Income Certification form in the tenant file was not executed by any household members.	
Corrective Action	Occupy the unit with an income eligible household and submit to the Department copies of the application, necessary verifications, Income Certification, first and signatory page of the lease along with Affordable Housing Addendum.	
Potential Administrative Penalty	\$1000 per violation	
Unit # 817	Bldg. # 8	BIN # TX0303508
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	06/30/2011	Current Status Corrected Correction Date 10/31/2011
Reason	The day of the monitoring review, the household file was unavailable for review. The Development reports the household has since moved out, but is unable to locate the file.	
Corrective Action	Occupy the unit with an income eligible household and submit to the Department copies of the application, necessary verifications, Income Certification, first and signatory page of the lease along with Affordable Housing Addendum..	
Potential Administrative Penalty	\$1000 per violation	

Exhibit 3

2011 UPCS Violations at Vida que Canta

(see attached)

**Note – Violations with a hand-written date to the left were considered corrected at the time of the 2/26/2013 informal conference with the Administrative Penalty Committee. Violations without a date were considered uncorrected.*

**Texas Department of Housing and Community Affairs
List of Deficiencies Found**

Printed On: July 22, 2011

Inspectable Area	Deficiency	Severity	Comments
Vida Que Canta Apartments 607 S. Inspiration Road Mission, TX 78672			
Building:			
Unit:			
Fencing and Gates	Damaged/Falling/Leaning	L3	pool gate hardware is inoperable
Fencing and Gates	Missing Sections	L3	sections of perimeter fence are laying on the ground
Market Appeal	Graffiti	L1	graffiti on play equipment
Building: Bldg. 1	TX-05-09201		
Unit:			
Building Systems			
Electrical System	Missing Covers	L3	condenser cover panel is not secured
Fire Protection	Missing/Damaged/Expired Extinguishers	L3	fire extinguishers are expired in units: 112, 113 & 121
Building Exterior			
Health & Safety	Electrical Hazards - Exposed Wires/Open Panels	L3	condenser cover panel is not secured
Roofs	Missing/Damaged Components from Downspout/Gutter	L1	missing splash-blocks
Unit: 112			
Bathroom	Shower/Tub - Damaged/Missing	L1	missing tub stoppers in both bathrooms
Ceiling	Holes/Missing Tiles/Panels	L1	hole in ceiling above water heater/ around vent pipe
Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	window blocked in master bedroom
Unit: 113 (sub for unit 114)			
Windows	Inoperable/Not Lockable	L3	window blocked in master bedroom
Unit: 118			
Doors	Damaged Frames/Threshold/Lintels/Trim	L3	back door/ can see daylight on side of the door
Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1	gap between seal and refrigerator
Unit: 121			
Health & Safety	Flammable Materials - Improperly Stored	L3	in oven - Fixed Onsite
Building: Bldg. 2	TX-05-09202		
Unit:			
Building Systems			
Electrical System	Missing Covers	L3	condenser cover panels not secured
Fire Protection	Missing/Damaged/Expired Extinguishers	L3	fire extinguishers are expired in units: 212, 214 & 223
Building Exterior			
Health & Safety	Electrical Hazards - Exposed Wires/Open Panels	L3	condenser cover panels not secured
Windows	Damaged Sills/Frames/Lintels/Trim	L2	brick is broken on window sill for unit 212 compromising weather tightness
Unit: 212			
Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	window is blocked in master bedroom
Windows	Inoperable/Not Lockable	L3	window is blocked in master bedroom
Unit: 214			
Bathroom	Shower/Tub - Damaged/Missing	L1	missing tub stopper
Unit: 223 (sub for unit 224)			
Bathroom	Shower/Tub - Damaged/Missing	L1	missing tub stopper
Building: Bldg. 3	TX-05-09203		
Unit:			
Building Systems			
Electrical System	Missing Covers	L3	condenser cover panels are not secured
Fire Protection	Missing/Damaged/Expired Extinguishers	L3	fire extinguishers are expired in units: 313, 312 & 323
Building Exterior			
Health & Safety	Electrical Hazards - Exposed Wires/Open Panels	L3	condenser cover panels are not secured
Roofs	Missing/Damaged Components from Downspout/Gutter	L1	missing splash-blocks
Unit: 312 (sub for unit 316)			
Kitchen	Dishwasher/Garbage Disposal - Damaged/Inoperable	L2	disposal is inoperable
Unit: 313 (sub for unit 314)			
Doors	Damaged Surface (Holes/Pain/Rusting)	L2	hole in closet door/ behind front door
Unit: 323 (sub for unit 324)			
Bathroom	Shower/Tub - Damaged/Missing	L1	missing stopper
Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	window is blocked in master bedroom - Fixed Onsite

**Texas Department of Housing and Community Affairs
List of Deficiencies Found**

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Inspectable Area	Inspectable Item	Deficiency	5	9	3	Comments
10-19-11	Smoke Detector	Missing/Inoperable			L3	smoke detectors are inoperable
6-9-11	Walls	Damaged	L1			2 holes in wall in hallway
	Windows	Inoperable/Not Lockable			L3	window is blocked in master bedroom - Fixed Onsite
	Building: Bldg. 4					
	Unit:					
	Building Systems					
	Electrical System	Missing Covers			L3	condenser cover panels not secured & missing 2 breaker covers
6-9-11	Fire Protection	Missing/Damaged/Expired Extinguishers			L3	fire extinguishers are expired in units: 424, 425 & 412
	Building Exterior					
	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels			L3	condenser cover panels not secured
	Unit: 412 (sub for unit 426)					
8-24-11	Bathroom	Water Closet - Damaged/Clogged/Missing			L2	water is running in toilet in hall bath
	Unit: 424 (sub for unit 416)					
	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	door knob cover on front door causes emergency fire exit to be unusable
	Unit: 425					
10-17-11	Bathroom	Water Closet - Damaged/Clogged/Missing			L2	water is running in toilet in hall bath
6-9-11	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	window is blocked in 2nd bedroom - Fixed Onsite
	Building: Bldg. 5					
	Unit:					
	Building Systems					
	Electrical System	Missing Covers			L3	condenser cover panels not secured
6-9-11	Fire Protection	Missing/Damaged/Expired Extinguishers			L3	fire extinguishers are expired in units: 511, 512 & 518
	Building Exterior					
	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels			L3	condenser cover panels not secured
	Unit: 511					
10-17-11	Bathroom	Shower/Tub - Damaged/Missing	L1			missing tub stoppers in master bath & hall bath
10-17-11	Doors	Damaged Hardware/Locks			L3	back door deadbolt lock is inoperable & hall bath door lock is inoperable
10-17-11	Smoke Detector	Missing/Inoperable			L3	inoperable by kitchen → 10-5-11
	Unit: 512					
10-17-11	Bathroom	Shower/Tub - Damaged/Missing	L1			missing stopper in master bath
8-24-11	Bathroom	Water Closet - Damaged/Clogged/Missing			L3	toilet is clogged in hall bath
6-8-11	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	window is blocked in 2nd bedroom - Fixed Onsite
	Windows	Inoperable/Not Lockable			L3	window is blocked in 2nd bedroom - Fixed Onsite
	Unit: 518					
10-5-11	Bathroom	Lavatory Sink - Damaged/Missing	L1			missing stopper
	Health & Safety	Flammable Materials - Improperly Stored			L3	in oven
	Building: Bldg. 6					
	Unit:					
	Building Systems					
	Electrical System	Missing Covers			L3	condenser cover panels not secured
6-9-11	Fire Protection	Missing/Damaged/Expired Extinguishers			L3	fire extinguishers are expired in units: 612, 615 & 624
	Building Exterior					
	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels			L3	condenser cover panels not secured
	Roofs	Missing/Damaged Components from Downspout/Gutter	L1			missing splash-blocks
	Unit: 612					
10-4-11	Smoke Detector	Missing/Inoperable			L3	all inoperable
	Unit: 615					
6-9-11	Health & Safety	Hazards - Tripping			L3	cable across walk-way - Fixed Onsite
9-21-11	Kitchen	Range Hoods/Exhaust Fans - Excessive Grease/Inoperable			L3	exhaust fan is inoperable
	Unit: 624					
8-24-11	Bathroom	Water Closet - Damaged/Clogged/Missing			L2	toilet in hall bath is running
	Kitchen	Range/Stove - Missing/Damaged/Inoperable			L2	left front burner is inoperable
	Smoke Detector	Missing/Inoperable			L3	smoke alarms are missing
	Building: Bldg. 7					
	Unit:					

**Texas Department of Housing and Community Affairs
List of Deficiencies Found**

Printed On: July 22, 2011

Inspectable Area Inspectable Item	Deficiency	1	2	3	Comments
6-9-11 Building Systems Electrical System Fire Protection Building Exterior Health & Safety Roofs	Missing Covers Missing/Damaged/Expired Extinguishers			L3 L3	condenser cover panels not secured fire extinguishers are expired in units: 725, 714 & 725
Unit: 714 (sub for unit 723) Health & Safety	Electrical Hazards - Exposed Wires/Open Panels Missing/Damaged Components from Downspout/Gutter		L1		condenser cover panels not secured missing splash-blocks
Unit: 725 (sub for unit 715) Bathroom Electrical Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	windows blocked in master bedroom & in 2nd bedroom
8-24-11 Unit: 726 Bathroom Electrical Health & Safety	Water Closet - Damaged/Clogged/Missing GFI Inoperable Flammable Materials - Improperly Stored		L2		toilet is running in hall bath in hall bath in oven - Fixed Onsite
10-5-11 Unit: 726 Doors Kitchen Building: Bldg. 8 Unit:	Damaged Hardware/Locks Plumbing - Leaking Faucet/Pipes TX-05-09208		L1		back door keyless deadbolt is inoperable kitchen faucet is leaking
6-9-11 Building Systems Fire Protection Building Exterior Roofs Walls	Missing/Damaged/Expired Extinguishers Missing/Damaged Components from Downspout/Gutter Stained/Peeling/Needs Paint		L1 L1		fire extinguishers are expired in units: 822, 816 & 826 missing splash-blocks paint is peeling on trim around 2 doors on patio of unit 826
Unit: 822 (sub for unit 811) 10-5-11 Bathroom Smoke Detector Unit: 828 9-22-11 Bathroom Doors 6-8-11 Health & Safety Building: Bldg. 9 Unit:	Shower/Tub - Damaged/Missing Missing/Inoperable Shower/Tub - Damaged/Missing Damaged Hardware/Locks Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable TX-05-09209		L1 L3 L1 L3 L3		missing stopper in master bath & in hall bath missing smoke detectors missing stopper in hall bath master bath door lock is inoperable window blocked in 2nd bedroom - Fixed Onsite
6-9-11 Building Systems Electrical System Fire Protection Building Exterior Health & Safety Roofs	Missing Covers Missing/Damaged/Expired Extinguishers Electrical Hazards - Exposed Wires/Open Panels Missing/Damaged Components from Downspout/Gutter			L3 L3 L3 L1	electrical box with duplex cover is pulled away from wall/ exposing connections fire extinguishers are expired in units: 912, 922 & 925 electrical box with duplex cover is pulled away from wall/ exposing connections missing splash-blocks
Unit: 912 10-17-11 Doors Health & Safety Unit: 922 10-14-11 Bathroom Doors Electrical Health & Safety Health & Safety 10-14-11 Smoke Detector Windows Unit: 925 (sub for unit 926) 10-17-11 Bathroom Smoke Detector	Damaged Hardware/Locks Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable Inoperable/Not Lockable Shower/Tub - Damaged/Missing Damaged Hardware/Locks Missing Breakers/Fuses Electrical Hazards - Exposed Wires/Open Panels Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable Missing/Inoperable Inoperable/Not Lockable Lavatory Sink - Damaged/Missing Missing/Inoperable			L3 L3 L3 L3 L1 L3 L3 L3 L3 L3 L1 L3	master bath/ privacy lock is inoperable window blocked in 2nd bedroom window blocked in 2nd bedroom missing stopper in hall bath back door deadbolt lock is inoperable missing breakers missing breakers window is blocked in 2nd bedroom smoke alarms are inoperable window is blocked in 2nd bedroom missing stopper in master bath missing smoke alarms

**Texas Department of Housing and Community Affairs
List of Deficiencies Found**

Printed On: July 22, 2011

Inspectible Area	Inspectible Item	Deficiency	5	9	3	Comments
Building: Bldg 10						
Unit:		TX-05-09210				
Building Systems	Electrical System	Missing Covers				L3 missing duplex cover & condenser cover panels are missing/ not secured
6-9-11	Fire Protection	Missing/Damaged/Expired Extinguishers				L3 fire extinguishers are expired in units: 1013, 1021 & 1027
Building Exterior	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels				L3 condenser cover panels are missing/ not secured
	Roofs	Missing/Damaged Components from Downspout/Gutter		L1		missing splash-blocks
Unit: 1013	Bathroom	Water Closet - Damaged/Clogged/Missing		L2		toilet in hall bath is running
8-24-11	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable		L3		window is blocked in master bedroom
	Smoke Detector	Missing/Inoperable		L3		smoke detectors are inoperable
	Windows	Inoperable/Not Lockable		L3		window is blocked in master bedroom
Unit: 1021	Bathroom	Shower/Tub - Damaged/Missing		L1		missing stopper in master bath
10-17-11	Doors	Deteriorated/Missing Seals (Entry Only)		L3		back door/ can see daylight at bottom of door
	Electrical	GFI Inoperable		L3		inoperable in bathroom
	Health & Safety	Flammable Materials - Improperly Stored		L3		in oven
Unit: 1027	Bathroom	Shower/Tub - Damaged/Missing		L1		missing stopper in hall bath
10-17-11	Bathroom	Water Closet - Damaged/Clogged/Missing		L2		toilet in master bath is running
Building: Bldg 11						
Unit:		TX-05-09211				
6-9-11	Building Systems	Missing/Damaged/Expired Extinguishers				L3 fire extinguishers are expired in units: 1112 & 1121
	Fire Protection					
	Building Exterior	Missing/Damaged Components from Downspout/Gutter		L1		missing splash-blocks
	Roofs					
Building: Laundry						
Unit:						
10-17-11	Laundry Room	Damaged Hardware/Locks				L3 self closing hardware on entry door is inoperable
	Doors	Missing/Damaged/Inoperable				L3 dryer vent is inoperable/ torn
10-17-11	Dryer Vent					
6-9-11	Building Systems	Missing/Damaged/Expired Extinguishers				L3 fire extinguisher is expired in laundry
	Fire Protection					
10-17-11	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels				L3 broken plug cover in laundry
	Health & Safety					
	Building Exterior	Missing/Damaged Components from Downspout/Gutter		L2		missing downspout & splash-block
	Roofs					
10-17-11	Walls	Missing Pieces/Holes/Spalling		L2		missing part of stone beneath sliding
Building: Office/ Community/ Maintenance						
Unit:						
	Community Room	Damaged Hardware/Locks				L3 exit door from community room to pool area is unusable
	Doors					
	Building Systems	Missing Covers				L3 community building/ condenser electrical box is missing cover & duplex cover missing on bldg exterior
	Electrical System					
10-17-11	Emergency Power	Auxiliary Lighting Inoperable				L3 inoperable in community room → 10-17-11
	Fire Protection	Missing/Damaged/Expired Extinguishers				L3 fire extinguisher expired
	Health & Safety					
	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels				L3 community building/ condenser electrical box is missing cover
	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable				L3 exit door from community room to pool area is unusable

1c

BOARD ACTION REQUEST
COMPLIANCE DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding an order adopting the amendments to 10 TAC Chapter 10, Subchapter F, §10.601(b) concerning Compliance Monitoring Objectives and Applicability; §10.607 concerning Reporting Requirements; §10.609(5) concerning Notices to the Department; §10.612, concerning Tenant File Requirements; §10.613 concerning Lease Requirements; §10.614 concerning Utility Allowances; §10.618 concerning Onsite Monitoring; §10.620(b) concerning Monitoring for Non-Profit Participation or HUB Participation; and, §10.624 concerning Events of Noncompliance, and adoption of the repeal of 10 TAC §10.610, concerning Tenant Selection Criteria; and, §10.617, concerning Affirmative Marketing Requirements, and adoption of new 10 TAC §10.610, concerning Tenant Selection Criteria; and, §10.617, concerning Affirmative Marketing Requirements, and directing its publication in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, at the September 4, 2014, Board meeting the Board approved proposed amendments to various sections of the Compliance Monitoring rule (listed above) along with the proposed repeal of and adoption of new sections concerning Tenant Selection Criteria and Affirmative Marketing Requirements for publication in *Texas Register* to solicit public comment; and

WHEREAS, the public comment period has ended and staff has considered and responded to all comment;

NOW, therefore, it is hereby

RESOLVED, that the amendments to 10 TAC §10.601(b), concerning Compliance Monitoring Objectives and Applicability; §10.607, concerning Reporting Requirements; §10.609(5), concerning Notices to the Department; §10.612, concerning Tenant File Requirements; §10.613, concerning Lease Requirements; §10.614, concerning Utility Allowances; §10.618, concerning Onsite Monitoring; §10.620(b), concerning Monitoring for Non-Profit Participation or HUB Participation; and, §10.624, concerning Events of Noncompliance are hereby adopted in the form presented at this meeting and

FURTHER RESOLVED, that the repeal of 10 TAC §10.610, concerning Tenant Selection Criteria and §10.617, concerning Affirmative Marketing Requirements and a new §10.610, concerning Tenant Selection Criteria and §10.617, concerning Affirmative Marketing Requirements are hereby adopted in the form presented at this meeting.

BACKGROUND

The Board approved the proposed amendments to certain sections of the Compliance Monitoring rule, 10 TAC, Chapter 10, Subchapter F; and the repeal of and new §10.610 relating to Tenant Selection Criteria and §10.617 relating to Affirmative Marketing Requirements. The rulemaking were available for public comment from September 19, 2014, through November 14, 2014. Note, the original public comment period ended October 20, 2014, but an extension was published in the October 31st issue of the *Texas Register* (39 TexReg 8625) due to an error in the fax number originally provided.

One of the notable changes in the proposed rules is the elimination of the Fair Housing Disclosure Notice and Amenity/Service(s) Notice and replacement of the two (2) requirements with the *A Tenant Rights and Resources Guide*. The Guide also contains relevant and important information about fair housing rights, reasonable accommodations, and rights that a tenant is only entitled to when living at a TDHCA monitored property. While the requirement to provide the *Guide* is in the rule (§10.613(k)), the text and format of the actual *Guide* is not.

The process for these rules began in June 2014 when the Department hosted a Roundtable to collect input on the development of additional rules and guidance for Affirmative Fair Housing Marketing and Tenant Selection Criteria and policies for multifamily rental developments. A draft of the Affirmative Marketing rule was presented and ideas for changes to the Tenant Selection Criteria rule were discussed. In August, two (2) online forums were created. The first forum was to garnish feedback about improvements the industry would like to see to made to the Compliance Monitoring Rules. The second forum was created to solicit specific feedback on the staff draft of the proposed new Tenant Selection Criteria rule. Department staff considered all comment submitted though the forums and the rules that were proposed in September included changes made from the comment. In addition, a staff draft of the *A Tenant Rights and Resources Guide* was posted online for review.

To ensure industry participation and Department transparency, the Department held a workshop September 15, 2014, to discuss the proposed amendments, new rule, and the *A Tenant Rights and Resources Guide*. Staff has also met with industry representatives and reviewed comment submitted on the *Guide*. On November 18, 2014, the Department created an online forum and posted the current version that incorporated changes made based on feedback. At the time the Agenda for this meeting was posted, there have been 94 views and no comment.

In keeping with the requirements of the Administrative Procedures Act, staff has reviewed all comments received and provided a reasoned response to these comments.

Attachment 1. Preamble and adoption of amendments to 10 TAC §10.601(b) concerning Compliance Monitoring Objectives and Applicability; §10.607 concerning Reporting Requirements; §10.609(5) concerning Notices to the Department; §10.612, concerning Tenant File Requirements; §10.613 concerning Lease Requirements; §10.614 concerning Utility Allowances; §10.618 concerning Onsite Monitoring; §10.620(b) concerning Monitoring for Non-Profit Participation or HUB Participation; and, §10.624 concerning Events of Noncompliance

The Texas Department of Housing and Community Affairs (the “Department”) adopts amendments to 10 TAC §10.601(b) concerning Compliance Monitoring Objectives and Applicability; §10.607 concerning Reporting Requirements; §10.609(5) concerning Notices to the Department; §10.612, concerning Tenant File Requirements; §10.613 concerning Lease Requirements; §10.614 concerning Utility Allowances; §10.618 concerning Onsite Monitoring; §10.620(b) concerning Monitoring for Non-Profit Participation or HUB Participation; and, §10.624 concerning Events of Noncompliance with changes to the proposed text as published in the September 19, 2014, issue of the Texas Register (39 TexReg 7458).

REASONED JUSTIFICATION. The purpose of the amendments is to create clarification and improvement to the rule in an effort to provide better guidance on complying with multifamily Department programs.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.

Comments were accepted from September 19, 2014, through November 14, 2014, with comments received from (1) Brad Bell, (2) Darlene Sidebottom, (3) David Mintz, (4) Dyan Adair, (5) Jacqueline Kawas, (6) Jen Joyce, (7) Lori Erbst, (8) Patricia Hensley, (9) Patrick Barbolla, (10) Sandy Bolton, (11) Sergio Amaya; and, (12) Trisha Keenan.

Comment was received from Commenter (5) regarding §10.601(a)(4) and §10.602; however, amendments to that paragraph and section were not proposed. Further, staff does not propose amendments based on the comment at this time.

COMMENT SUMMARY: §10.607(d)(4) relating to financial reporting- Commenter (6) requested additional training and resources on proper completions of these reports. Commenter (9) noted that the due date listed in subparagraph (2) for submission of quarterly financial reporting for TCAP and Exchange properties incorrectly states that the report is due the 10th day of the month and should be changed to the 15th as prescribed in the HTC Exchange Subaward Agreements.

STAFF RESPONSE: Staff agrees with commenter (9) and the paragraph will read: “(2) Developments funded with Exchange or TCAP must also submit a “Quarterly Owner’s Financial Certification” and these must be submitted in January, April, July, and October on the 15th day of the month.” Regarding commenter (6), the Department is evaluating additional training opportunities and resources to assist in completing these reports but no changes are recommended to the rule based on the comment.

COMMENT SUMMARY: §10.612(b)(1) relating to Example 612(1)- Commenters (2), (5), (8), (10) and (12) commented on the use and placement of the word “within” in the example. The concern was that, in its current form, the rule intimates that the action could be taken before or after the due date.

STAFF RESPONSE: Staff agrees, and the example will read: “Example 612(1): The household moved into the Project on May 15, 2013. The information must be collected within the 120 days proceeding May 15th every year thereafter.”

COMMENT SUMMARY: §10.612(c)(3) relating to Ongoing tenant file requirements for HOME Developments- Commenter (6) requested that, if a separate HOME Program Recertification form is required, that they be given an opportunity to review.

STAFF RESPONSE: Upon review of the amendment, staff has removed the proposed provision for a separate HOME Program Recertification form because it is unnecessary to promote compliance. The reference to a specific HOME Program Recertification form has been eliminated. The rule will continue to require the Department’s Income Certification form unless the property also participates in the Rural Development or a project Based HUD program, in which case, the other program's Income Certification form will be accepted.

COMMENT SUMMARY: §10.614(f)(1)(D) relating to how to calculate the Public Housing Authority utility allowance total – Commenter’s (2) and (12) suggest adding the word “up” in regards to how to round to the next whole number.

STAFF RESPONSE: Staff agrees and the subparagraph will read: “(D) If the individual components of a utility allowance are not in whole number format, the correct way to calculate the total allowance is to add each amount and then round the total up to the next whole dollar.”

COMMENT SUMMARY: §10.613(c) relating to Evictions and terminations of tenancy for other than good causes are prohibited- Commenter (11) stated that the changes appear to be unnecessary since the Department is unable to overturn a judicial ruling. Commenter (3) opposes the proposed change and requested that it be deleted. The commenter states that whether an eviction meets the test of good cause should solely be within the purview of a court of competent jurisdiction and does not feel that the Department is qualified to make such an evaluation.

STAFF RESPONSE: The Department is required by federal and state regulations to monitor requirements that are incorporated into a Development’s LURA. Violation of these provisions would generally cause an Owner to be out of compliance with a LURA and would not be considered good cause for eviction. Accordingly, the Department has clarified the process it uses to make such determinations and the subsection will read: “(c) Evictions and terminations of tenancy for other than good cause are prohibited. If a challenge to an eviction or termination of tenancy is related to a reasonable accommodation as defined by §1.204 of this title (relating to Reasonable Accommodations), a violation of the provision found in subsection (g) of this section, or for Developments financed by Direct Loans where actions trigger Title 104(d) of the Housing and Community Development Act of 1974 or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Department upon the request of either party will determine if an Owner is in compliance with the referenced requirements using the methods outlined in 1.2 of this Title (regarding Department

Compliant System) or as required by federal law. Otherwise, the Department does not determine if an Owner has good cause or if a resident has violated the lease terms for other reasons. Challenges for evictions or terminations of tenancy for other reasons must be made by a court of competent jurisdiction or an agreement of the parties in arbitration, and the Department will rely on that determination.”

Significant comment was received regarding the proposed change to §10.613(k) relating to the requirement for *A Tenant Rights and Recourses Guide*. The comment and response are presented by subject:

COMMENT SUMMARY: All commenter’s expressed concern about the length of the document and the potential related cost of reproduction.

STAFF RESPONSE: Staff disagrees that there is any additional cost and no change is recommended. The Department will create an electronic version of the *A Tenant Rights and Recourses Guide* that the owner will be able to download and customize with the property specific unit/common amenities and service(s). This brochure replaces two (2) current forms required to be printed and/or reproduced; the Fair Housing Disclosure Notice and the Amenity/Service(s) notice. The Fair Housing Disclosure Notice is one (1) page and the Amenity/Service(s) notice is, at least, one page and could be more because of the number of services and amenities available at the property. The proposed Tenant Rights and Resources Guide is six (6) pages with a seventh “certification of receipt” page for the household to sign. If printed two-sided, it will be four (4) pages (three (3) pages of content and one (1) signatory page). Therefore, as most, properties will be printing or reproducing two additional pieces of paper. Such cost, if any, would likely be considered de minimis.

COMMENT SUMMARY: Commenter (2) indicates that amenities and services do not belong in the *A Tenant Rights and Recourses Guide* (concurrent with by Commenter (12)). Instead the commenter proposes that the Fair Housing Disclosure Notice be updated with “the basics” that properties be required to have a “How to File a Fair Housing Complaint” poster. The commenter noted that the remaining language found in the document is already contained in the Texas Apartment Association (TAA) lease and lease addendums. Commenter (3) requests that the Department allow for a “substantially equivalent” brochure because it may be beneficial to the owner to reproduce the information in a different format. Commenter (7) stated that the language “common amenities, unit amenities, and services” is redundant and not productive because amenities and services are listed on all marketing materials and that they do not hide what is offered. In light of their practice, the commenter wonders why they need to list common amenities, unit amenities, and services. Commenter (10) does not understand combining the Fair Housing Disclosure Notice and Amenity notice; and, that Tenant rights are already covered in the TAA lease and lease addendums. The commenter further questions why the Amenity notice needs to be signed on the day the lease is executed.

STAFF RESPONSE: Staff commends Commenter (7) internal practice of transparency regarding common/unit amenities and service(s) and believes that this rule will promote similar and consistent practices with all multifamily properties in the Department’s portfolio. Staff disagrees with Commenter (2) and (12) that amenities and services do not belong in the *A Tenant Rights and Recourses Guide* because the tenant’s do have a right to these items and this communication is the only avenue through which tenant are notified of these right. Staff also disagrees with Commenters (2) and (10) that Tenant rights are already addressed in the TAA lease and lease addendums. While general tenant rights may be

included, there are additional rights that a tenant becomes entitled to by living and a TDHCA monitored property that are program driven and would not be included in the TAA lease and lease addendums. For example, a tenant's right to a reasonable accommodation in some cases or their rights under a TDHCA program's Extended Use Agreement are not addressed in the TAA lease and/or lease addendums. Furthermore, there is no required format for leases (and/or lease addendum), so even if these did contain such language, since the TAA lease is not required, this recommendation would not meet the Department's mission. In response to the request to allow for "substantially equivalent" brochure (Commenter 3) Staff believes that, to ensure accuracy and consistency in both implementation and monitoring, a single format is the most productive avenue. Commenter (10) is incorrect in the interpretation when the document needs to be signed. It is not required to be signed on the day the lease is actually executed; rather, the household must sign prior to, but no more than 120 days prior to, the initial lease execution acknowledging receipt of this brochure.

COMMENT SUMMARY: Commenter (1) suggests that the *A Tenant Rights and Recourses Guide* be available to anyone upon demand. The rule specifies that the document must be provided "during the application process and upon a subsequent change to [common amenities, unit amenities, or required services]." If there is no change to amenities & services (the case for most properties), then 1) Tenants who signed an initial lease prior to the rule's effective date may never see the document, and 2) Those who sign an initial lease after and stay at the property for a few years will see the Guide once, and could easily lose it over time. The Commenter also requested that the Department require owners to list property specific amenities and services in the same manner they are listed in the Land Use Restriction Agreement (LURA). For example, the commenter wants the Department to require properties to list "14 SEER HVAC" instead of "Energy efficient HVAC". The commenter also requested specificity when describing required supportive services because in recent years properties were allowed to commit to providing a certain number of services, within a defined basket, without actually specifying which of these services would be provided. The commenter stated that for the Guide to be useful to current and prospective tenants, the actual services being provided at the property should be listed, rather than a laundry list of potentially provided services. The commenter also requested that the Department develop and publish minimum acceptable standards for hours/dates of availability of services and amenities, and, where applicable, incorporate them into the *A Tenant Rights and Recourses Guide*. Whereas, Commenters (7), (8) and (11) state that, in its current form, the *A Tenant Rights and Recourses Guide* will be discarded and not read by most applicants and Commenter (7) proposes, instead, to laminate the pages and present to the resident at application and have them sign an acknowledgement that they have read the document and understand their rights and that copies would be provided upon request. Furthermore, Commenter (11) comments "These are grown adults that are applying for apartments at our communities. It seems to be conflict for a resident to be assisted and essentially "handheld" through the process of filing a complaint against the same organization that is assisting them in filing the complaint."

STAFF RESPONSE: In response to the widely varying comment staff recommends that the following change: "(k) A Development Owner shall post in a common area of the leasing office a laminated copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department A Tenant Rights and Resources Guide, which includes:"

This change addresses Commenter (1)'s concern about how existing household and prospective applicants may be made aware of these provisions by adopting a modified version of the suggestion made by Commenter (7).

Regarding the specificity of the language required in describing the amenities and services, the Department disagrees with the Commenter and no change is suggested. The Department does not agree that the suggested level of description would give a more substantive meaning to the amenity and/or service and that, in some cases, a more plain language description may be a more effective way to communicate. Although staff does not agree that the brochure should mirror the language in the LURA, staff will monitor compliance amenities and services such as "14 SEER HVAC" vs. "energy efficient HVAC" during Final Construction Inspections and subsequent monitoring reviews. Lastly, the Department lacks authority to develop and publish minimum acceptable standards for hours/dates of operation for existing properties. Staff may consider imposing some kind of a requirement in the development of the future a Qualified Allocation Plan (QAP) but recommends no change to the Compliance Rule at this time.

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

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

§10.601.Compliance Monitoring Objectives and Applicability.

(a) (No change.)

(b) This subchapter applies to the monitoring of affordable rental housing under the programs described in paragraphs (1) - (8) of this subsection:

- (1) The Housing Tax Credit Program (HTC);
- (2) The HOME Investment Partnerships Program (HOME);
- (3) The Tax Exempt Bond Program (Bond);
- (4) The Housing Trust Fund Program (HTF);
- (5) The Tax Credit Assistance Program (TCAP);
- (6) The Tax Credit Exchange Program (Exchange);
- (7) The Neighborhood Stabilization Program (NSP); and
- (8) Section 811 Project Rental Assistance (PRA) Program.

(c) - (e) (No change.)

§10.607.Reporting Requirements.

(a) The Department requires reports to be submitted electronically through the Department's web-based Compliance Monitoring and Tracking System (CMTS) and in the format prescribed by the Department. The Electronic Compliance Reporting Filing Agreement and the Owner's Designation of Administrator of Accounts forms must be filed for:

- (1) 9% Housing Tax Credit Developments - no later than the date prescribed in §10.402(g) of this chapter relating to the 10 Percent Test;

- (2) 4% Housing Tax Credit Developments - no later than the date prescribed in §10.402(e) of this chapter (relating to Post Bond Closing Documentation Requirements); or
- (3) For all other multifamily developments, no later than September 1st of the year following the award.

(b) Each Development is required to submit an Annual Owner's Compliance Report (AOCR). Depending on the Development, some or all of the Report must be submitted. The first AOCR is due the second year following the award in accordance with the deadlines set out in subsection (e) of this section. Example 607(1): A Development was allocated Housing Tax Credits in July 2011. The first report is due April 30, 2013, even if the Development has not yet commenced leasing activities.

(c) The AOCR is comprised of four parts:

(1) Part A "Owner's Certification of Program Compliance." All Owners must annually certify compliance with applicable program requirements. The AOCR Part A shall include answers to all questions required by the U. S. Department of the Treasury to be addressed, including those required by Treasury Regulation 1.42-5(b)(1) or the applicable program rules. HTC Developments during their Compliance Period will also be required to provide the contact information of the syndicator in the Annual Owner's Compliance Report;

(2) Part B "Unit Status Report." All Developments must annually report and certify the information related to individual household income, rent, certification dates and other necessary data to ensure compliance with applicable program regulations. In addition, Owners are required to report on the race and ethnicity, family composition, age, use of rental assistance, disability status, and monthly rental payments of individuals and families applying for and receiving assistance or if the household elects not to disclose the information, such election;

(3) Part C "Housing for Persons with Disabilities." The Department is required to establish a system that requires Owners of state or federally assisted housing Developments with 20 or more housing Units to report information regarding housing Units designed for persons with disabilities. The certified answers to the questions on Part C satisfy this requirement; and,

(4) Part D "Form 8703." Tax exempt bond properties must file Form 8703 each calendar year of the qualified project period. The form is due to the IRS by March 31 after the close of the calendar year for which the certification is made. The Department requires Tax Exempt Bond Development Owners to submit a copy of the filed Form 8703 for the preceding calendar year.

(d) The owner is required to report certain financial information to the Department electronically through CMTS. If supplemental information is required it must be uploaded to the Development's CMTS account.

(1) Developments funded with Exchange or TCAP must also submit a "Quarterly Owner's Financial Certification" and these must be submitted in January, April, July, and October on the 10th day of the month.

(2) Developments funded with Exchange or TCAP must also submit a "Quarterly Owner's Financial Certification" and these must be submitted in January, April, July, and October on the 15th [10th] day of the month.

(e) Parts A, B, C, and D of the Annual Owner's Compliance Report and the Annual Owner's Financial Certification must be provided to the Department no later than April 30th of each year, reporting data current as of December 31st of the previous year (the reporting year).

(f) Periodic Unit Status Reports. All Developments must submit a Quarterly Unit Status report to the Department through the Compliance Monitoring and Tracking System. Quarterly reports are due in January, April, July, and October on the 10th day of the month. The report must report occupancy as of the last day of the previous month for the reporting period. For example, the report due October 10th should report occupancy as of September 30th of the preceding month. The first quarterly report is due on the first quarterly reporting date after leasing activity commences.

(g) Owners are encouraged to continuously maintain current resident data in the Department's CMTS. Under certain circumstances, such as in the event of a natural disaster, the Department may alter the reporting schedule and require all Developments to provide current occupancy data through CMTS.

(h) All rental Developments funded or administered by the Department will be required to submit a current Unit Status Report prior to an onsite monitoring visit.

(i) Exchange developments must submit IRS Form(s) 8609 with lines 7, 8(b), 9(b), 10(a), 10(c), and 10(d) completed thirty (30) days after the Department issues the executed form(s). If an Owner elects to group buildings together into one or more multiple building projects, the owner must attach a statement identifying the buildings in the project. An owner may request to change the election made on line 8(b) only once during the Compliance Period. The request will be treated as non-material amendment, subject to the fee described in §10.901 of this chapter (relating to Fee Schedule) and the process described in §10.405 of this chapter (relating to Amendments and Extensions).

§10.609. Notices to the Department.

If any of the events described in paragraphs (1) - (5) of this section occur, written notice must be provided to the Department within the respective timeframes:

(1) - (4) (No change.)

(5) Within ten (10) days of a change in the contact information (including contact persons, physical addresses, mailing addresses, email addresses, phone numbers, and/or the name of the property as known by the public) for the Ownership entity, management company, and/or Development the Department's Compliance Monitoring and Tracking System must be updated.

§10.612. Tenant File Requirements.

(a) At the time of program designation as a low-income household, typically at initial occupancy, Owners must create and maintain a file that at a minimum contains:

(1) A Department approved Income Certification form signed by all adults. At the time of program designation as a low-income household, Owners must certify and document household income. In general, all low-income households must be certified prior to move in. The Department requires the use of the TDHCA Income Certification form, unless the property also participates in the Rural Development or a Project Based HUD Program, in which case, the other program's Income Certification form will be accepted;

(2) Documentation to support the Income Certification form including, but not limited to, applications, first hand or third party verification of income and assets, and documentation of student status (if

applicable). The Department permits Owners to use check stubs or other firsthand documentation of income and assets provided by the applicant or household in lieu of third party verification forms. It is not necessary to first attempt to obtain a third party verification form. Owners should scrutinize these documents to identify and address any obvious attempts at forgery, alteration, or generation of falsified documents;

(3) A lease with all necessary addendums to ensure that compliance with applicable federal regulations and §10.613 of this chapter (relating to Lease Requirements).

(b) Annually thereafter on the anniversary date of the household's move in or initial designation:

(1) Throughout the Affordability Period, all Owners of Housing Tax Credit, TCAP and Exchange Developments must collect and maintain current data on each household that includes the number of household members, age, ethnicity, race, disability status, rental amounts and rental assistance (if any). This information can be collected on the Department's Annual Eligibility Certification form or the Income Certification form or HUD Income Certification form or USDA Income Certification form. Example 612(1): The household moved into the Project on May 15, 2013. The information must be collected within the 120 days proceeding [of] May 15th every year thereafter.

(2) During the Compliance Period for all Housing Tax Credit, TCAP, and Exchange Developments and throughout the affordability period for all Bond developments and HOME Developments committed funds after August 23, 2013, Owners must collect and maintain current student status data for each low-income household. This information must be collected within 120 days before the anniversary of the effective date of the original student verification and can be collected on the Department's Annual Eligibility Certification or the Department's Certification of Student Eligibility form or the Department's Income Certification form. Throughout the Compliance Period for HTC, TCAP, and Exchange developments, low-income households comprised entirely of full-time students must qualify for a HTC program exception, and supporting documentation must be maintained in the household's file. For Bond developments, if the household is not an eligible student household, it may be possible to re-designate the full-time student household to an Eligible Tenant (ET). For HOME Developments committed funds after August 23, 2013, an individual does not qualify as a low-income or very low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

(3) The types of properties described in subparagraphs (A) - (D) of this paragraph are required to recertify annually the income of each low-income household using a Department approved Income Certification form and documentation to support the Income Certification (see subsection (a)(1) - (2) of this section):

(A) Mixed income Housing Tax Credit, TCAP and Exchange projects (as defined by line 8(b) of IRS Form(s) 8609 and accompanying statements, if any) that have not completed the fifteen (15) year Compliance Period;

(B) All Bond developments with less than 100 percent of the units set aside for households with an income less than 50 percent or 60 percent of area median income.

(C) HTF Developments with Market Rate units. However, HTF Developments with other Department administered programs will comply with the requirements of the other program. Example 612(2) [(4)]: If a Development is mixed income HTF and 100 percent low-income HTC, all households must be certified at move in. Then, once a calendar year, the Owner must collect the data required by and in accordance with the paragraphs (1) and (2) of this subsection.

(D) HOME Developments. Refer to subsection (c) of this section.

(c) Ongoing tenant file requirements for HOME Developments:

(1) HOME Developments must complete a recertification with verifications of each HOME assisted Unit every sixth year of the Development's affordability period. The recertification is due on the anniversary of the household's move-in date. For purposes of this section the beginning of a HOME Development affordability period is the effective date on the first page of the HOME LURA. For example, a HOME Development with a LURA effective date of May 2001 will have the years of the affordability determined in Example 612(3):

- (A) Year 1: May 15, 2001 - May 14, 2002;
- (B) Year 2: May 15, 2002 - May 14, 2003;
- (C) Year 3: May 15, 2003 - May 14, 2004;
- (D) Year 4: May 15, 2004 - May 14, 2005;
- (E) Year 5: May 15, 2005 - May 14, 2006;
- (F) Year 6: May 15, 2006 - May 14, 2007;
- (G) Year 7: May 15, 2007 - May 14, 2008;
- (H) Year 8: May 15, 2008 - May 14, 2009;
- (I) Year 9: May 15, 2009 - May 14, 2010;
- (J) Year 10: May 15, 2010 - May 14, 2011;
- (K) Year 11: May 15, 2011 - May 14, 2012; and
- (L) Year 12: May 15, 2012 - May 14, 2013.

(2) In the scenario described in paragraph (1) of this subsection, all households in HOME Units must be recertified with source documentation during the sixth and twelfth years or between May 15, 2006, to May 14, 2007, and between May 15, 2012, and May 14, 2013.

(3) In the intervening years the Development must collect a self certification by the effective date of the original Income Certification from each household that is assisted with HOME funds, Example 612(4): a household moved into a HOME unit on June 10, 2010, the household's self certification must be completed by June 10, 2011, and the household must be recertified with source documentation effective June 10, 2012. The Development must use the Department's Income Certification [HOME Program Recertification] form, unless the property also participates in the Rural Development or a project Based HUD program, in which case, the other program's Income Certification form will be accepted. If the household reports on their self certification that their annual income exceeds the current 80 percent applicable income limit or there is evidence that the household's written statement failed to completely and accurately provide information about the household's characteristics and/or income, then an annual income recertification with verifications is required.

§10.613. Lease Requirements.

(a) Eviction and/or termination of a lease. For HTC Developments, IRS Revenue Ruling 2004-82 prohibits the eviction or termination of tenancy of low-income households for other than good cause throughout the entire Affordability Period, and for three (3) years after termination of an extended low-income housing commitment. Owners executing or renewing leases after November 1, 2007, shall specifically state in the lease or in an addendum attached to the lease that evictions or terminations of tenancy for other than good cause are prohibited.

(b) For HOME and NSP Developments, the HOME Final Rule (and as adopted by Texas NSP) prohibits Owners from evicting low-income residents or refusing to renew a lease except for serious or repeated violations of the terms and conditions of the lease, for violations of applicable federal, state or local law, for completion of the tenancy period for transitional housing, or for other good cause. To terminate

tenancy, the Owner must serve written notice to the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy. Owners executing or renewing leases after November 1, 2007, shall specifically state in the lease or in an addendum attached to the lease that evictions or non-renewal of leases for other than good cause are prohibited (24 CFR §92.253). Owners must also comply with all other lease requirements and prohibitions stated in 24 CFR §92.253.

(c) Evictions and terminations of tenancy for other than good cause are prohibited. If a challenge to an eviction or termination of tenancy is related to a reasonable accommodation as defined by §1.204 of this title (relating to Reasonable Accommodations), a violation of the provision found in subsection (g) of this section, or for Developments financed by Direct Loans where actions trigger Title 104(d) of the Housing and Community Development Act of 1974 or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Department upon the request of either party will determine if an Owner is in compliance with the referenced requirements using the methods outlined in 1.2 of this Title (regarding Department Compliant System) or as required by federal law. [provide an opinion if an Owner has good cause.] Otherwise, the Department does not determine if an Owner has good cause or if a resident has violated the lease terms for other reasons. Challenges for evictions or terminations of tenancy for other reasons must be made by a court of competent jurisdiction or an agreement of the parties in arbitration, and the Department will rely on that determination.

(d) HTC and Bond Developments must use a lease or lease addendum that requires households to report changes in student status.

(e) Owners of HTC Developments are prohibited from locking out or threatening to lock out any Development resident, except by judicial process, unless the exclusion is necessary for the purpose of performing repairs or construction work, or in cases of emergency. Owners are further prohibited from seizing or threatening to seize the personal property of a resident except by judicial process unless the resident has abandoned the premises. These prohibitions must be included in the lease or lease addendum.

(f) For HOME and NSP Developments, properties that were initially built for occupancy prior to 1978 must include in their lease or lease addendum a Lead Warning Statement. To demonstrate compliance, the Department will monitor that, all households at HOME and NSP Developments have signed the Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards. (24 CFR §92.355 and §570.487(c))

(g) All Owners shall comply with the lease requirements found in Section 601 of the Violence Against Women Reauthorization Act of 2013 ("VAWA 2013"). In general, owners may not construe an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking as a serious or repeated violation of a lease term by the victim or threatened victim or as good cause for terminating tenancy. However, in accordance with VAWA 2013, owners may bifurcate a lease to terminate the tenancy of an individual who is a tenant or lawful occupant and engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against another lawful occupant living in the unit or other affiliated individual as defined in the VAWA 2013.

(h) Leasing of HOME units by organizations that, in turn, rent those units to individuals is not permissible for HOME developments committed funding after August 23, 2013.

(i) Housing Tax Credit units leased to an organization through a supportive housing program where the owner receives a rental payment for the unit regardless of physical occupancy will be found out of compliance if the unit remains vacant for over 60 days. The unit will be found out of compliance under the finding "Violation of the Unit Vacancy Rule."

(j) It is a Development Owner's responsibility at all times to know what it has agreed to provide by way of common amenities, unit amenities, and services.

(k) A Development Owner shall post in a common area of the leasing office a laminated copy and provide each household, during the application process and upon a subsequent change to the items described in paragraph (2) of this subsection, the brochure made available by the Department, A Tenant Rights and Resources Guide [for TDHCA Monitored Rental Properties], which includes:

(1) Information about Fair Housing and tenant choice;

(2) Information regarding common amenities, unit amenities, and services; and,

(3) A certification that a representative of the household must sign prior to, but no more than 120 days prior to, the initial lease execution acknowledging receipt of this brochure.

(4) In the event this brochure is not provided timely or the household does not certify to receipt of the brochure, correction will be achieved by providing the household with the brochure and receiving a signed certification that it was received.

§10.614.Utility Allowances.

(a) The Department will monitor to determine if Developments comply with published rent limits which include an allowance for tenant paid utilities. For HTC, TCAP, and Exchange buildings, if the residents pay utilities directly to the Owner of the building or to a third party billing company and the amount of the bill is based on an allocation method or "Ratio Utility Billing System" (RUBS), this monthly amount will be considered a mandatory fee. For HTC, TCAP, and Exchange buildings, if the residents pay utilities directly to the Owner of the building or to a third party billing company, and the amount of the bill is based on the tenant's actual consumption, Owners may account for the utility in an allowance. The rent, plus all mandatory fees, plus an allowance for those utilities paid by the resident directly to a utility provider, must be less than or equal to the allowable limit. For HOME, Bond, HTF, and NSP buildings, Owners may account for utilities paid directly to the Owner or to a third party billing company in their utility allowance. Where residents are responsible for some or all of the utilities--other than telephone, cable, and internet--Development Owners must use a utility allowance that complies with both this section and the applicable program regulations.

(b) An Owner may not change utility allowance methods, start or stop charging residents for a utility without prior written approval from the Department. Example 614(1): A Housing Tax Credit Development has been paying for water and sewer since the beginning of the Compliance Period. In year 8, the Owner decides to require residents to pay for water and sewer. Prior written approval from the Department is required. Any such request must include the Utility Allowance Questionnaire found on the Department's website and supporting documentation. The Department will respond by approving or denying within ninety (90) days of the date on which the party making the request has completed the questionnaire and provided all required supporting documentation and responded to any Department requests for clarification or additional information.

(c) Rural Housing Services (RHS) buildings or buildings with RHS assisted tenants. The applicable utility allowance for the Development will be determined under the method prescribed by the RHS (or successor agency). No other utility method described in this section can be used by RHS buildings or buildings with RHS assisted tenants.

(d) HUD-Regulated buildings layered with any Department program. If neither the building nor any tenant in the building receives RHS rental assistance payments, and the rents and the utility allowances of the building are reviewed by HUD (HUD-regulated building), the applicable utility allowance for all rent restricted Units in the building is the applicable HUD utility allowance. No other utility method described in this section can be used by HUD-regulated buildings.

(e) HOME units at HOME developments committed funds after August 23, 2013 must use the HUD Utility Schedule Model. The utility allowance will be calculated by the Department on an annual basis and provided to the Owner with a deadline for implementation.

(f) Other Buildings. For all other rent-restricted Units, Development Owners must use one of the methods described in paragraphs (1) - (5) of this subsection:

(1) The utility allowance established by the applicable Public Housing Authority (PHA) for the Section 8 Existing Housing Program. The Department will utilize Texas Local Government Code, Chapter 392 to determine which PHA is the most applicable to the Development.

(A) If the PHA publishes different schedules based on building type, the Owner is responsible for implementing the correct schedule based on the Development's building type(s). Example 614(2): The applicable PHA publishes a separate utility allowance schedule for Apartments (5+ units), one for Duplex/Townhomes and another for Single Family Homes. The Development consist of twenty buildings, ten of which are Apartments (5+ units) and the other ten buildings are Duplexes. The Owner must use the correct schedule for each building type.

(B) In the event the PHA publishes a utility allowance schedule specifically for energy efficient units, and the Owner desires to use such a schedule, the Owner must demonstrate that the building(s) meet the housing authority's specifications for energy efficiency once every five (5) years.

(C) If the applicable PHA allowance lists flat fees for any utility, those flat fees must be included in the calculation of the utility allowance if the resident is responsible for that utility.

(D) If the individual components of a utility allowance are not in whole number format, the correct way to calculate the total allowance is to add each amount and then round the total up to the next whole dollar. Example 614(3): Electric cooking is \$8.63, Electric Heating is \$5.27, Other Electric is \$24.39, Water and Sewer is \$15. The utility allowance in this example is \$54.00.

(E) If an Owner chooses to implement a methodology as described in paragraph (2), (3), (4), or (5) of this subsection, for Units occupied by Section 8 voucher holders, the utility allowance remains the applicable PHA utility allowance established by the PHA from which the household's voucher is received.

(F) In general, if the property is located in an area that does not have a municipal, county, or regional housing authority that publishes a utility allowance schedule for the Section 8 Existing Housing Program, Owners must select an alternative methodology. In the event the property is located in an area without a clear municipal or county housing authority the Department may permit the use of another housing authority's utility allowance schedule on a case by case basis, unless other conflicting guidance is received from the IRS or HUD. It is the sole responsibility of the Owner to provide the Department

with specific rationale to support the request. Prior approval from the Department is required and the owner must obtain approval on an annual basis.

(2) A written estimate from a local utility provider. If there are multiple utility companies that service the Development, the local provider must be a residential utility company that offers service to the residents of the Development requesting the methodology. The Department will use the Texas Electric Choice website: <http://www.powertochoose.org/> to verify the availability of service. If the utility company is not listed as a provider in the Development's ZIP code, the request will be denied. Additionally, the estimate must be signed by the utility provider representative and specifically include all "component charges" for providing the utility service. Receipt of the information from the utility provider begins the ninety (90) day period after which the new utility allowance must be used to compute gross rent;

(3) The HUD Utility Schedule Model. A utility estimate can be calculated by using the "HUD Utility Schedule Model" that can be found at <http://www.huduser.org/portal/resources/utlmodel.html> (or successor Uniform Resource Locator). Each item on the schedule must be displayed out to two decimal places. The total allowance must be rounded up to the next whole dollar amount. The rates used must be no older than the rates in effect sixty (60) days prior to the beginning of the ninety (90) day period in which the Owner intends to implement the allowance. For Owners calculating a utility allowance under this methodology, the model, along with all back-up documentation used in the model, must be submitted to the Department within the timeline described in subsection (h) of this section. The date entered as the "Form Date" on the "Location" tab of the spreadsheet will be the date used to begin the ninety (90) day period after which the new utility allowance must be used to compute gross rent;

(4) An Energy Consumption Model. The utility consumption estimate must be calculated by a properly licensed mechanical engineer or an individual holding a valid Residential Energy Service Network (RESNET) or Certified Energy Manager (CEM) certification. The individual must not be related to the Owner within the meaning of §267(b) or §707(b) of the Code. The utility consumption estimate must, at minimum, take into consideration specific factors that include, but are not limited to, Unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of building location. Use of the Energy Consumption Model is limited to the building's consumption data for the twelve (12) month period ending no earlier than sixty (60) days prior to the beginning of the ninety (90) day period and utility rates used must be no older than the rates in place sixty (60) days prior to the beginning of the ninety (90) day period. In the case of a newly constructed or renovated building with less than twelve (12) months of consumption data, the qualified professional may use consumption data for the twelve (12) month period from units of similar size and construction in the geographic area in which the building containing the units is located. The ninety (90) day period after which the new utility allowance must be used to compute gross rent will begin sixty (60) days after the end on the last month of the twelve (12) month period for which data was used to compute the estimate; and

(5) An allowance based upon an average of the actual use of similarly constructed and sized Units in the building using actual utility usage data and rates, provided that the Development Owner has the written permission of the Department. This methodology is referred to as the "Actual Use Method."

(g) For a Development Owner to use the Actual Use Method they must:

(1) Provide a minimum sample size of usage data for at least 5 Continuously Occupied Units of each Unit Type or 20 percent of each Unit Type whichever is greater. Example 614(4): A Development has 20 three bedroom/one bath Units, and 80 three bedroom/two bath Units. Each bedroom/bathroom equivalent Unit is within 120 square feet of the same floor area. Data must be supplied for at least five

of the three bedroom/one bath Units, and sixteen of the three bedroom/two bath Units. If there are less than five Units of any Unit Type, data for 100 percent of the Unit Type must be provided;

(2) Scan the information in subparagraphs (A) - (E) of this paragraph and submit it to the Department no later than the beginning of the ninety (90) day period after which the Owner intends to implement the allowance, reflecting data no older than sixty (60) days prior to the ninety (90) day implementation period. Example 614(5): The utility provider releases the information regarding electric usage at Westover Townhomes on February 5, 2010. The data provided is from February 1, 2009, through January 31, 2010. The Owner must submit the information to the Department no later than March 31, 2010, for the information to be valid;

(A) An Excel spreadsheet listing each Unit for which data was obtained to meet the minimum sample size requirement of a Unit Type, the number of bedrooms, bathrooms and square footage for each Unit, the household's move-in date, the actual kilowatt usage for each month of the twelve (12) month period for each Unit for which data was obtained, and the rates in place at the time of the submission;

(B) A copy of the request to the utility provider (or billing entity for the utility provider) to provide usage data;

(C) All documentation obtained from the utility provider (or billing entity for the utility provider) and/or copies of actual utility bills gathered from the residents, including all usage data not needed to meet the minimum sample size requirement and any written correspondence from the utility provider;

(D) The rent roll showing occupancy as of the end of the month for the month in which the data was requested from the utility provider; and

(E) Documentation of the current utility allowance used by the Development.

(3) Upon receipt of the required information, the Department will determine if the Development Owner has provided the minimum information necessary to calculate an allowance using the Actual Use Method. If so, the Department shall calculate the utility allowance for each bedroom size using the guidelines described in subparagraphs (A) - (E) of this paragraph;

(A) If data is obtained for more than 20 percent of all units or there are more than 5 of a Unit Type, all data will be used to calculate the allowance;

(B) If more than twelve (12) months of data is provided for any Unit, only the data for the most current twelve (12) months will be averaged;

(C) The allowance will be calculated by multiplying the average units of measure for the applicable utility (i.e., kilowatts over the last twelve (12) months by the current rate) for all Unit Types within that bedroom size. For example, if sufficient data is supplied for 18 two bedroom/one bath Units, and 12 two bedroom/two bath Units, the data for all 30 Units will be averaged to calculate the allowance for all two bedroom Units;

(D) The allowance will be rounded up to the next whole dollar amount. If allowances are calculated for different utilities, each utility's allowance will be rounded up to the next whole dollar amount and then added together for the total allowance; and

(E) If the data submitted indicates zero usage for any month, the data for that Unit will not be used to calculate the Utility Allowance.

(4) The Department will complete its evaluation and calculation within forty-five (45) days of receipt of all the information requested in paragraph (2) of this subsection;

(5) Receipt of approval from the Department will begin the ninety (90) day period after which the new utility allowance must be used to compute gross rent; and

(6) For newly constructed Developments or Developments that have Units which have not been continuously occupied, the Department, on a case by case basis, may use consumption data for Units of similar size and construction in the geographic area to calculate the utility allowance.

(h) Effective dates. If the Owner uses the methodologies as described in subsection (c), (d), or (f)(1) of this section, any changes to the allowance can be implemented immediately, but must be implemented for rent due at least ninety (90) days after the change. For methodologies as described in subsection (f)(2) - (5) of this section, the allowance cannot be implemented until the estimate is submitted to the Department and is made available to the residents by posting in a common area of the leasing office at the Development. This action must be taken by the beginning of the ninety (90) day period in which the Owner intends to implement the utility allowance. If the Owner fails to post the notice to the residents and submit the request to the Department by the beginning of the 90 day period, the Department's approval or denial will be delayed for up to 90 days after Department notification. Example 614(6): The Owner has chosen to calculate the electric portion of the utility allowance using the written local estimate. The annual letter is dated July 5, 2014, and the notice to the residents was posted in the leasing office on July 5, 2014. However, the Owner failed to submit the request to the Department for review until September 15, 2014. Although the Notice to the Residents was dated the date of the letter from the utility provider, the Department was not provided the full 90 days for review. As a result, the allowance cannot be implemented by the owner until approved by the Department.

(i) Requirements for Annual Review.

(1) RHS and HUD-Regulated Buildings. Owners must demonstrate that the utility allowance has been reviewed annually and in accordance with the RHS or HUD regulations.

(2) Buildings using the PHA Allowance. Owners are responsible for periodically determining if the applicable PHA released an updated schedule to ensure timely implementation. When the allowance changes or a new allowance is made available by the PHA, it can be implemented immediately, but must be implemented for rent due ninety (90) days after the change.

(3) HOME Developments committed funds after August 23, 2013. On an annual basis, the Department will calculate the utility allowance using the HUD Utility Schedule Model or other methods allowed in accordance with HUD guidance.

(4) Written Local Estimate, HUD Utility Model Schedule and Energy Consumption Model. Owners must update the allowance once a calendar year. The update and all back up documentation required by the method must be submitted to the Department no later than October 1st of each year. However, Owners are encouraged to submit prior to the deadline to ensure the Department has time to review. At the same time the update is submitted to the Department, the Owner must post the utility allowance estimate in a common area of the leasing office at the Development. The Department will review the request for compliance with all applicable requirements and reasonableness. If, in comparison to other approved utility allowances for properties of similar size, construction and population in the same geographic area, the allowance does not appear reasonable or appears understated, the Department may require additional support and/or deny the request. If approved, changes to the allowance can be implemented ninety (90) days after the request was submitted to the Department and provided to the residents.

(5) Actual Use Method. Owners must update the allowance once a calendar year. The update and all back up documentation required by the method must be submitted to the Department no later than August 1st of each year. However, Owners are encouraged to submit prior to the deadline to ensure the Department has time to review.

(j) Combining Methodologies. With the exception of HUD regulated buildings, HOME units at HOME Developments committed funds after August 23, 2013 and RHS buildings, Owners may combine any

methodology described in this section for each utility service type paid directly by the resident and not by or through the Owner of the building (electric, gas, etc.). For example, if residents are responsible for electricity and gas, an Owner may use the appropriate PHA allowance to determine the gas portion of the allowance and use the Actual Use Method to determine the electric portion of the allowance.

(k) Increases in Utility Allowances for Developments with HOME or NSP funds. Unless otherwise instructed by HUD, the Department will permit owners to implement changes in utility allowance in the same manner as Housing Tax Credit (HTC) Developments.

(l) The Owner shall maintain and make available for inspection by the tenant, the data, underlying assumptions and methodology that was used to calculate the allowance. Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling Unit of the tenant at the convenience of both the Owner and tenant.

(m) If Owners want to utilize the HUD Utility Schedule Model, the Written Local Estimate or the Energy Consumption Model to establish the initial utility allowance for the Development, no more than one hundred eighty (180) days and no less than ninety (90) days prior to the commencement of leasing activities, the Owner must submit utility allowance documentation for Department approval. This subsection does not preclude an Owner from changing to one of these methods after commencement of leasing in accordance with subsection (b) of this section.

(n) The Department reserves the right to outsource to a third party the review and approval of all or any utility allowance requests to use the Energy Consumption Model or when review requires the use of expertise outside the resources of the Department. In accordance with Treasury Regulation §1.42-10(c) any costs associated with the review and approval shall be paid by the Owner.

(o) All requests described in this subsection must be uploaded directly to the Development's CMTS account using the "Utility Allowance Documents" in the type field.

§10.618. Onsite Monitoring.

(a) The Department may perform an onsite monitoring review of any low-income Development, and review and photocopy all documents and records supporting compliance with Departmental programs through the end of the Compliance Period or the end of the period covered by the LURA, whichever is later. The Development Owner shall permit the Department access to the Development premises and records.

(b) The Department will perform onsite monitoring reviews of each low-income Development. The Department will conduct:

(1) The first review of HTC, Exchange, and TCAP Developments by the end of the second calendar year following the year the last building in the Development is placed in service;

(2) The first review of all Developments, other than those described in subsection (b)(1) of this section, as leasing commences;

(3) During the Federal Compliance Period subsequent reviews will be conducted at least once every three (3) years;

(4) After the Federal Compliance Period, developments will be monitored in accordance with §10.623 of this chapter (relating to Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period);

(5) A physical inspection of the Development including the exterior of the Development, Development amenities, and an interior inspection of a sample of Units;

(6) Limited reviews of physical conditions, including follow-up inspections to verify completion of reported corrective action, may be conducted without prior notice (unless access to tenant units is required, in which case at least forty-eight (48) hours notice will be provided); and

(7) Reviews, meetings, and other appropriate activity in response to complaints or investigations.

(c) The Department will perform onsite file reviews and monitor:

(1) Low-income resident files in each Development, and review the Income Certifications;

(2) The documentation the Development Owner has received to support the certifications;

(3) The rent records; and

(4) Any additional aspects of the Development or its operation that the Department deems necessary or appropriate.

(d) At times other than onsite reviews, the Department may request for review, in a format designated by the Department, information on tenant income and rent for each Low-Income Unit and may require a Development Owner to submit copies of the tenant files, including copies of the Income Certification, the documentation the Development Owner has received to support that certification, and the rent record for any low-income tenant.

(e) The Department will select the Low-Income Units and tenant records that are to be inspected and reviewed. Original records are required for review. The Department will not give Development Owners advance notice that a particular Unit, tenant record, or a particular year will be inspected or reviewed. However, the Department will give reasonable notice to the Development Owner that an onsite inspection or a tenant record review will occur so the Development Owner may notify tenants of the inspection or assemble original tenant records for review. If a credible complaint of fraud or other egregious alleged or suspected noncompliance is received, the Department reserves the right to conduct unannounced onsite monitoring visits.

§10.620. Monitoring for Non-Profit Participation or HUB Participation.

(a) (No change.)

(b) If an Owner wishes to change the participating non-profit or HUB, prior written approval from the Department is necessary. In addition, the IRS will be notified if the non-profit is not materially participating on a HTC Development during the Compliance Period.

(c) (No change.)

§10.624. Events of Noncompliance.

Figure: 10 TAC §10.624 lists events for which a multifamily rental development may be found to be in noncompliance for compliance monitoring purposes. This list is not an exclusive list of events and issues

for which an Owner may be subject to an administrative penalty, debarment or other enforcement action. The first column of the chart identifies the noncompliance event. The second column indicates to which program(s) the noncompliance event applies. The last column indicates if the issue is reportable on IRS Form 8823 for HTC Developments.

Figure: 10 TAC §10.624

Noncompliance Event	Program(s)	If HTC, on Form 8823?
Violations of the Uniform Physical Condition Standards	All Programs	Yes
Noncompliance related to Affirmative Marketing requirements described in §10.617 of this chapter	All Programs	No
Development is not available to the general public because of leasing issues	HTC	Yes
TDHCA has received notice of possible Fair Housing Act Violation from HUD or DOJ and reported general public use violation in accordance with IRS 8823 Audit Guide Chapter 13	HTC	Yes
TDHCA has referred unresolved Fair Housing Design and Construction issue to the Texas Workforce Commission Civil Rights Division	All programs	No
Property has gone through a foreclosure	All programs	Yes
Property is never expected to comply due to failure to report or allow monitoring	All programs	yes
Owner did not allow on-site monitoring or failed to notify residents resulting in inspection cancelation	All programs	Yes
LURA not in effect	All programs	Yes
Project failed to meet minimum set aside	HTC and Bonds	Yes
No evidence of, or failure to certify to material participation of a non-profit or HUB, if required by LURA	HTC	Yes, if non-profit issue, No if HUB issue
Development failed to meet additional state required rent and occupancy restrictions	All programs	No
Noncompliance with social service requirements	HTC and Bond	No
Development failed to provide housing to the elderly as promised at application	All programs	No
Failure to provide special needs housing as required by LURA	All programs	No

Noncompliance Event	Program(s)	If HTC, on Form 8823?
Changes in Eligible Basis or Applicable percentage	HTC	Yes
Failure to submit all or parts of the Annual Owner's Compliance Report	All programs	Yes for part A, No for other parts
Failure to submit quarterly reports as required by §10.607	All programs	No
Noncompliance with utility allowance requirements described in §10.614 of this subchapter and/or Treasury Regulation §1.42-10	All programs	Yes if rent exceeds limit, no if related to noncompliance with other requirements, such as posting, updating etc.
Noncompliance with lease requirements described in §10.613 of this subchapter	All programs	No
Asset Management Division has reported that Development has failed to establish and maintain a reserve account in accordance with §10.405 of this chapter	All programs	No
Failure to provide a notary public as promised at application	HTC	No
Violation of the Unit Vacancy Rule	HTC	Yes
Casualty Loss	All programs	Yes
Failure to provide pre-onsite documentation	All programs	No
Failure to provide amenity as required by LURA	HTC	No
Failure to pay asset management, compliance monitoring or other required fee	HTC, TCAP, Bond, Exchange and HOME Developments committed funds after August 23, 2013	No
Change in ownership without department approval (other than removal of a general partner in accordance with §10.406 of this chapter)	All programs	No
Failure to provide fair housing disclosure notice	All programs	No

Noncompliance Event	Program(s)	If HTC, on Form 8823?
Noncompliance with tenant selection requirements described in §10.610 of this subchapter	All programs	No, unless finding is because Owner refused to lease to Section 8 households
Program Unit not leased to Low-Income household	All programs	Yes
Program unit occupied by nonqualified full-time students	HTC during the Compliance Period, Bond and HOME developments committed funds after August 23, 2013	Yes
Low-Income units used on a transient basis	HTC and Bond	Yes
Violation of the Available Unit Rule	All programs, but only during the Compliance Period for HTC, TCAP and Exchange	Yes
Gross rent exceeds the highest rent allowed under the LURA or other deed restriction	All programs	
Failure to provide Tenant Income Certification and documentation	All programs	Yes
Unit not available for rent	All programs	Yes
Failure to collect data required by §10.612(b)(1) and/or §10.612(b)(2)	HTC, TCAP Exchange and Bond	No
Development evicted or terminated the tenancy of a low-income tenant for other than good cause	HTC, HOME and NSP	Yes
Household income increased above 80 percent at recertification and Owner failed to properly determine rent	HOME	NA
Violation of the Integrated Housing Rule	All programs	No
Failure to resolve final construction deficiencies within corrective action period	All programs	No

Noncompliance Event	Program(s)	If HTC, on Form 8823?
Noncompliance with the accessibility requirements of §504 of the Rehabilitation Act of 1973 and 10 TAC Chapter 1, Subchapter B	HOME, NSP and HTC properties awarded after 2001	No
Noncompliance with the notice to the Department requirements described in §10.609 of this subchapter	All programs	No

Attachment 2. Preamble and adoption of the new 10 TAC Chapter 10, Subchapter F, Compliance Monitoring, §10.610, concerning Tenant Selection Criteria and 10 TAC Chapter 10, Subchapter F, Compliance Monitoring, §10.617, concerning Affirmative Marketing Requirements.

The Texas Department of Housing and Community Affairs (the “Department”) adopts new 10 TAC Chapter 10, Subchapter F, §10.610, concerning Tenant Selection Criteria, and §10.617 concerning Affirmative Marketing Requirements with changes to the proposed text as published in the September 19, 2014 issue of the *Texas Register* (39 TexReg 7458). The primary changes to the proposed rules include language clarifications and adjustments in response to comment. Revisions to the Tenant Selection Criteria rule were generally related to definitions of resident preferences, required occupancy standards and reasonable accommodations language, items related to differences between waitlists and application logs, and language to be required in non-renewal and termination notices. Revisions to the Affirmative Marketing Requirements rule were generally related to which version of the HUD 935.2A form should be used, definitions of outreach efforts, ways to consider limited English proficiency in the course of affirmative marketing, and receiving applications through means other than submission at the Development site. The adoption of the repeal of the previous §10.610 and §10.617 is being published concurrently with this adoption.

REASONED JUSTIFICATION. The adoption of §10.610 Tenant Selection Criteria and §10.617 Affirmative Marketing Requirements will clarify and improve compliance with federal Fair Housing requirements.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.

The Department accepted public comment between September 19, 2014 and October 20, 2014. Due to an administrative error in the original posting, the comment period was extended until November 14, 2014 by notice in the October 31, 2014 issue of the *Texas Register*. Comments were accepted from September 19, 2014 through November 14, 2014, with comments received from Darlene Sidebottom (1), Sandy Bolton (2), Patrick Barbolla (3), Jacqueline Kawas (4), Patricia Hensley (5), Cynthia Bast (6), Fred Fuchs (7), Sergio Amaya (8), Jen Joyce (9), Dyann Adair (10), Lori Erbst (11), John Hennenberger and Madison Sloan (12), and Micah Strange (13). Comments on §10.610, Tenant Selection Criteria, are listed before comments on §10.617, Affirmative Marketing Requirements. For each section, overall comments are listed first, followed by comments in order of the rule subsection.

§10.610 Tenant Selection Criteria

1. 10.610 – General Comment

COMMENT SUMMARY: Commenter 3 suggested that the ultimate result of strictly enforced Tenant Selection Criteria will result in marginally qualified applicants being denied admission and suggested that what the rule calls “vague” language provides for some discretion and allows the periodic marginal applicant to be admitted.

STAFF RESPONSE: Staff recommends no change. The Department suggests that the intention of the new rule is two-fold: 1) To guide Owners in creating criterion that is reflective of their actual screening processes and thereby ensure that Owners are consistently applying criteria as directed under Fair

Housing law, and 2) To educate Owners on and correct common violations of Fair Housing, VAWA, and Section 504 laws. While there is some risk that ‘periodic marginal’ applicants previously admitted may be denied, the Department reasons that any applicant should be able to determine whether or not they will apply at a Development based on a reasonable expectation that they will qualify under the Development’s tenant selection criteria. If exceptions are sometimes made, the Department urges Owners to objectively define these exceptions and effectively screen in additional applicants who may not have applied assuming an exception would not be made.

COMMENT SUMMARY: Commenter 3 and Commenter 9 suggested that an effective date of the Tenant Selection Criteria section be deferred for 120 days to allow sufficient time for drafting, review, and enactment. Commenter 3 also suggested that all Developments have an opportunity to prepare and submit their Tenant Selection Criteria to TDHCA for approval and that pending review, Compliance Monitoring shall not hold a Development in non-compliance until TDHCA has reviewed and approved the Criteria or provided written recommendations or modifications based on a review of the Criteria. If a pre-approval process is not possible, Commenter 3 suggested that a Development shall not be deemed in non-compliance until Compliance Monitoring in the course of normal monitoring has notified the Development that its Criteria does not satisfy the rule and provide specific requirements that need to be addressed and submitted within the normal 90 day correction period. If corrections are made within the 90 day correction period, the Department would not record a violation on the Development’s permanent record.

STAFF RESPONSE: Staff agrees with Comment that additional time for training and ease of implementation may be necessary and suggests the following change: “(a) Effective April 1, 2015, Owners must maintain written tenant selection criteria that includes, at a minimum, the following information:”

While the Department does not have the staff or resources to approve individual plans prior to monitoring, staff is planning webinar trainings that will assist Owners and property management in understanding the new Rule requirements. As with any new rule, the Department will monitor for compliance at the time of an onsite monitoring visit and Owners will have 90 days to correct any findings assessed by the Department. However, some parts of the rule are clarifications of existing federal and state requirements. For example, if the Department receives a complaint regarding a denial of a reasonable accommodation request, it will process that complaint in accordance with 10 TAC §1.2.

2. 10.610 – Subsection (a) concerning general written tenant selection criteria

COMMENT SUMMARY: §10.610(a) Commenter 7 suggested that subsection 10.610(a) of the proposed rule require that owners give a copy of their tenant selection criteria to applicants and their representatives upon request.

STAFF RESPONSE: Staff agrees but recommends the change be made under §10.610(d)(1)(C) instead of §10.610(a). Staff recommends the following change: “Have written waitlist policies and tenant selection criteria available in the leasing office or wherever applications are taken and provide a copy to applicants and their representatives upon request.”

COMMENT SUMMARY: §10.610(a)(1) Commenter 3 suggested that subsection (a)(1) of the proposed rule uses the phrase “any lawful resident preferences, restrictions, and requirements” and that these vague terms be clearly defined. Commenter 3 gave the example of USDA and HUD priority and displacement preferences.

STAFF RESPONSE: Staff recommends the following change: “(1) Requirements that determine an applicant’s basic eligibility for the property, including any preferences or restrictions for resident selection, and requirements applicants must meet to be eligible for tenancy;”

COMMENT SUMMARY: §10.617(a)(3) Commenter 1 noted that many developments change the name of screening companies frequently, that scoring systems may vary on the actual credit company scoring system, and that onsite staff is often not aware of how this is determined.

Commenter 2 noted that their current practice is to provide an adverse action letter from the screening company by hand delivery or by mail to the applicant. Each applicant is scored through the screening company on a points based system and management staff does not know why they are declined. This information can then be requested in writing to the screening company by the applicant.

STAFF RESPONSE: Staff agrees with Commenter 1 that changes in screening company names may result in needless updating of the Tenant Selection Criteria and notes that the third party information for any screening company (whether credit, residency history, or criminal history) will be provided in the rejection letter as described in (C)(2). Staff suggests a rule change as follows: “Applicant screening criteria including what is screened and what scores or findings would result in ineligibility. Applicants must be provided the names of any third party screening companies upon request;”

In response to Commenter 2, while staff is aware that screening scoring systems may vary, the score a resident must achieve to be eligible for residence at a property must be transparent along with factors that will result in a reason for denial. Letters notifying a prospective resident of application denial must also reference any factors that resulted in a reason for denial; if the denial is sent by the third party screening company to the applicant directly via an adverse action letter, the letter must also clearly list the reason(s) (e.g., credit scores, rental or criminal history findings) for which an applicant was denied. Under the proposed rule, the practice represented by Commenter 2 would not be acceptable, as the tenant does not receive information about why they have been declined.

3. 10.610 – Subsection (b) concerning prohibited tenant selection criteria provisions

COMMENT SUMMARY: §10.610(b)(1) Commenter 3 suggested that subsection (b)(1) of the proposed rule needs clarification of the phrase “residency preferences” and suggested language be added to provide language for up front blanket exemptions for USDA properties and project based section 8 properties that require frequent jumping on the waiting list.

Commenter 6 suggested that the language in subsection (b)(1) prohibits an owner from utilizing tenant selection criteria that include residency preferences unless the preferences are due to exceptional circumstances approved by TDHCA and recommended a change as follows: “(1) Include residency preferences unless preferences are due to exceptional circumstances approved by TDHCA prior to initial

lease up or at application or the property receives federal assistance and has received approval from HUD or USDA for such preference or such preference is otherwise permitted by federal law;”

STAFF RESPONSE: Staff recommends the following changes in response to comment: “(1) Include preferences for admission of persons who reside in a specific geographic area unless such preferences are approved by TDHCA or the property receives federal assistance and has received written approval from HUD or USDA for such preference.”

In response to Commenter 6, staff suggests that removal of the word “residency” and removal of the phrase “due to exceptional circumstances” will remove the perceived barrier to residential preferences for artists. The Department has also removed language regarding specific points in time when the Department must approve specific geographic preferences in order to prevent barriers in the case of disaster or other unforeseen circumstances.

COMMENT SUMMARY: §10.610(b)(2) Commenter 3 suggested that the phrase “Section 811 PRA Program” should not be included in section (b)(2), which lists forms of rental assistance for which a tenant should not be denied. Commenter 3 stated that the program should not be included since it is voluntary.

Commenter 7 suggested that subsection (b)(2) should specifically prohibit discrimination against voucher holders with vouchers issued by the United States Department of Agriculture Rural Housing Service under the Rural Development Voucher Program and the HUD Veterans Affairs Supportive Housing (VASH) program. The Commenter cited specific circumstances in which prospective applicants had been denied use of a Rural Development Voucher based on the fact that the program is administered by USDA and because of other differences between the program and Housing Choice Voucher program.

STAFF RESPONSE: Staff agrees with Commenter 3 that Section 811 PRA is an optional program and will be attached to a property as a project based voucher. The Department recommends the following change: “(2) Exclude an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program;”

In response to Commenter 7, staff suggests that the current provision is sufficient to advise property managers and owners of their obligations in TDHCA monitored properties and created the rule as stated to intentionally include all federal state and local government rental assistance programs, without risking excluding certain programs by not referring to them expressly by name. Any specific HUD or USDA voucher programs would be included by reference in this provision since both are federal government rental assistance programs.

COMMENT SUMMARY: §10.610(b)(6) Commenters 4, 5, and 11 suggested that subsection (b)(6) be modified to read: “In accordance with the Violence Against Women Reauthorization Act of 2013, deny admission on the basis that the applicant has been a documented victim of domestic violence, dating violence, sexual assault, or stalking;” Commenter 4 suggested that adding ‘documented’ before victim would discourage abuse of the rule, such as being granted a waiver of the development’s specific

resident requirements when the need might not actually exist and which might cause unnecessary cost that would result in an undue administrative and financial burden on the owner. Commenter 5 suggested that the rule as proposed would allow all persons to bypass certain eligibility and admission requirements by indicating that they are a victim of domestic violence and that in many cases the victim is approved and moves into the apartment but a short time later allows an abuser to move back in. Commenter 5 also suggested that adding the word “documented” could encourage “true” domestic violence victims to report the abuser and break the cycle of abuse, but that allowing anyone to say they are a victim could open the door for applicants/residents to use the rule as an excuse to get out of a lease and/or bypass community rules.

STAFF RESPONSE: Staff recommends no change. While HUD is still expecting to issue additional guidance on the Violence Against Women Reauthorization Act of 2013 (VAWA), staff does not agree that the Department must currently require Owners subject to VAWA to request documentation, though Owners may choose to document such information as directed under previous HUD guidance. HUD’s definition of acceptable documentation that an applicant or tenant had been a victim of domestic violence, dating violence, sexual assault, or stalking was defined under the previous act. These items are reiterated under FR-5720-N-01 and include items such as HUD certification forms 50066 and 91066, a document signed by the applicant or tenant and a professional from whom the tenant has sought assistance, a Federal, State, tribal, territorial or local police report or court record, or a statement or other evidence provided by an applicant or tenant at the discretion of the owner or manager.

COMMENT SUMMARY: §10.610(b)(7) Commenter 9 suggested under subsection (b)(7) that the revised rule requires that an existing tenant on a wait list for a 50% unit receive priority over another resident not already residing on the property and that the provision be stricken based on the fact that the unit would have to be held vacant while the existing household was re-qualified for eligibility for a lower rent unit. Commenter 9 respectfully requested that this remain the purview of the owner and not TDHCA.

Commenter 11 suggested under subsection (b)(7) that the rule could potentially displace current residents if a complex can’t “help house in place residents with family size or financial burdens”. Commenter 11 suggested that Owners should be able to transfer disabled households to suitable units before applicants on the waiting list and that the same is true for households with a financial burden or whose family size grows to exceed the unit size. The Commenter suggested the rule does not make sense, as even HUD allows for transfers of households before others on a waitlist.

STAFF RESPONSE: Staff recommends no change in response to comment. Staff reasons that Commenter 9’s main objection to the section of the rule relates to additional time spent in re-qualifying a household. However, the Department does not agree that re-qualifying a household would necessarily require more time than initially qualifying a household for move in and determines that just as a household on the waitlist may be called in to submit and complete an application, an existing tenant may be asked to supply paperwork at the time another resident gives notice and a unit is known to become vacant.

In response to Commenter 11, staff disagrees that the proposed rule has the effect of potentially displacing current residents looking to transfer disabled households, households with a financial burden, or whose family size grows to exceed the unit size. The rule, as proposed, instead states that households

not residing in the Development should not be prioritized over those already residing at the Development in instances in which existing tenant households are seeking units with a lower income restriction than the unit in which they currently reside. It does not prohibit any other action of a Development regarding other types of transfers.

COMMENT SUMMARY: §10.610(b)(8) Commenter 7 suggested under subsection (b)(8) that HUD’s “Keating Memo” on Fair Housing Enforcement of Occupancy Standards be referenced and that the subsection be revised as follows: “Require fewer than 2 persons per bedroom for each rental unit unless otherwise directed by local building code or safety regulations. Occupancy policies must meet the standards set forth in HUD’s Notice titled *Fair Housing Enforcement – Occupancy Standards Notice of Statement of Policy*, set forth at 63 Federal Register 70256 (Dec. 18, 1998); and”

Commenter 9 suggested under subsection (b)(8) that TDHCA add language as follows: “Require fewer than 2 persons per bedroom for each rental unit unless otherwise directed by local building code or safety regulations or if the development is an SRO or offers Supportive Housing similar to an SRO.”

STAFF RESPONSE: Staff agrees with Commenter 7 that occupancy policies should be established that are reasonable in relation to guidance published under the Fair Housing Enforcement Occupancy Standards Notice; however, the Department believes that referring Owners and Management Agents to the notice would be better suited to training under the new rule that can include best practices and reference materials. Staff suggests the following change: “Require unreasonable occupancy standards. If fewer than 2 persons (over the age of 6) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided; and”

In response to Commenter 9, staff believes that the changes proposed in response to Commenter 7 will address Commenter 9’s concerns regarding SROs or supportive housing developments similar to SROs. SROs or supportive housing units that present circumstances in which less than 2 persons per bedroom reflects a reasonable occupancy standard should review local fair housing laws to ensure that such occupancy standards do not violate discrimination provisions related to any additional protected classes and provide written justification for such standards.

COMMENT SUMMARY: §10.610(b)(9) Commenter 9 suggested under subsection (b)(9) that the section unintentionally restricts new owners from being able to clean up a property that has high crime caused by existing tenants. The Commenter recommends allowing new owners or existing owners of a property with new TDHCA funding to be exempt from the requirement to allow for evictions of tenants who have violated the new criteria during their tenancy so that they may evict for infractions to new leasing criteria. The Commenter suggested language be revised as follows: “Be applied retroactively except under circumstances in which prior criteria violate federal or state law; tenants who already reside in the development at the time new or revised leasing criteria are applied and who are otherwise in good standing under the lease must not receive notices of non-renewal based solely on their failure to meet the new or revised criteria. If the development has a new allocation of tax credits or other TDHCA funding, or if it is under new ownership, or if the required screening was never run before the tenant occupied the unit, the criteria may be applied retroactively, and a tenant may receive non-renewal or eviction notices, but only for infractions committed during their tenancy.”

STAFF RESPONSE: Staff agrees that an unintended error was made in the proposed rule; staff also determines in concert with the entered comments that income eligibility needs to be considered in the event of new ownership and suggests the following changes: “Be applied retroactively except under circumstances in which market developments have received a new award of tax credits or TDHCA funds and a household is not income eligible under program requirements or prior criteria violate federal or state law. Tenants who already reside in the development at the time new or revised tenant selection criteria are applied and who are otherwise in good standing under the lease must not receive notices of termination or non-renewal based solely on their failure to meet the new or revised tenant selection criteria.” Staff disagrees, however, that tenants should be held responsible for errors of previous ownership or management or previous failures to adequately enforce provisions of the lease. Rather, staff would expect any new policies or provisions to be instituted at the time of any change and make an effect on property activities through the regular process of proffering legal notices and eviction notices as lawful when behavior violates the lease. Revised tenant selection policies, as stated, must not be used to retroactively terminate or non-renew the lease of a tenant otherwise in good standing. Allowing such practices was specifically considered during the rule’s creation in response to concerns from legal aid advocates that cited circumstances in which tenants in good standing had been non-renewed based on criminal convictions (some for criminal convictions that were over 10 years old) because of a property deciding to implement a “no felony” policy. Such practices have the effect of displacing tenants though the tenant in every way reasonably complied with the property’s tenant selection and application policies at the time the initial decision to rent was made.

4. 10.610 - Subsection (c) concerning required tenant selection criteria provisions

COMMENT SUMMARY: §10.610(c) Commenter 7 suggested under subsection (c) that the rule should be revised to provide limitations on how far back HTC owners may look (a reasonable look-back period) in considering an applicant’s criminal history and that TDHCA should prohibit owners from re-screening any applicant who has been screened for criminal history by the local public housing authority (PHA). The Commenter suggested the following language: “Owners who choose to screen for criminal history must use only conviction information and must apply reasonable criminal history look-back periods in determining whether to admit an applicant with a criminal conviction. Owners may not deny admission to applicants with section 8 housing vouchers who have been screened for criminal history by the local public housing authority and approved for participation in the voucher program.” The Commenter cited several examples reflective of criteria and policies in use by HTC developments that he believes create barriers to HTC housing for low income renters with criminal histories, many of which the Commenter stated are minority persons with disabilities. The Commenter reasoned that since Texas has adopted standards that require HTC owners to lease to voucher holders that he believes that HTC owners therefore meet the definition of “federally assisted housing” and must comply with requirements under 42 U.S.C.A §13661, 13662, and 13663 which require reasonable look-back periods.

STAFF RESPONSE: Staff recommends no change. Staff suggests that such change would be substantive and that including language regarding “reasonable look-back periods” would present significant issues for enforcement monitoring and require TDHCA to determine what is “reasonable” under HUD’s guidance without HUD having promulgated a clear answer. Additionally, the Department suggests that the Section 8 voucher holder screening process varies among public housing authorities and such screenings may be similar or different from screenings used by owners of TDHCA monitored properties.

COMMENT SUMMARY: §10.610(c)(1) Commenter 5 suggested under subsection (c)(1) that avoiding the use of vague terms puts the owner in a position where they will have to clearly define such terms. In defining such terms, Commenters 5 and 8 asked whether the State will accept the Owner’s definition or will offer its own definition.

Commenter 8 suggested that to clearly define every circumstance that could constitute a negative rental history would be rather lengthy and that a property management company should have their own policy on what they deem as negative rental history and have the ability to look at each applicant’s rental history to determine if it is negative or not based on the circumstance. Commenter 8 suggested that using the term negative rental history should be acceptable as long as a property management company is not discriminating against applicants that have negative rental history based on one of the protected classes.

STAFF RESPONSE: Staff recommends no change in response to Comment. Staff agrees with Commenter 5 that avoiding the use of vague terms puts the owner in a position where they will have to clearly define such terms. Owners must create objective tenant eligibility criteria that can be consistently and uniformly applied. Staff expects Owners to define any vague terms suggestive of reasons for denial; for example, if an Owner expects to use the terms “negative rental history”, an Owner will be expected to define any elements that result in an Owner’s determination of “negative rental history”, such as third party screenings that result in eviction for non-payment of rent, amounts owed for property damages, or poor rental references, etc.

In response to Commenter 8, staff suggests that property management companies must have their own policy that transparently details items that will result in automatic denials. If mitigating factors will be considered, the property management company must describe what types of items will be considered.

COMMENT SUMMARY: §10.610(c)(3) Commenter 1 stated that the adoption of subsection (c)(3) of the rule will result in circumstances in which “Every known felon would apply with a disability and obtain a waiver!” Commenters 1 and 2 noted that this section of the rule would contradict their existing tenant selection policies regarding criminal history and evictions.

Commenter 3 suggested that the word “convictions” should be removed from the proposed rule because to allow a convicted criminal to claim that his/her disability caused the conviction is not only bad public policy but endangers the other residents.

Commenter 4 suggested that the subsection be modified to read: “Provide that reasonable accommodations in the form of waivers of tenant eligibility may be considered where convictions or prior tenancy references can be attributed to a documented disability or to documented domestic violence perpetrated against the applicant; if additional mitigating factors will be considered, include how such decisions will be made and what must be provided for consideration.”

Commenter 8 asked under subsection (c)(3) who should decide that it is okay to allow an applicant that has a criminal history on their record to be granted an exception because he/she is a recovering alcoholic/drug addict and asked why the applicant should be granted a “pardon” from previous actions because recovered alcoholics and drug addicts can be covered under the term disabled. Commenter 8

additionally asked what happens if a resident then becomes a current alcoholic or drug addict while residing on the property and suggested that an eviction would then have to be filed because they are no longer disabled and the tenant selection criteria states that the property would deny someone with that felony under normal circumstances. Commenter 8 then asked, “Will you need to monitor them to ensure that they do not become current alcoholics/drug addicts while they are residents?”

STAFF RESPONSE: Staff does not agree with Commenters 1 and 2 that the proposed rule will “lead every known felon to apply with a disability and obtain a waiver”. The Department is aware that the adoption of this rule will require many Developments to amend their leasing criteria. However, the Department believes that such changes are necessary to ensure that barriers to affordable housing, particularly for persons with disabilities, are appropriately mitigated through education and enforcement. However, staff also reasons that a portion of this provision is reiterated in (b)(6) and that the purpose of the rule may be widened and better served by the following change: “Provide information on how reasonable accommodations for persons with disabilities may be requested by an applicant during the application process and provide notice to applicants about VAWA protections. The Development must provide a timeframe in which it will respond to a request;”

In response to Commenters 3 and 8, staff also suggests that there are circumstances in which a person with a disability may request a reasonable accommodation to tenant eligibility criteria, such as circumstances in which criminal convictions relate to a person’s chronic mental illness or past history of alcoholism for which a tenant has appropriately sought treatment and can successfully demonstrate appropriate supports and current positive rental history or references. Staff encourages Owners subject to Section 504 requirements to review their processes for receiving and considering such requests and discuss such processes with legal counsel that can appropriately advise them.

Reasonable Accommodations requests, in response to Commenter 8, must be reviewed on a case by case basis. Approval of such requests does not mean that a resident of an affordable housing community does not have an equal responsibility to abide by the provisions of the lease agreement. Staff suggests that if a person was provided such an accommodation, the person would not be evicted for “no longer being disabled” but would be evicted only in the event that they, like any other tenant, have not complied with the provisions of their lease. As a reminder, disability discrimination provisions do not extend to persons who currently use illegal drugs or persons with or without disabilities who present a direct threat to the persons or property of others. If a lease violation constitutes action by the landlord, the landlord may consider these factors.

The Department suggests, in response to Commenter 4, that documentation provisions related specifically to disability are covered in applicable laws such as the Fair Housing Act and Section 504 and staff does not intend to restrict any rights available under such laws. Additionally, as described in response to the Commenter’s similar suggestions on (b)(6), the Department will follow the Act and HUD’s guidance in relation to VAWA.

COMMENT SUMMARY: §10.610(c)(6) Commenter 3 suggested under subsection (c)(6) that the rule’s use of the phrase “elderly Development” is vague and that the term should be defined.

STAFF RESPONSE: Staff recommends the following change: “All Developments operating as Housing for Older Persons under the Housing for Older Persons Act of 1995 as amended (HOPA) and in

accordance with a LURA must list specific age requirements and continue to meet qualifying criteria under the HOPA to maintain such designations;”

COMMENT SUMMARY: §10.610(c)(7) Commenter 3 suggested under subsection (c)(7) that there is a distinction between federally financed housing (which excludes tax credit properties) and other properties as it relates to the application of specific requirements for service animals and that the section needs to be revised to clearly define which properties based on financing and date of construction are subject to which restrictions. Commenter 3 suggested FHEO-2013-01 for review in a discussion of Fair Housing and ADA requirements.

Commenter 4 suggested under subsection (c)(7) that the word “assistance” be replaced with the word “companion” in the following statement: “Provide that specific animal, breed, number, weight restrictions, pet rules, and pet deposits will not apply to households having a qualified service/assistance animal(s);”. The Commenter suggested that using the word “assistance” instead of the word “companion” as used in the draft tenant brochure would create an additional definition owners would need to accommodate.

Commenter 8 asked, under subsection (c)(7), why pet rules and pet deposits should be considered a part of the tenant selection criteria and stated that such items are addressed in the property’s pet policy and that property management and residents with service/assistance animals are aware that a property’s pet policy does not apply to them. The Commenter suggested that if such statements are required in a property’s tenant selection criteria that it would also need to be spelled out on properties that do not allow pets and this would add unnecessary information for an application document.

Commenter 10 suggested under subsection (c)(7) that “on the restriction lift of specific animal, breed, number, weight restriction, pet rules, and pet deposit” that “it’s important that residents maintain pet rules for the safety and sanitary conditions of the property and other residents. The service/assistance animals should be required to follow the same rules as those of other pets.”

STAFF RESPONSE: Staff recommends no change in response to comment. Under the Fair Housing Act, to which all multifamily properties in the Department’s portfolio are subject, assistance animals are defined as animals that are not pets. While the ADA has refined the definition and specific requirements for service animals, the Department of Justice Notice referenced by Commenter 3, FHEO-2013-01, concludes that the definition of “service animal” contained in ADA regulations does not limit housing providers’ obligations to grant reasonable accommodation requests for assistance animals in housing under either the FHA or Section 504. In addition, under the FHA and Section 504, assistance animals are not considered pets. Therefore staff reasons that the rule as drafted provides acceptable guidance.

In response to Commenter 4, under Section 504 and the Fair Housing Act, the term “assistance animal” is most widely used, but staff cautions the commenter that persons with a disability may request a reasonable accommodation for service animals, assistance animals, companion animals, or emotional support animals as directed under the Fair Housing Act and Section 504 regardless of the terminology expressly used in the rule.

In response to Commenter 8, the Department desires such statements to be added for the express purpose that they will be spelled out (even on properties that do not typically allow pets) to decrease

barriers to housing for persons with disabilities who may not be aware of protections for service/assistance animals. The Department also disagrees that it should operate on the basis that property management and residents with service/assistance animals are already aware that a property's pet policy does not apply. The Phase 2 Analysis of Impediments completed by the state of Texas noted one goal and two impediments directly related to statewide knowledge of fair housing laws and specifically addressed the need for more information on reasonable accommodations, a recommendation which is related to this provision. The Department reasons that if a development seeks to reference an existing pet policy that already includes such language and make such policy available to applicants, the development may do so and remain in compliance with the rule. Where no pet policy or other document detailing this item exists, developments should expressly include it in tenant selection criteria.

In response to Commenter 10, the Federal Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and ADA, service/assistance animals are not considered "pets"; conditions and restrictions that housing providers apply to pets may not be applied to service animals. This guidance is made clear under Section I of HUD Notice FHEO-2013-01. Service/assistance animals must be permitted to accompany the individual with the disability to all areas of a Development where persons are normally allowed to go, unless (as provided by HUD guidance): 1) the animal is out of control and its handler does not take effective action to control it; 2) the animal is not housebroken (i.e., trained so that, in the absence of illness or accident, the animal controls its waste elimination); or 3) the animal poses a direct threat to the health and safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices, and procedures.

5. 10.610 – Subsection (d) concerning waitlists, application rejections, and termination or non-renewal notices

COMMENT SUMMARY: §10.610(d)(1)(B) Commenters 1, 2, and 11 suggested under subsection (d)(1)(B) that the application will be completed only when a unit becomes available that can be assigned and that the waitlist information therefore collected would only be basic in nature, such as name, contact information, special needs or disabled status, and that demographics and voucher status would be a moot point. Commenter 3 also suggested that there is no need to include voucher status on the waiting list and that it should be removed since holding a voucher is not relevant to determining eligibility or qualifications for occupancy.

Commenter 11 also suggested that the Department define "completed application process" and described the differences between entering applicants on a waitlist and processing an applicant's application for tenancy.

STAFF RESPONSE: Staff agrees with the Commenters 1, 2, 3, and 11 that some of the suggested items are only available when the household fills out a full application and that the rule, as written, confuses information collected for the waitlist and information collected at the time of full application, which are separate and distinct processes – staff also reasons that if applications are accepted, application data will already be provided as tenant household data, leaving only the consideration of rejected applicant data. To resolve confusion and avoid duplication of data efforts, staff recommends the following change: "(B) The Development must keep a log of all denied applicants that completed the application process and maintain a file of all rejected applications for the length of time specified in the applicable program's recordkeeping requirements. The log must list basic household demographic

and rental assistance information, if requested during any part of the application process, along with the specific reason for which an applicant was denied, the date the decision was made, and the date the denial notice was mailed or hand-delivered to the applicant. This information may be kept in conjunction with the Development's waitlist or as a separate log. The log must be made available to the Department upon request."

COMMENT SUMMARY: §10.610(d)(2) Commenter 1 suggested that a 30-day determination under subsection (d)(2) to help with lease up developments and ineligible applicants should be provided to any rejected or ineligible applicant/household that completed the application process rather than the 7 day period recommended by the Department. Commenter 2 suggested that a seven day period is not very long if an applicant were to bring in other information once rejected to appeal the decision and during a lease up this time may be even shorter.

STAFF RESPONSE: Staff recommends no change. Furnishing application denials within 7 days of the time a denial is known will ensure that households in need of affordable housing have time to search for and apply at alternate Developments in the event they are rejected under a Development's screening criteria.

In response to Commenter 2, the Department reasons that the seven day period only relates to the time in which management must issue the notice of the initial denial to the household but does not prescribe a period for the consideration of appeals or other information brought to the attention of an Owner or Property Manager.

COMMENT SUMMARY: §10.610(d)(3) Commenter 1 and Commenter 2 stated, under subsection (d)(3) that non-renewal and termination notice provisions included in the Rule are already provided in the TAA lease and Redbook forms.

Commenter 3, under subsection (d)(3), objected to the phrase "or contest the threat of termination or non-renewal".

Commenters 6 and 8 suggested that subsection (d)(3) infers that the only way a development can non-renew a resident is through the judicial process, which is costly and lengthy. The Commenter reasons that it is completely understandable and necessary to go through a judicial process to sever a binding agreement but if the lease is ended and the property chooses to non-renew for good cause it should not be necessary to enter into the judicial process. The Commenter also stated that it should not be the property's responsibility (as the plaintiff) to inform the resident (as the defendant) on the appeals process as this is not standard practice in any type of lawsuit.

Commenter 7 suggested that the proposed language in subsection (d)(3) of the draft rule is a marked improvement that will help ensure compliance with federal law and made two additional suggestions for additional items. The Commenter suggested adding the following language in (d)(3) which is currently required in HUD-assisted housing and appears in the HUD Model Lease for Subsidized programs: "The notice must inform the tenant of the right to request a meeting with management to discuss the proposed non-renewal or termination of tenancy. If an eviction is initiated, the landlord must rely only upon the grounds cited in the termination notice." The Commenter reasoned that evictions can frequently be resolved with a meeting between the tenant and management and that informal resolution should be

encouraged. The Commenter also suggested that a subsection (d)(4) be added to read as follows: “Owners must set forth the specific grounds for non-renewal or termination in the eviction petition (or attach a copy of the termination notice) filed in the justice of the peace court and also provide the court with a copy of any lease addendum setting forth the good cause requirement.” The Commenter suggested that owners should not be able to file an eviction petition alleging “holdover at end of lease non-renewal” and that requiring a petition to state grounds for non-renewal will put the court on notice that the landlord must prove the existence of good cause for non-renewal. The Commenter also suggested that unless the good cause standard for termination of tenancy is stated in the lease agreement, the court may not be aware of the good cause standard’s existence in the lease addendum. The Commenter cited experiences in which landlords are required to file a copy of the lease agreement but courts may not be aware of additional lease addenda that are not filed with the lease agreement. The Commenter suggested that if the good cause standard is not included in the lease itself then the court will assume no such standard applies.

STAFF RESPONSE: Staff understands the objection of Commenter 3 and agrees with Commenters 6 and 8 that a development can non-renew for good cause without engaging the judicial process. The Department suggests revising this section as follows: “(3) Provide in any non-renewal or termination notice as allowed under applicable program rules a specific reason for the termination or non-renewal. The notification must be delivered as required under applicable program rules, include information on rights under VAWA if the development is subject to VAWA, and provide how a person with a disability may request a reasonable accommodation in relation to such notice. The notification must also include information on the appeals process if one is used by the property.”

In response to Commenter 7, the Department reasons it may be able to provide the idea of tenant meetings with management as a best practice, but at this time declines to mandate such practices. Additionally, the Department would suggest that many of its Owners already work diligently with tenants to preserve tenancy and avoid the eviction process but that Owners are also responsible for ensuring the safety and peaceful enjoyment of other residents in a development community; where such actions place the rights of others in such communities in jeopardy, Owners are expected to respond in accordance with their responsibilities under the lease. In response to the suggestion for subsection (d)(4), the Department reasons that tenants are provided copies of all lease addendums at the time of move in and would receive termination and non-renewal notices at the time such notices are delivered by management.

In response to Commenters 1 and 2, the Department suggests that the added language in non-renewals or termination notices serves to better inform tenants of their rights at the time such notice is received and includes information about reasonable accommodations for persons with a disability. The TAA leases that the Department has seen do not include this language.

STATUTORY AUTHORITY. The new section is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The new rule affects no other code, article, or statute.

§10.617 Affirmative Marketing Requirements.

1. 10.617 – General Comment

COMMENT SUMMARY: Commenter 3 generally suggested that language be added to the rule stating that this section is based on obligations on the Department by reason of its acceptance of CDBG, HOME, and Section 811 PRA funds and not any legislative requirements under the low income housing tax credit program.

STAFF RESPONSE: Staff recommends no change. The Affirmative Marketing Rule has been included in the Department’s monitoring practices for all multifamily developments, including the HTC program, for several years. The Department has the authority to require it and desires to affirmatively further fair housing objectives in all department programs.

COMMENT SUMMARY: Commenter 3 generally suggested that hundreds of properties receive financing from TDHCA and either USDA and/or HUD and questioned the benefit of having duplicate monitoring for requirements that differ in subtle ways. As a result, the Commenter suggested that developments completing an Affirmative Marketing Plan under USDA or HUD be made exempt from the TDHCA rule.

STAFF RESPONSE: Staff recommends no change. The Commenter’s request would lead to a substantial change under the current comment process but staff will explore entering into an MOU with HUD and/or USDA and may propose such an amendment in future rulemaking. Staff suggests that TDHCA’s revised requirements should not further complicate or serve to duplicate efforts, as the Department is required to monitor for federal requirements as mandated by certain federal assistance programs and does not consider any of the rule requirements to be in conflict with HUD’s or USDA’s expectations and guidance. Staff, instead, expects the revised requirements, by way of the Affirmative Marketing Tool, to simplify affirmative marketing processes by assisting Owners and property managers in defining a “market area” and identifying “least likely to apply” populations and thereby creating a more efficient and meaningful process that will allow Owners to focus on outreach.

COMMENT SUMMARY: Commenter 3 generally suggested that any demographic data or tools provided by the Department be related to income eligible households and that unless data provided by the Department is based on percentages of racial groups that are income eligible, the data is meaningless if the purpose is to have a meaningful targeting of advertising. The Commenter also suggested that USDA and Section 8 landlords are also prohibited from renting to non-United States citizens and undocumented aliens and that it is a waste of the development owner’s time and money to outreach to a segment of the population that is over income and would not meet basic eligibility criteria.

STAFF RESPONSE: Staff recommends no change. While HUD defines the purpose of affirmative marketing as ensuring that individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of race, color, religion, sex, disability, familial status, or national origin. HUD has not issued guidance on how to consider income eligibility in its Affirmative Fair Housing Marketing Plan or given clear instructions on how to consider income eligibility in the plan’s guiding instructions or worksheets. The Department believes that the tool, as described in the proposed rule, will assist Development Owners and property managers in appropriately analyzing census and market area data as currently directed by HUD to identify “least likely to apply” populations and ensuring that such populations are aware of rental opportunities.

COMMENT SUMMARY: Commenter 3 generally suggested that for all properties, or for at least any property receiving USDA financing, that the market area should be defined as the Census tract, the city as the market area, and the county as the expanded market area. The Commenter suggested that while it may be a “feel good situation” for the Department to cause others to advertise in a wide geographic area, the plan is destined to fail if it is based on having a person relocate 40-50 miles away. The Commenter suggested that rather than require Development Owners to conduct such actions, the Department should place the obligation on itself to expand its actions and not relegate such advertising to Development Owners.

STAFF RESPONSE: Staff recommends no change. For existing properties, the rule currently contemplates an analysis of tenant pool data compared to either an MSA or County (though properties with less than 40 units, unoccupied properties, or properties with data not sufficiently complete to yield an accurate profile of the populations a Development is serving would use Census Tract data instead of tenant pool data as a basis for comparison). Staff considered various bases of comparison in looking at the rule, but determined that MSAs and Counties were most appropriate due to the various relative sizes of census tracts and a likelihood that advertising only within census tracts may fail to appropriately realize the benefits of affirmative marketing for certain populations. For example, persons with disabilities may very well be willing to relocate 40-50 miles to live in an accessible unit that meets their needs, especially in rural areas where accessible housing is a scarce resource. The Department, in response to its own obligations, is also currently in the process of creating website mock ups for and reviewing proposed changes to its Vacancy Clearinghouse tool that will hopefully assist both the Department and property Owners in adequately advertising affordable housing vacancies.

COMMENT SUMMARY: Commenter 3 generally suggested that the Department should hold the proposed rule in abeyance pending a decision from the Supreme Court in the Inclusive Properties case. The Commenter suggests that the proposed rule as drafted imposes racial quotas on occupancy, i.e., once the quota is achieved then outreach may cease and the thrust of the rule as a whole is nothing more than acceptance of disparate impact theory. The Commenter reasoned that rather than implement a theory the Department is contesting in court, the Department should defer any approval pending the Supreme Court’s decision, which should be by the end of June, 2015.

STAFF RESPONSE: Staff disagrees. The rule does not impose “racial quotas”.

COMMENT SUMMARY: Commenter 3 generally suggested that the proposed rule requires significant “racial profiling” and that until a “racial quota” is met, the development is required to seek out media and organizations that “actively engage with the identified populations”. The Commenter stated “phrased for what it is, this is racially profiling organizations and community contacts.” The Commenter suggests that “the problem with racial profiling is that it is really meaningless when it comes to seeking tenants in affordable housing” and that “many racially identifiable organizations are not necessarily composed of income eligible individuals”. The Commenter suggests that the direction of outreach and marketing should be to organizations that serve lower income households and that in many rural areas of Texas organizations serve all racial segments and are not “segregated”. The Commenter suggests that in these areas “better practice would be to require outreach to individuals that are associated with non-segregated organizations since they are the ones most likely to relocate to an apartment that is not wholly occupied by members of their own race.”

STAFF RESPONSE: Staff recommends no change. Owners are not prohibited from outreaching to organizations that serve lower income households and are encouraged to do so.

COMMENT SUMMARY: Commenter 3 generally suggested that regardless of steps taken by the Department, there will be those advocates that claim TDHCA and Texas has not taken sufficient steps to comply with advocate demands. The Commenter suggested that HUD will soon publish its final rule on Affirmatively Furthering Fair Housing and that this proposed rule will render meaningless any steps taken by the Department in this rule and outlaw many reasonable zoning ordinances in Texas because of Disparate Impact if Texas continues to accept CDBG, HOME, and Section 811 PRA funding from HUD. The Commenter suggests that rather than seeking meaningless appeasement that will enable the Department to continue to obtain federal financing, that the rule be postponed considering release of HUD's final Affirmative Fair Housing Rule and a full study of its impact on Texas, including the response of Texas leadership to the Rule.

STAFF RESPONSE: Staff suggests that HUD's proposed rule, regardless of whether and when it is finalized, will not render meaningless the steps taken by the Department in this rule. However, Staff agrees that additional time for training and ease of implementation may be necessary and suggests the following change: "(a) Applicability. Effective April 1, 2015, compliance with this section is required for all Developments with five (5) or more total units to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 13166."

COMMENT SUMMARY: Commenter 12 generally suggested that affirmative marketing is necessary to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 13166 and registered support in TDHCA's proposed revision of Section 10.617, stating that "the failure to effectively affirmatively market to persons least likely to apply can lead to the exclusion of certain classes of persons for an affordable housing property. One need look no further than the outcome of marketing efforts seen in the ethnic and racial composition documented in the Housing Sponsor Report to see the need for a more effective affirmative marketing effort." The Commenter suggested, however, that TDHCA's proposed rule omits provisions requiring collection and reporting of race and ethnicity data of all applicants for the housing and race and ethnicity of all individuals who visit the project or subdivision in person, which the Commenter suggests are a critical data reporting requirement included in the HUD Affirmative Fair Housing Marketing Plan and must be required to assess the effectiveness of the marketing plan and compliance with fair housing laws.

STAFF RESPONSE: Staff recommends no change. Staff suggests that the Department has moved to require Developments to keep rejected application logs which must include basic information on household demographics.

COMMENT SUMMARY: Commenter 8 generally suggested that it is obvious that TDHCA's thoughts behind the proposed rule changes are to ensure that everyone is treated equally. The Commenter asked why inequity concerns are not just addressed with the developments that are not following the current procedures and why TDHCA does not just allow HUD to address any fair housing violations with the offenders. The Commenter suggested that this would allow the rest of the developments to continue to provide the services to the residents that they are required to provide and are currently providing rather than increasing costs for developments and causing money currently being

used to enhance a property and its services to be reduced. The Commenter then suggested that “Residents would enjoy one extra resident activity versus receiving an eight page brochure that explains to them something they could find online. These additional expenses will have to be taken from somewhere.”

STAFF RESPONSE: Staff recommends no change. The Department’s rules are appropriate for a government agency that administers and monitors federal and state funds in compliance with prohibited discrimination provisions and its HUD mandate to certify that it is affirmatively furthering fair housing. The Department also suggests that any failure to provide resident activities that a Development is required to provide in accordance with its LURA may result in a finding of non-compliance as otherwise provided in the Uniform Multifamily Rules, Subchapter F.

2. 10.617 – Subsection (c) concerning plan format.

COMMENT SUMMARY: §10.617(c) Commenter 5 generally noted under subsection (c) that Owners are currently allowed to use the expired HUD form 935.2A for affirmative marketing purposes. The commenter asked whether this will still be acceptable to TDHCA. Commenter 9 suggested that TDHCA make it clear that Owners are still allowed to use the version of HUD Form 935.2A that expired on 1/31/2010 and if not, that Owners not be required to complete Worksheets 1 and 2 on the updated form. Commenter 9 also suggested a clarification that HUD instructions do not apply unless otherwise stated in the rule.

STAFF RESPONSE: Staff seeks to resolve confusion regarding this statement by suggesting the following change under subsection (c): “(c) Plan format. Owners are encouraged to use any version of HUD Form 935.2A to meet Affirmative Marketing requirements. Owners participating in HUD funded programs administered by the Department must use the version required by the program. The Department may make additional forms or tools available for use.”

The addition of “any version” should expand the potential for HTC Owners that are not receiving HUD funds to use any version of the HUD promulgated form since HUD does not review the form for HTC Developments and the Department is primarily seeking planning information related to an analysis that its own promulgated tool will perform. TDHCA does not agree that a clarification that HUD instructions do not apply is warranted or necessary given an Owner’s ability to choose between form versions as suits their specific program purposes.

3. 10.617 – Subsection (d) concerning determinations of populations “least likely to apply”.

COMMENT SUMMARY: §10.617(d)(1)-(4) Commenter 1 and Commenter 2 suggested under subsection (d)(1)-(4) that the underrepresentation threshold of 20% in comparison to the census tract is too high. Commenter 2 suggested that the calculation information needs to be simplified due to the fact that it will otherwise cause a significant amount of errors on site. Commenter 1 suggested, as an alternative, a comparison to the Zip Code of the development using a 3% - 5% ratio.

STAFF RESPONSE: Staff recommends no change. The 20% underrepresentation comes from HUD’s definition of a minority concentrated area which can be found in many of HUD’s NOFAs and was reiterated in the demographic analysis used in the State’s Phase 2 Analysis of Impediments (Section 1,

page 1). Zip Code areas are not feasible substitutes for census tracts because of their potential to include a very large comparison area that may fail to address smaller community or neighborhood area circumstances affecting persons least likely to apply, particularly in small cities or rural areas, where a Zip Code area may encompass an entire city or county area. In response to Commenter 2, the Department is creating an Affirmative Marketing Tool which will allow a Development manager to enter a CMTS number and generate a list of “least likely to apply” populations the Development should be including in its affirmative marketing efforts. Screenshots of the tool were published in the Board Book in preparation of the October 9, 2014 TDHCA Board meeting.

COMMENT SUMMARY: §10.617(d)(5) Commenter 9 suggested under subsection (d)(5) that the draft rule states the online tool will work for “paragraphs (1)-(2) of this subsection.” The Commenter asks that the rule be revised to reflect that the tool work for paragraphs (1)-(4) to include data needed for established developments.

STAFF RESPONSE: Staff agrees that the tool, as currently completed, can be used in evaluating data for both new and existing developments. Staff suggests the following changes: “(5) The Department will develop and maintain an online tool for performing the comparisons required by paragraphs (1) - (4) of this subsection, and an Owner may rely on analysis required under paragraphs (1) - (4) (but not an analysis made pursuant to subsection (e) of this section) made correctly using this tool. The Department may update the tool more frequently than an Owner is required to review and/or revise their Affirmative Marketing Plan pursuant to subsection (g) of this section. Provided an Owner is in compliance with subsection (g), an Owner is not required to update their plan as updates to the Department’s tool are made available.”

4. 10.617 – Subsection (f) concerning marketing and outreach.

COMMENT SUMMARY: §10.617(f)(1) Commenter 3 suggested under subsection (f)(1) that the rule’s language regarding required outreach to “public gathering spaces in areas where such populations are well represented” and its references to “networking” are confusing and lack clarity.

Commenters 3, 5, and 11 suggested under subsection (f)(1) that TDHCA better define “special methods”. Commenter 9 suggested that clarification be added that Owners are not required to perform any particular outreach methods outlined in the section and add “if applicable” to the last part of the sentence.

STAFF RESPONSE: Staff agrees that the language in the subsection requires better definition. Staff suggests the following changes: “(1) The plan must include special outreach efforts to the “least likely to apply” populations through specific media, organizations, or community contacts that work with least likely to apply populations or work in areas where least likely to apply populations live.”

In response to Commenters 3, 5, and 11, the Department suggests that staff does not wish to limit the ways owners might engage in special outreach efforts by including a strict definition. For example, while staff does not generally believe that sending a flyer to the chamber of commerce sounds special or dynamic, staff agrees that circumstances or the fruitful results of such marketing could prove otherwise. Generally, however, staff suggests that “special outreach efforts” might need to move beyond provision of a flyer to successfully attract groups identified as least likely to apply. In cases where least likely to

apply groups remain underrepresented over time, an Owner may need to develop more creative solutions such as hosting an evening open house in collaboration with other HTC developments at a community center in a census tract with a larger population of the underrepresented group(s), submitting unit vacancy announcements to community based organizations for publication in a monthly newsletter, or appearing at a community based organization function or a nearby PHA Section 8 briefing and networking with residents or employees who work with residents actively looking for housing placements. Staff is looking forward to providing best practices information and training with the roll out of a new rule and thereby being able to offer Owners and property managers new and creative ideas that may enhance current outreach efforts.

In response to Commenter 9, the Department suggests that adding the words “if applicable” to the last part of (f)(1) would infer that special outreach efforts are only applicable to some Developments and their marketing efforts, when in reality special outreach efforts should be made by all Developments in order to reach populations considered least likely to apply. Since all properties must affirmatively market to persons with disabilities, special outreach will always apply.

COMMENT SUMMARY: §10.617(f)(2) Commenter 9 suggested that subsection (f)(2) is overly broad and includes too much outreach in areas within an MSA. The Commenter asked if the Department’s intention is to require a Houston Development’s outreach to include Galveston but not Houston and that the Department use the methodology outlined in HUD’s instructions on page 6 of 8 of the form under Block 1e: “identify both the housing market area, and the expanded housing market area...An expanded housing market area is a larger geographic area, such as a Metropolitan Division or a Metropolitan Statistical Area, which may provide additional demographic diversity...” The Commenter suggested that this would allow for a more reasonable area as defined by the Owner.

Commenter 11 suggested that the MSA in large cities can include up to 5 counties and that “realistically someone is not going to move 3 to 5 counties away from their current location.” Commenter 11 suggested that the rule require marketing to apply to a 15-20 mile radius of the property and that TDHCA add a link to the TDHCA website that applicants can go to that directs them to affordable housing in the area they want to live in.

Commenter 13 suggested that developments working with a Public Housing Authority may have a specifically defined service area and be administered by different agencies within the rest of the MSA and that it creates conflict if Houston Housing Authority or Harris County Housing Authority were marketing in Baytown Housing Authority’s territory. The Commenter contended that while it is true that a resident in the MSA can apply to participate in any public housing authority program, guidance is requested on whether housing authorities can avoid unnecessary duplication of marketing efforts.

STAFF RESPONSE: Staff partially agrees and recommends the following changes to the rule under (f)(2): “Developments must utilize methods of outreach throughout the MSA or, where subdivided into a Metropolitan Division, such Division (for Developments located in an MSA) or county (for Developments not located in an MSA). Efforts can be made beyond these areas at the discretion of the Owner. While these areas may be very large, in many instances outreach in areas located in another county or across town are necessary to effectively reach the identified population.”

The Houston-Baytown-Sugar Land MSA includes 9 counties and several cities, including Houston, which in and of itself is not classified by the Bureau of Labor Statistics as large enough to be subdivided into a “Metropolitan Division” as intended by the HUD directions the Commenter referenced. Only the Dallas-Fort Worth-Arlington MSA would meet the definition of a Metropolitan Division and is listed under its subdivided Metropolitan Division under OMB’s MSA listings. The Department will also amend the data used in the Department’s promulgated Affirmative Marketing Tool to reflect the Metropolitan Division for the Dallas-Fort Worth-Arlington MSA.

In response to Commenter 13, Housing Authorities may wish to work together to find community agency partners or broadly advertise within an MSA but staff agrees that any resident in the MSA can apply to participate in any public housing authority program and that marketing within the proposed scope will assist tenants in being aware of the full range of community options. In response to Commenter 11’s suggestion for the TDHCA website, the Department already has a Vacancy Clearinghouse apartment search tool that provides this function and it has been added to the draft of the revised proposed Fair Housing Disclosure Notice.

COMMENT SUMMARY: §10.617(f)(3) Commenter 4 suggested under subsection (f)(3) that it is unclear why TDHCA would require the use of translated advertisements and other marketing media automatically rather than based on need. Automatically translating every advertisement or other marketing media would result in an undue administrative and financial burden to the owner. The Commenter gave an example of Middle Eastern and Asian languages that are comprised of many different dialects and languages and suggested that translating them all when there is no official request or need would be cumbersome and inefficient. The Commenter suggested the following revisions to the subsection: “(3) Developments must utilize methods of outreach that consider Limited English Proficiency in populations that are least likely to apply. Owners must translate advertisements and other marketing media for use with organizations identified in accordance with paragraph (2) of this subsection based on requests by the organization or by prospective residents.”

Commenters 5, 8, and 11 suggested that the cost associated with the request would not be feasible and will put an undo strain on the development.

Commenter 5 suggested that the Department allow Owners to wait until requests for translation are made rather than assuming a need exists and that sufficient guidance is not available to determine which language should be selected for a least likely to apply group. Commenter 5 suggested that according to One World Nations Online that over 10 different languages could be represented for an Asian population and that requiring management to choose one based on limited knowledge is unrealistic.

Commenter 11 suggested that marketing the property in a large city within an MSA could mean translating for every language represented in 5 counties and suggested that incorrect translations could lead to legal and fair housing issues.

Commenter 8 suggested that unless a Development employs someone fluent in a particular language that a Development cannot ensure that the correct marketing information is being provided with wordage that will not violate fair housing requirements and requested information on how such a provision would be monitored.

Commenter 9 recommended deleting (f)(3) in its entirety so that LEP does not apply and instead only require a statement in Spanish as outlined under subsection (5).

STAFF RESPONSE: Staff partially agrees. The Department suggests the following change in relation to the submitted comments: “(3) Developments must consider how Limited English Proficiency may affect populations least likely to apply, including ways it plans to mitigate language barriers related to advertising and community outreach. Such information should be included in the Affirmative Marketing Plan as an additional consideration or as an attachment to the Plan.”

COMMENT SUMMARY: §10.617(f)(4) Commenter 3 suggested under subsection (f)(4) that the first sentence be revised as follows: “Development Owners must allow applicants to submit applications via mail or at the Development site or leasing office; if the Development is so electronically equipped, the Development may also allow applications to be submitted via email, website form, fax, etc. If the Development requires an application fee, the consideration of an application without payment of the application fee shall be deferred pending receipt of the application fee. Applications must state available alternate means of submission and include address, email, or other necessary contact information on the form or its attached leasing criteria. If the development chooses to use an electronic applications, prior approval from the Department is required to mitigate fraud, waste and abuse.”

Commenter 8 suggested that apartment complexes do whatever they can to accommodate prospects to receive and return rental applications and that it seems “silly” to make a rule requiring such efforts. The Commenter understood from a roundtable discussion that the rule would be leaning towards providing the actual application in off-site locations and allowing prospects to return the application to the off-site location, which raised the Commenter’s concerns regarding confidential information, inability to determine an order in which applications would be received, and misinformation being given, as well as additional expenses related to staff time providing and distributing applications.

Commenter 11 asked whether TDHCA will allow files to have electronic signatures instead of wet signatures and allow copies rather than originals in property files, which have been an issue with audit in the past.

STAFF RESPONSE: Staff agrees with Commenter 3’s suggestions and suggests the following changes: “(4) Development Owners must allow applicants to submit applications via mail or at the Development site or leasing office; if the Development is electronically equipped, the Development may also allow applications to be submitted via email, website form, or fax. If the Development requires an application fee, the consideration of an application without payment may be deferred pending receipt of the fee. Applications must state available alternate means of submission and include address, email, or other necessary contact information on the form or its attached leasing criteria. If the development chooses to use an electronic application, prior approval from the Department is required to mitigate fraud, waste and abuse.”

In response to Commenter 8, staff suggests that the rule does not require applications to be received in off-site community locations where property staff may not be present or able to collect such applications.

In response to Commenter 11, as already directed in the draft rule, if the development chooses to use an electronic application, prior approval from the Department should be sought and the Department will discuss methods of submission and appropriate processing procedures at that time.

COMMENT SUMMARY: §10.617(f)(5) Commenter 1 suggested under subsection (f)(5) that rather than Spanish and English, contact information should only be in English unless specifically requested in Spanish. The Commenter stated that developments often do not have staff that can write Spanish, TDHCA may not review forms in Spanish, and that offering translated materials to Spanish speaking persons may have an implication for fair housing.

STAFF RESPONSE: Staff recommends no change. The Texas Department of Housing and Community Affairs, as a recipient of federal funds, is required to maintain a Language Assistance Plan that considers a four-factor analysis and defines actions that will be taken by the Department to ensure meaningful access to agency services, programs, and activities on the part of persons with Limited English Proficiency. TDHCA's plan identifies native Spanish-speaking individuals as specifically prevalent in the State of Texas. As the recipient of federal funds and in its effort to comply with its HUD certification requiring that the state affirmatively further fair housing, TDHCA passes on an expectation that language barriers be considered in its affirmative marketing rule to multifamily subrecipients in an attempt to adequately address barriers to affordable housing for populations considered least likely to apply. The Department does not agree that offering contact information and information on requesting reasonable accommodations in both English and Spanish will have an impact on fair housing; in the reverse, the Department is concerned that the residents of the State of Texas, particularly the large numbers of residents who speak Spanish as their native language, be offered meaningful access to services, programs, and activities which includes basic information about how to apply for multifamily rental units.

5. 10.617 – Subsection (g) concerning timeframes.

COMMENT SUMMARY: §10.617(g)(1) Commenter 1 suggested under subsection (g)(1) that due to possible delays in construction, beginning affirmative marketing six months prior to construction completion is excessive. In addition, Commenter 1 and Commenter 2 suggested that during lease up a property would not be able to determine who is least likely to apply since the property is not yet occupied. Commenter 11 suggested that a lot of properties do not open on their anticipated date of availability and that most properties do not receive financial funding until 60 days prior to lease up, which impedes their ability to appropriately market. Commenter 11 suggested that 60 to 90 days is more appropriate for a realistic start of affirmative marketing.

STAFF RESPONSE: Staff recommends no change. In draft rule provisions (d)(1) and (d)(2), Developments in initial lease-up, Developments with 40 units or less, or Developments in which demographic data is not sufficient to yield an accurate profile of the tenant population will use census data for the census tract in which the Development site is located for comparison with the MSA or County area (as opposed to Tenant Pool data).

In response to Commenter 11, the Department believes that beginning affirmative marketing six months prior to construction completion is essential in allowing sufficient time to find and build effective

relationships with community organizations and groups that will assist the Owner in building a tenant pool reflective of the MSA or County area.

COMMENT SUMMARY: §10.617(g)(2) Commenter 1 suggested under subsection (g)(2) that the current rule requiring the Affirmative Marketing Plan to be updated every five years and to be reviewed annually should remain and that updating the plan every two years seems excessive when census data is collected every 10 years for comparison.

Commenters 3, 4, and 11 suggested the current rule remain in effect, citing that TDHCA defer to the expertise of HUD and that TDHCA remain consistent with HUD form guidelines.

Commenter 9 suggested that the current HUD standard apply as outlined in HUD’s September 24, 2014 Memo.

STAFF RESPONSE: Staff agrees that changes should be made to include HUD’s guidance from the September 24, 2014 Memo and suggests the following changes: “(2) An Owner must update its Affirmative Marketing Plan and populations that are least likely to apply at least every two (2) years from the effective date of the current plan or, for HUD funded or USDA properties, as otherwise required by HUD or USDA.”

The prior rule was created based on HUD’s Affirmative Marketing Plan review practices; on September 24, 2014, HUD issued a revised memo regarding clarification on Affirmative Fair Housing Marketing Plans and guidance. The memo requires that an owner review an existing Affirmative Fair Housing Marketing Plan when one of three circumstances occur: (1) At least five years have elapsed since the last review; or (2) The local jurisdiction’s Consolidated Plan has been updated; or (3) Significant demographic changes have occurred in the housing market area. In addition, as stated by Commenter 1, the current rule requires annual review of the Development’s demographics in relation to the housing area. The assumption of this rule is that if changes were needed in relation to this annual review, the plan would be updated. The Department’s new rule will actually serve to require this review process only every two years unless otherwise required by HUD or USDA for HUD funded or USDA properties.

6. 10.617 – Subsection (h) concerning biennial plan reviews.

COMMENT SUMMARY: §10.617(h) Commenter 11 asked under subsection (h) whether TDHCA will provide a form or an example for a “biennial plan review”.

STAFF RESPONSE: Staff recommends no change and believes that the biennial review is sufficiently explained in subsection (h)(1)-(2). Staff does not currently intend to produce a review form for this purpose.

COMMENT SUMMARY: §10.617(h)(1) Commenter 11 suggested under (h)(1) that in certain areas of a City or of the State there are “pockets of cultural neighborhoods that have banks, hair salons, grocery store, doctors that speak and understand their culture. Therefore that is who will be represented in that apartment community. This requirement is unrealistic. For example, a Hispanic family will not typically move to an area that does not have accommodations (bank, grocery, hair salon, church) for them.”

STAFF RESPONSE: Staff recommends no change and does not agree with the Commenter's statement that its requirements under Section 10.617 are unrealistic.

7. 10.617 – Subsection (j) concerning exceptions to affirmative marketing.

COMMENT SUMMARY: §10.617(j) Commenter 11 suggested under (j) that the Department provide guidance on when a property can close their waiting list. The Commenter suggested that HUD has excellent procedures that might be helpful.

STAFF RESPONSE: Staff recommends no change but may examine this recommendation in future versions of this rule. The proposed change would be substantive, as the Department has not previously defined the circumstances under which a property can close their waiting list.

STATUTORY AUTHORITY. The new sections are adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed new sections affect no other code, article, or statute.

§10.610.Tenant Selection Criteria.

(a) Effective April 1, 2015, Owners must maintain written tenant selection criteria that includes, at a minimum, the following information:

(1) [Tenant eligibility requirements] Requirements that determine an applicant's basic eligibility for the property, including any [lawful resident] preferences[,] or restrictions[,] for resident selection, and requirements applicants must meet to be eligible for tenancy;

(2) Procedures the Development uses in taking applications and opening, closing, and selecting applicants from the waitlist, including but not limited to how preferences are applied and procedures for prioritizing applicants needing accessible units in accordance with 24 CFR 8.27 and considering applicants covered by the Violence Against Women Reauthorization Act of 2013;

(3) Applicant screening criteria including what is screened[, by whom,] and what scores or findings would result in ineligibility. Applicants must be provided the names of any third party screening companies upon request;

(4) The manner by which rejections of applications will be handled, including timeframes and appeal procedures, if any;

(5) Occupancy Standards; and

(6) Unit transfer policies.

(b) The criteria cannot:

(1) Include [residency]preferences for admission of persons who reside in a specific geographic area unless such preferences are [due to exceptional circumstances]approved by TDHCA [prior to initial lease up or at application]or the property receives Federal assistance and has received written approval from HUD or USDA for such preference;

(2) Exclude an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437)[, Section 811 PRA Program], or other federal, state, or local government rental assistance program;

(3) Use a financial or minimum income standard for a household participating in a voucher program that requires the household to have a monthly income of more than 2.5 times the household's share of the total monthly rent amount. However, if a family's share of the rent is \$50 or less, Owners may require a minimum annual income of \$2,500;

(4) Exclude a household with person(s) with disabilities from admission to the Development because an accessible unit is not currently available or require a household to rent a unit that has already been made accessible;

(5) Require a household to provide specific medical or disability information other than the disability verification that may be requested to verify eligibility for reasonable accommodation or special needs set aside programs;

(6) In accordance with the Violence Against Women Reauthorization Act of 2013, deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking;

(7) Prioritize households not residing in the Development over those already residing at the Development in instances in which an existing tenant household is seeking a unit with a lower income restriction than the unit in which they currently reside. *(Example: A household residing in a 60% AMI unit is income qualified for a 50% AMI unit and wishes to be placed on the waiting list for a 50% AMI unit. The household should be entered on the waitlist using the same process as households not currently residing in the Development.);* and

(8) Require unreasonable occupancy standards. If fewer than 2 persons (over the age of 6) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided [fewer than 2 persons per bedroom for each rental unit unless otherwise directed by local building code or safety regulations]; and

(9) Be applied retroactively except under circumstances in which market developments have received a new award of tax credits or TDHCA funds and a household is not income eligible under program requirements or prior criteria violate federal or state law. [tenants] Tenants who already reside in the development at the time new or revised [leasing] tenant selection criteria are applied and who are otherwise in good standing under the lease must not receive notices of termination or non-renewal based solely on their failure to meet the new or revised tenant selection criteria.

(c) The criteria must:

(1) Avoid the use of vague terms such as "elderly," "bad credit," "negative rental history," "poor housekeeping," or "criminal history" unless terms are clearly defined within the criteria made available to applicants;

(2) Provide that the Development will comply with state and federal fair housing and antidiscrimination laws, including but not limited to consideration of reasonable accommodations requested to complete the application process as identified in Chapter 1, Subchapter B of this title;

(3) Provide information on how [that] reasonable accommodations for persons with disabilities may be requested by an applicant during the application process and provide notice to applicants about VAWA protections. The Development must provide a timeframe in which it will respond to a request [in the form of waivers of tenant eligibility may be considered where convictions or prior tenancy references can be attributed to a disability or to domestic violence perpetrated against the applicant; if additional mitigating factors will be considered, include how such decisions will be made and what must be provided for consideration];

(4) Provide that screening criteria will be applied uniformly and in a manner consistent with all applicable law, including the Texas and Federal Fair Housing Acts, the Federal Fair Credit Reporting Act, program guidelines, and the Department's rules;

(5) Be reasonably related to program eligibility and the applicant's ability to perform obligations under the lease;

(6)[For all elderly] All Developments operating [, list specific age requirements and demonstrate a commitment to operate the Development]as Housing for Older Persons [as directed]under the Housing for Older Persons Act of 1995 as amended (HOPA) and in accordance with a LURA must list specific age requirements and continue to meet qualifying criteria under the HOPA to maintain such designations;

(7) Provide that specific animal, breed, number, weight restrictions, pet rules, and pet deposits will not apply to households having a qualified service/assistance animal(s); and

(8) Provide an effective date for the tenant selection criteria. Any amendments to the criteria require a new effective date.

(d) Owners of all multifamily developments must also:

(1) Maintain a written waiting list.

(A) The waitlist must be managed as described in the Tenant Selection Criteria;

(B) The Development [waitlist]must keep [include]a log of all denied applicants that completed the application process and maintain a file of all rejected applications for the length of time specified in the applicable program's recordkeeping requirements. The log must list basic household demographic and rental assistance information, if requested during any part of the application process, along with the specific reason for which an applicant was denied, the date the decision was made, and the date the denial notice was mailed or hand-delivered to the applicant. This information may be kept in conjunction with the Development's waitlist or as a separate log[, including any household and demographic information that is typically collected, voucher status, and information pertaining to the specific reasons for which any applicant was denied]. The log must be made available to the Department upon request;

(C) Have written waitlist policies and tenant selection criteria available in the leasing office or wherever applications are taken and provide a copy to applicants and their representatives upon request.

(2) Provide any rejected or ineligible applicant/household that completed the application process with a written notification of the grounds for rejection that includes the specific reason for the denial and references the specific leasing criteria upon which the denial is based within seven (7) days of the determination. Rejection letters must include contact information for any third parties that provided the information on which the rejection was based and information on the appeals process if one is used by the property;

(3) Provide in any non-renewal or termination notice as allowed under applicable program rules a specific reason for the termination or non-renewal. The notification must be delivered as required under applicable program rules, include information on rights under VAWA if the Development is subject to VAWA, and provide how a person with a disability may request a reasonable accommodation in relation to such notice.[must provide that the owner may only enforce the termination of tenancy by judicial action and that the tenant has the right to present a defense in court if the tenant contests the termination or non-renewal, and that any person with a disability has the right to request a reasonable accommodation to better understand or contest the threat of termination or non-renewal.] The notification must also include information on the appeals process if one is used by the property.

§10.617. Affirmative Marketing Requirements.

(a) Applicability. Effective April 1, 2015, compliance[Compliance] with this section is required for all Developments with five (5) or more total units to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 13166.

(b) General. Owners of Developments with five (5) or more total units must affirmatively market their units to promote equal housing choice for prospective tenants, regardless of race, color, religion, sex, national origin, familial status, or disability and must develop and carry out an Affirmative Fair Housing Marketing Plan (or “Affirmative Marketing Plan”) to provide for marketing strategies and documentation of outreach efforts to prospective applicants identified as “least likely to apply.” In general, those populations that are least likely to apply may include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, and families with children. All Affirmative Marketing Plans must provide for affirmative marketing to persons with disabilities. Some Developments may be required by their LURAs to market units specifically to veterans or other populations.

(c) Plan format. Owners are encouraged to use any version of HUD Form 935.2A[, or its updated equivalent, and corresponding worksheets] to meet Affirmative Marketing requirements. Owners participating in HUD funded programs administered by the Department must use the version required by the program. The Department may make additional forms or tools available for use.

(d) Determination of populations “least likely to apply.” Owners must determine the populations “least likely to apply” (also “identified populations”) using the methods identified in paragraphs (1) – (4) of this subsection. Owners may use the methods in paragraphs (1) and (2) of this subsection if the Development is not occupied, if the Development is in initial lease-up, if the Development is less than 40 total units, or the Owner determines that the demographic data on the tenant households and waiting list for the Development (“Tenant Pool”) is not sufficiently complete to yield an accurate profile of the populations the Development is serving. Except in the cases of populations that must be the subject of affirmative marketing pursuant to LURA requirements and persons with disabilities, any populations that represent less than 1% of the total population of the county or MSA, as applicable, are not required to be considered “least likely to apply.” To assist Owners in identifying least likely to apply populations, the Department shall make the tool described in paragraph (5) of this subsection available to Owners.

(1) New Developments located in Metropolitan Statistical Areas (“MSAs”). The Owner must compare the demographic data from the most recent decennial census for the census tract in which the development site is located to the demographic data of the entire MSA in which the development site is located. The comparison must be done for each of the populations identified in subsection (b) of this section using the percentage each group represents for the census tract and MSA. The Owner will identify any population in which the percentage representation in the census tract is more than 20% less than the same population’s percentage representation in the MSA (*i.e.* a population is more than 20% underrepresented in the census tract as compared to the MSA as a whole).

(2) New Developments not located in MSAs. The Owner must compare the demographic data from the most recent decennial census for the census tract in which the development site is located to the demographic data of the county in which the development site is located. The comparison must be done for each of the populations identified in subsection (b) of this section using the percentage each group represents for the census tract and county. The Owner will identify any population in which the percentage representation in the census tract is more than 20% less than the same population’s percentage representation in the county (*i.e.*, a population is more than 20% underrepresented in the census tract as compared to the county as a whole). Example 617(1), County data shows 80% of the population in the County is Non-White Hispanic; the new development’s census tract shows that 40% of the new development’s census tract is Non-White Hispanic. The development must market to the Non-

White Hispanic population because the 40% of Non-White Hispanics represented in the census tract shows an underrepresentation of more than 20% (e.g., it is lower than 64%, which is 20% of 80%) when compared with the County percentage ($80\% \times 20\% = 16\%$; $80\% - 16\% = 64\%$). If the census tract showed evidence of 65% or more Non-White Hispanics in the area, the development would not market to the Non-White Hispanic population.

(3) Established Developments located in MSAs. The Owner must compare the demographic data of the Development's Tenant Pool to the demographic data of the MSA in which the development site is located. The comparison must be done for each of the populations identified in subsection (b) of this section using the percentage each group represents for the tenant pool and MSA. The Owner will identify any population in which the percentage representation in the Tenant Pool is more than 20% less than the same population's percentage representation in the MSA (i.e., a population is more than 20% underrepresented in the tenant pool as compared to the MSA as a whole).

Example 617(2), the Owner's tenant pool shows that 5% of the population in the development is African American and that 8% of the population in the MSA is African American. The development must market to African American populations because the 5% of African Americans represented in the development shows an underrepresentation of more than 20% ($8\% \times 20\% = 1.6\%$; $8\% - 1.6\% = 6.4\%$). If the development showed evidence of 6.4% or more African Americans in the tenant pool, the development would not market to the African American population. In a development with 150 units in this scenario, at least 6.4% or 10 residents must be African American to show that the population is adequately represented and should not be selected as a "least likely to apply" group requiring special outreach and marketing.

(4) Established Developments not located in MSAs. The Owner must compare the demographic data of the Development's Tenant Pool to the demographic data of the county in which the development site is located. The comparison must be done for each of the populations identified in subsection (b) of this section using the percentage each group represents for the tenant pool and county. The Owner will identify any population in which the percentage representation in the tenant pool is more than 20% less than the same population's percentage representation in the county (i.e., a population is more than 20% underrepresented in the tenant pool as compared to the county as a whole).

(5) The Department will develop and maintain an online tool for performing the comparisons required by paragraphs (1) - (4[2]) of this subsection, and an Owner may rely on analysis required under paragraphs (1) - (4[2]) (but not an analysis made pursuant to subsection (e) of this section) made correctly using this tool. The Department may update the tool more frequently than an Owner is required to review and/or revise their Affirmative Marketing Plan pursuant to subsection (g) of this section. Provided an Owner is in compliance with subsection (g), an Owner is not required to update their plan as updates to the Department's tool are made available.

(e) Other determinations of "least likely to apply." If the owner identifies other ethnic and/or religious groups that may be underrepresented and chooses to incorporate such group(s) into the Affirmative Marketing Plan, the Owner must perform and document a reasonable process by which the groups were identified.

(f) Marketing and Outreach.

(1) The plan must include special [methods of]outreach efforts to the "least likely to apply" populations through[, including identification of] specific media, organizations, or[and] community contacts that work with least likely to apply populations or work in areas [actively engage with the identified populations, public gathering spaces in areas where such populations are well represented, and networking through community based organizations that work with members of the identified]where least likely to apply populations live.

(2) Developments must utilize methods of outreach throughout the MSA or, where subdivided into a Metropolitan Division, such Division (for Developments located in an MSA) or county (for Developments not located in an MSA). Efforts can be made beyond these areas at the discretion of the Owner. While these areas may be very large, in many instances outreach in areas located in another county or across town are necessary to effectively reach the identified populations.

(3) Developments must [utilize methods of outreach that]consider how Limited English Proficiency [in] may affect populations [that are]least likely to apply, including ways it plans to mitigate language barriers related to advertising and community outreach. Such information should be included in the Affirmative Marketing Plan as an additional consideration or as an attachment to the Plan.[Owners must translate advertisements and other marketing media for use with organizations identified in accordance with paragraph (2) of this subsection.]

(4) Development Owners must [both]allow applicants to submit[fill out] applications via mail or [at off-site locations and submit applications through means other than in-person submission] at the Development site or leasing office; if the Development is electronically equipped, the Development may also allow applications to be submitted via [(i.e. via mail,) email, website form, or fax[, etc.)]. If the Development requires an application fee, the consideration of an application without payment may be deferred pending receipt of the fee. Applications must state available alternate means of submission and include address, email, or other necessary contact information on the form or its attached leasing criteria. If the development chooses to use an electronic application, prior approval from the Department is required to mitigate fraud, waste and abuse.

(5) Advertisements and/or marketing materials used must include the Fair Housing logo and give contact information that prospective tenants can access if reasonable accommodations are needed in order to complete the application process. The contact information must be in English and Spanish, at a minimum.

(g) Timeframes.

(1) An Owner must begin its affirmative marketing efforts for each of the identified populations at least six months prior to the anticipated date the first building is to be available for occupancy. As a condition of an award to a new Development, the Board may require affirmative marketing efforts to begin more than six (6) months prior to the anticipated date the first building is to be placed in service; and

(2) An Owner must update its Affirmative Marketing Plan and populations that are least likely to apply at least every two (2) years from the effective date of the current plan or, for HUD funded or USDA properties, as otherwise required by HUD or USDA.

(h) Biennial Plan Review. The plan must include how, and by whom, data will be collected and evaluated, how often the plan will be re-evaluated, and how the re-evaluation will be completed. The Owner must review demographic data and household characteristics from the Tenant Pool relative to the county or MSA. If any identified population is or remains underrepresented by more than 20%, the Owner should determine whether the percentage of change is greater or less than when the Affirmative Marketing Plan was last evaluated. If, upon review of the Tenant Pool, the Owner determines that there has been no change (including negative change) or only a limited amount of success, the Owner must:

(1) Complete an evaluation of efforts to date (including a review of current advertising, outreach, and networking strategies and what, if any of the strategies used, has been successful) and gather a list of existing and new community resources available for use in revising the current Affirmative Fair Housing Marketing Plan; and

(2) Revise the Affirmative Fair Housing Marketing Plan to include a wider distribution area and/or new strategies for outreach and/or more frequent outreach efforts.

(i) Record keeping. Owners must maintain records of each Affirmative Marketing Plan and specific outreach efforts completed for the greater of three years or the recordkeeping requirement identified in the LURA.

(j) Exception to Affirmative Marketing. If the Development has closed its waiting list, Affirmative Marketing is not required. Affirmative Marketing is required as long as the Owner is accepting applications, has an open waiting list, or is marketing prior to placement in service as required under paragraph (g)(1) of this section.

Attachment 3. Preamble and adoption of the repeal of 10 TAC Chapter 10, Subchapter F, Compliance Monitoring, §10.610, concerning Tenant Selection Criteria and 10 TAC Chapter 10, Subchapter F, Compliance Monitoring, §10.617, concerning Affirmative Marketing Requirements

The Texas Department of Housing and Community Affairs (the “Department”) adopts the repeal of 10 TAC Chapter 10, Subchapter F, §10.610, concerning Tenant Selection Criteria, and §10.617 concerning Affirmative Marketing Requirements. This rule is adopted for repeal in connection with the adoption of new 10 TAC Chapter 10, Subchapter F, §10.610, concerning Tenant Selection Criteria and new 10 TAC Chapter 10, Subchapter F, §10.617, concerning Affirmative Marketing Requirements, which is published concurrently.

REASONED JUSTIFICATION. The repeal of 10 TAC Chapter 10, Subchapter F, Compliance Monitoring, §10.610, concerning Tenant Selection Criteria and §10.617, concerning Affirmative Marketing Requirements, will allow for the concurrent adoption of new 10 TAC Chapter 10, Subchapter F, §10.610, concerning Tenant Selection Criteria and new 10 TAC Chapter 10, Subchapter F, §10.617, which will clarify and improve compliance with federal Fair Housing requirements.

SUMMARY OF PUBLIC COMMENT 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 December 18, 2014.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The repeal affects no other code, article, or statute.

§10.610. Tenant Selection Criteria.

§10.617 Affirmative Marketing Requirements.

1d

BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on proposed amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of Texas Low Income Housing Plan and Annual Report and directing their publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs enabling statute Texas Government Code §2306.0721 requires that the Department produce a state low income housing plan;

WHEREAS, Texas Government Code §2306.0722 requires that the Department produce an annual low income housing report;

WHEREAS, Texas Government Code, §2306.0723 requires that the Department consider the annual low income housing report to be a rule; and,

WHEREAS, 10 TAC §1.23 requires an amendment to reflect the updated State of Texas Low Income Housing Plan and Annual Report;

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 cause the proposed amendments to 10 TAC §1.23, in the form presented to this meeting to be published in the *Texas Register* for review and public comment, and in connection therewith, to make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) is required to prepare and submit to the Board not later than March 18 of each year an annual report of the Department’s housing activities for the preceding year. This State of Texas Low Income Housing Plan and Annual Report (“SLIHP”) must be submitted annually to the Governor, Lieutenant Governor, Speaker of the House, and legislative oversight committee members not later than 30 days after the Board receives and approves the final SLIHP. The document offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. It reviews TDHCA’s housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on performance during the preceding state fiscal year (September 1, 2013, through August 31, 2014).

Texas Government Code, §2306.0723 requires that the Department consider the SLIHP to be a rule and in developing the SLIHP, the Department is required to follow rulemaking procedures required by Texas Government Code, Chapter 2001.

The full text of the draft 2015 SLIHP may be viewed at the Department's website: <http://www.tdhca.state.tx.us/board/meetings.htm>. The public may also receive a copy of the draft 2015 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

It is expected that the SLIHP will be presented to the Board for approval on Thursday, February 19, 2015. The SLIHP will then be distributed to the Governor, Lieutenant Governor, Speaker of the House, and legislative oversight committee members by the deadline of April 18, 2015.

Attachment A. Preamble and proposed amendment to 10 TAC §1.23

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 1, Administration, §1.23, concerning the State of Texas Low Income Housing Plan and Annual Report ("SLIHP"). The purpose of the proposed amendment is to adopt by reference the 2015 SLIHP.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendment does not have any foreseeable implications related to new 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 amendment will be in effect, the public benefit anticipated as a result of amendment will be improved communication with the public regarding the Department's programs and activities. There is no anticipated cost to persons required to comply with the amendments.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held Friday, January 2, 2015 through Wednesday, January 21, 2015, to receive input on the amendment. Written comments may be submitted to Texas Department of Housing and Community Affairs, Elizabeth Yevich, P.O. Box 13941, Austin, Texas 78711-3941, by email to info@tdhca.state.tx.us, or by fax to (512) 475-0070. **ALL COMMENTS MUST BE RECEIVED BY 6:00 P.M. CENTRAL JANUARY 21, 2015.**

STATUTORY AUTHORITY. The amendment is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules. Additionally, the amendment is proposed pursuant to §2306.0723 which specifically authorizes the Department to consider the SLIHP as a rule.

The proposed amendment affects no other code, article or statute.

§1.23. State of Texas Low Income Housing Plan and Annual Report (SLIHP)

The Texas Department of Housing and Community Affairs (the "Department") adopts by reference the 2015[2014] State of Texas Low Income Housing Plan and Annual Report (SLIHP). The full text of the 2015[2014] SLIHP may be viewed at the Department's website: www.tdhca.state.tx.us. The public may also receive a copy of the 2015[2014] SLIHP by contacting the Department's Housing Resource Center at (512) 475-3800.

1e

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on an order adopting the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules, and an order adopting the new 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules and directing its publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (“Department”) is authorized to issue multifamily housing revenue bonds for the State of Texas;

WHEREAS, the Department developed the Multifamily Housing Revenue Bond Rules to establish the procedures and requirements relating to an issuance of bonds;

WHEREAS, the proposed repeal and proposed new Chapter 12 were presented and approved at the September 4, 2014, Board Meeting and published in the September 19, 2014, issue of the *Texas Register* for public comment and no comment was received relating to this rule;

WHEREAS, there were comments received in response to the 2015 Draft Uniform Multifamily Rules and 2015 Draft Qualified Allocation Plan (“QAP”) that impact this rule; and

WHEREAS, the public comment period ended on October 20, 2014.

NOW, therefore, it is hereby

RESOLVED, that the final order adopting the repeal of 10 TAC Chapter 12 and the order adopting the new 10 TAC Chapter 12, regarding the Multifamily Housing Revenue Bond Rules, together with the preambles presented to this meeting, and hereby approved for publication in the *Texas Register* and

FURTHER 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 cause the repeal and new Multifamily Housing Revenue Bond Rules, together with the preambles in the form presented to this meeting, to be published in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

General Information: The Board approved the 2015 Draft Multifamily Housing Revenue Bond Rules (“Bond Rules”) at the September 4, 2014, Board Meeting to be published in the *Texas Register* for public comment. The Department did not receive any comments specific to the 2015 Bond Rules; however there were comments received in response to the 2015 Draft Uniform Multifamily Rules and 2015 Draft Qualified Allocation Plan (“QAP”) that impact this rule. These comments were accepted with regard to this rule and changes were made in the Bond Rule to be consistent with those made to the Uniform Multifamily Rules and QAP.

Preamble, Reasoned Response, and New Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 12, §§12.1-12.10, concerning Multifamily Housing Revenue Bond Rules, with changes to the proposed text as published in the September 19, 2014, issue of the *Texas Register* (39 TexReg 7490). Sections 12.2 - 12.4, 12.6 - 12.10 are adopted without change and will not be republished.

REASONED JUSTIFICATION. The Department finds that the adoption of the rule will result in improvement to the Private Activity Bond Program and achieve consistency with other multifamily programs.

The Department accepted public comment between September 19, 2014 and October 20, 2014. Comments regarding the proposed new sections were accepted in writing and by fax. No comments were received concerning the proposed new sections.

STATUTORY AUTHORITY. The new sections are adopted pursuant to the authority of Texas Government Code §2306.053, which authorizes the Department to adopt rules.

§12.1. General.

(a) Authority. The rules in this chapter apply to the issuance of multifamily housing revenue bonds ("Bonds") by the Texas Department of Housing and Community Affairs ("Department"). The Department is authorized to issue such Bonds pursuant to Texas Government Code, Chapter 2306. Notwithstanding anything in this chapter to the contrary, Bonds which are issued to finance the Development of multifamily rental housing are subject to the requirements of the laws of the State of Texas, including but not limited to Texas Government Code, Chapters 1372 and 2306, and federal law pursuant to the requirements of Internal Revenue Code ("Code"), §142.

(b) General. The purpose of this chapter is to state the Department's requirements for issuing Bonds, the procedures for applying for Bonds and the regulatory and land use restrictions imposed upon Bond financed Developments. The provisions contained in this chapter are separate from the rules relating to the Department's administration of the Housing Tax Credit program. Applicants seeking a Housing Tax Credit Allocation should consult Chapter 11 of this title (relating to the Housing Tax Credit Program Qualified Allocation Plan) and Chapter 10 of this title (relating to Uniform Multifamily Rules) for the current program year. In general, the Applicant will be required to satisfy the requirements of the Qualified Allocation Plan ("QAP") and Uniform Multifamily Rules in effect at the time the Certificate of Reservation is issued by the Texas Bond Review Board. If the applicable QAP or Uniform Multifamily Rules contradict rules set forth in this chapter, the applicable QAP or Uniform Multifamily Rules will take precedence over the rules in this chapter. The Department encourages participation in the Bond program by working directly with Applicants, lenders, Bond Trustees, legal counsels, local and state officials and the general public to conduct business in an open, transparent and straightforward manner.

(c) Costs of Issuance. The Applicant shall be responsible for payment of all costs associated with the preparation and submission of the pre-application and Application, including but not limited to, costs associated with the publication and posting of required public notices and all costs and expenses associated with the issuance of the Bonds, regardless of whether the Application is ultimately approved or whether Bonds are ultimately issued. At any stage during the process, the Applicant is solely responsible for determining whether to proceed with the Application and the Department disclaims any and all responsibility and liability in this regard.

(d) Taxable Bonds. The Department may issue taxable Bonds and the requirements associated with such Bonds, including occupancy requirements, shall be determined by the Department on a case by case basis.

(e) Waivers. Requests for waivers of program rules ~~or pre-clearance relating to Undesirable Neighborhood Characteristics pursuant to §10.101(a)(4) of this title (relating to Site and Development Requirements and Restrictions)~~ must be made in accordance with §10.207 of this title (relating to Waiver of Rules ~~or Pre-clearance~~ for Applications).

§12.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Texas Government Code, Chapter 2306, §§141, 142, and 145 of the Internal Revenue Code, and Chapter 10 of this title (relating to Uniform Multifamily Rules).

(1) Institutional Buyer--Shall have the meaning prescribed under 17 CFR §230.501(a), but excluding any natural person or any director or executive officer of the Department (17 CFR §230.501(a)(4) - (6)), or as defined by 17 CFR §230.144(A), promulgated under the Securities Act of 1935, as amended.

(2) Persons with Special Needs--Shall have the meaning prescribed under Texas Government Code, §2306.511.

(3) Bond Trustee--A financial institution, usually a trust company or the trust department in a commercial bank, that holds collateral for the benefit of the holders of municipal securities. The Bond Trustee's obligations and responsibilities are set forth in the Indenture.

§12.3. Bond Rating and Investment Letter.

(a) Bond Ratings. All publicly offered Bonds issued by the Department to finance Developments shall have and be required to maintain a debt rating the equivalent of at least an "A" rating assigned to long-term obligations by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or Moody's Investors Service, Inc. If such rating is based upon credit enhancement provided by an institution other than the Applicant or Development Owner, the form and substance of such credit enhancement shall be subject to approval by the Board, evidenced by a resolution authorizing the issuance of the credit enhanced Bonds. Remedies relating to failure to maintain appropriate credit ratings shall be provided in the financing documents relating to the Development.

(b) Investment Letters. Bonds rated less than "A," or Bonds which are unrated must be placed with one or more Institutional Buyers and must be accompanied by an investor letter acceptable to the Department. Subsequent purchasers of such Bonds shall also be qualified as Institutional Buyers and shall sign and deliver to the Department an investor letter in a form acceptable to the Department. Bonds rated less than "A" and Bonds which are unrated shall be issued in physical form, in minimum denominations of one hundred thousand dollars (\$100,000), and shall carry a legend requiring any purchasers of the Bonds to sign and deliver to the Department an investor letter in a form acceptable to the Department.

§12.4. Pre-Application Process and Evaluation.

(a) Pre-Inducement Questionnaire. Prior to the filing of a pre-application, the Applicant shall submit the Pre-Inducement Questionnaire, in the form prescribed by the Department, so the Department can get a preliminary understanding of the proposed Development plan before a pre-application and corresponding fees are submitted. Information requested by the Department in the questionnaire includes, but is not limited to, the financing structure, borrower and key principals, previous housing tax credit or private activity bond experience, related party or identity of interest relationships and contemplated scope of work (if proposing Rehabilitation). After reviewing the pre-inducement questionnaire, Department staff will follow-up with the Applicant to discuss the next steps in the process and may schedule a pre-inducement conference call. Prior to the submission of a pre-application, it is important that the Department and Applicant communicate regarding the Department's objectives and policies in the development of affordable housing throughout the State using Bond financing. The acceptance of the questionnaire by the Department does not constitute a pre-application or Application and does not bind the Department to any formal action regarding an inducement resolution.

(b) Pre-Application Process. An Applicant who intends to pursue Bond financing from the Department shall submit a pre-application by the corresponding pre-application submission deadline, as prescribed by the Department. The required pre-application fee as described in §12.10 of this chapter (relating to Fees) must be submitted with the pre-application in order for the pre-application to be accepted by the Department. Department review at the time of the pre-application is limited and not all issues of eligibility and documentation submission requirements pursuant to Chapter 10 of this title (relating to Uniform Multifamily Rules) are reviewed. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or other deficiencies at the time of pre-application. If the Development meets the criteria as

described in §12.5 of this chapter (relating to Pre-Application Threshold Requirements), the pre-application will be scored and ranked according to the selection criteria as described in §12.6 of this chapter (relating to Pre-Application Scoring Criteria).

(c) Scoring and Ranking. The Department will rank the pre-application according to score within each priority defined by Texas Government Code, §1372.0321. All Priority 1 pre-applications will be ranked above all Priority 2 pre-applications which will be ranked above all Priority 3 pre-applications. This priority ranking will be used throughout the calendar year. The selection criteria, as further described in §12.6 of this chapter, reflect a structure which gives priority consideration to specific criteria as outlined in Texas Government Code, §2306.359. In the event two or more pre-applications receive the same score, the Department will use the following tie breaker factors in the order they are presented to determine which pre-application will receive preference in consideration of a Certificate of Reservation.

(1) Applications that meet any of the criteria under §11.9(c)(4) of this title (relating to Competitive HTC Selection Criteria).

(2) Applications proposed to be located the greatest linear distance from the nearest Housing Tax Credit assisted Development. Developments awarded Housing Tax Credits but do not have a Land Use Restriction Agreement in place will be considered Housing Tax Credit assisted Developments for purposes of this subparagraph. The linear measurement will be performed from the closest boundary to closest boundary.

(d) Inducement Resolution. After the pre-applications have been scored and ranked, the pre-application and proposed financing structure will be presented to the Department's Board for consideration of an inducement resolution declaring the Department's initial intent to issue Bonds with respect to the Development. Approval of the inducement resolution does not guarantee final Board approval of the Bond Application. Department staff may recommend that the Board not approve an inducement resolution for a pre-application. Because each Development is unique, making the final determination to issue Bonds is often dependent on the issues presented at the time the full Application is presented to the Board.

§12.5. Pre-Application Threshold Requirements.

The threshold requirements of a pre-application include the criteria listed in paragraphs (1) - (10) of this section. As the Department reviews the pre-application the assumptions as reflected in Chapter 10, Subchapter D of this title (relating to Underwriting and Loan Policy) will be utilized even if not reflected by the Applicant in the pre-application.

(1) Submission of the multifamily bond pre-application in the form prescribed by the Department;

(2) Completed Bond Review Board Residential Rental Attachment for the current program year;

(3) Site Control, evidenced by the documentation required under §10.204(10) of this title (relating to Required Documentation for Application Submission). The Site Control must be valid through the date of the Board meeting at which the inducement resolution is considered and must meet the requirements of §10.204(10) of this title at the time of Application;

(4) Zoning evidenced by the documentation required under §10.204(11) of this title;

(5) Boundary survey or plat clearly identifying the location and boundaries of the subject Property;

(6) Current market information (must support affordable rents);

(7) Local area map that shows the location of the Development Site and the location of at least six (6) community assets within a one mile radius (two miles if in a Rural Area). Only one community asset of each type will count towards the number of assets required. The mandatory community assets and specific requirements are identified in §10.101(a)(2) of this title (relating to Site and Development Requirements and Restrictions);

(8) Organization Chart showing the structure of the Development Owner and of any Developer or Guarantor, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner or the Developer or Guarantor, as applicable;

(9) Evidence of Entity Registration or Reservation with the Texas Office of the Secretary of State;

(10) A certification, as provided in the pre-application, that the Applicant met the requirements and deadlines for public notifications as identified in §10.203 of this title (relating to Public Notifications (§2306.5705(9))). Notifications must not be older than three (3) months prior to the date of Application submission. Re-notification will be required by Applicants who have submitted a change ~~in the Application, whether~~ from pre-application to Application ~~or as a result of an Administrative Deficiency~~ that reflects a total Unit increase of greater than 10 percent or a 5 percent change in density (calculated as units per acre) as a result of a change in the size of the Development Site. In addition, should a change in elected official occur between the submission of a pre-application and the submission of an Application, Applicants are required to notify the newly elected (or appointed) official.

§12.6. Pre-Application Scoring Criteria.

This section identifies the scoring criteria used in evaluating and ranking pre-applications. The criteria identified below include those items required under Texas Government Code, §2306.359 and other criteria considered important by the Department. Any scoring items that require supplemental information to substantiate points must be submitted in the pre-application, as further outlined in the Multifamily Bond Pre-Application Procedures Manual. Applicants proposing multiple sites will be required to submit a separate pre-application for each Development Site. Each Development Site will be scored on its own merits and the final score will be determined based on an average of all of the individual scores.

(1) Income and Rent Levels of the Tenants. Pre-applications may qualify for up to (10 points) for this item.

(A) Priority 1 designation includes one of clauses (i) - (iii) of this subparagraph. (10 points)

(i) Set aside 50 percent of Units rent capped at 50 percent AMGI and the remaining 50 percent of units rents capped at 60 percent AMGI; or

(ii) Set aside 15 percent of units rent capped at 30 percent AMGI and the remaining 85 percent of units rent capped at 60 percent AMGI; or

(iii) Set aside 100 percent of units rent capped at 60 percent AMGI for Developments located in a census tract with a median income that is higher than the median income of the county, MSA or PMSA in which the census tract is located.

(B) Priority 2 designation requires the set aside of at least 80 percent of the Units capped at 60 percent AMGI. (7 points)

(C) Priority 3 designation. Includes any qualified residential rental development. Market rate units can be included under this priority. (5 points)

(2) Cost of the Development by Square Foot. (1 point) For this item, costs shall be defined as either the Building Cost or the Hard Costs as represented in the Development Cost Schedule provided in the pre-application. This calculation does not include indirect construction costs. Pre-applications that do not exceed \$95 per square foot of Net Rentable Area will receive one (1) point. Rehabilitation will automatically receive (1 point).

(3) Unit Sizes. (5 points) The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction).

(A) five-hundred-fifty (550) square feet for an Efficiency Unit;

(B) six-hundred-fifty (650) square feet for a one Bedroom Unit;

(C) eight-hundred-fifty (850) square feet for a two Bedroom Unit;

(D) one-thousand-fifty (1,050) square feet for a three Bedroom Unit; and

(E) one-thousand, two-hundred-fifty (1,250) square feet for a four Bedroom Unit.

(4) Extended Affordability. (2 points) A pre-application may qualify for points under this item for Development Owners that are willing to extend the Affordability Period for a Development to a total of thirty-five (35) years.

(5) Unit and Development Features. A minimum of (7 points) must be selected, as certified in the pre-application, for providing specific amenity and quality features in every Unit at no extra charge to the tenant. The amenities and corresponding point structure is provided in §10.101(b)(6)(B) of this title (relating to Site and Development Requirements and Restrictions). The amenities selected at pre-application may change at Application so long as the overall point structure remains the same. The points selected at pre-application and/or Application and corresponding list of amenities will be required to be identified in the LURA and the points selected must be maintained throughout the Compliance Period. Applications involving scattered site Developments must have a specific amenity located within each Unit to receive points. Rehabilitation Developments will start with a base score of (3 points).

(6) Common Amenities. All Developments must provide at least the minimum threshold of points for common amenities based on the total number of Units in the Development as provided in subparagraphs (A) - (F) of this paragraph. The common amenities include those listed in §10.101(b)(5) of this title. For Developments with 41 Units or more, at least two (2) of the required threshold points must come from the Green Building Features as identified in §10.101(b)(5)(C)(xxxi) of this title. The amenities must be for the benefit of all tenants and made available throughout normal business hours. If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to satisfy the threshold requirement. All amenities must meet accessibility standards and spaces for activities must be sized appropriately to serve the proposed Target Population. Some amenities may be restricted to a specific Target Population. An amenity can only receive points once; therefore combined functions (a library which is part of a community room) can only receive points under one category. Applications for non-contiguous scattered site housing, excluding non-contiguous single family sites, will have the threshold test applied based on the number of Units per individual site, and will have to identify in the LURA which amenities are at each individual site.

(A) Developments with 16 to 40 Units must qualify for (4 points);

(B) Developments with 41 to 76 Units must qualify for (7 points);

(C) Developments with 77 to 99 Units must qualify for (10 points);

(D) Developments with 100 to 149 Units must qualify for (14 points);

(E) Developments with 150 to 199 Units must qualify for (18 points); or

(F) Developments with 200 or more Units must qualify for (22 points).

(7) Tenant Supportive Services. (8 points) By electing points, the Applicant certifies that the Development will provide supportive services, which are listed in §10.101(b)(7) of this title, appropriate for the proposed tenants and that there will be adequate space for the intended services. The provision and complete list of supportive services will be included in the LURA. The Owner may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item.

(8) Underserved Area. An Application may qualify to receive up to (2 points) for general population Developments located in a Colonia, Economically Distressed Area, or Place, or if outside of the boundaries of any Place, a county that has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development that remains an active tax credit development.

(9) Development Support/Opposition. (Maximum +24 to -24 points) Each letter will receive a maximum of +3 to -3 and must be received ten (10) business days prior to the date of the Board meeting at which the pre-application will be considered. Letters must clearly state support or opposition to the specific Development.

State Representatives or Senators as well as local elected officials to be considered are those in office at the time the pre-application is submitted and represent the district containing the proposed Development Site. Letters of support from State or local elected officials that do not represent the district containing the proposed Development Site will not qualify for points under this exhibit. Neutral letters, letters that do not specifically refer to the Development or do not explicitly state support will receive (zero (0) points). A letter that does not directly express support but expresses it indirectly by inference (i.e., a letter that says "the local jurisdiction supports the Development and I support the local jurisdiction") will be treated as a neutral letter.

(A) State Senator and State Representative of the districts whose boundaries include the proposed Development Site;

(B) Mayor of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);

(C) All elected members of the Governing Body of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);

(D) Presiding officer of the Governing Body of the county in which the Development Site is located;

(E) All elected members of the Governing Body of the county in which the Development Site is located;

(F) Superintendent of the school district in which the Development Site is located; and

(G) Presiding officer of the board of trustees of the school district in which the Development Site is located.

(10) Preservation Initiative. (10 points) Preservation Developments, including rehabilitation proposals on properties which are nearing expiration of an existing affordability requirement within the next two (2) years or for which there has been a rent restriction requirement in the past ten (10) years may qualify for points under this item. Evidence must be submitted in the pre-application.

(11) Declared Disaster Areas. (7 points) If at the time the complete pre-application is submitted or at any time within the two-year period preceding the date of submission, the proposed Development Site is located in an area declared to be a disaster area under Texas Government Code, §418.014. This includes federal, state, and Governor declared disaster areas.

§12.7. Full Application Process.

(a) Application Submission. Once the inducement resolution has been approved by the Board, an Applicant who elects to proceed with submitting a full Application to the Department must submit the complete tax credit Application pursuant to §10.201 of this title (relating to Procedural Requirements for Application Submission).

(b) Eligibility Criteria. The Department will evaluate the Application for eligibility and threshold at the time of full Application pursuant to Chapter 10 of this title (relating to Uniform Multifamily Rules). If there are changes to the Application at any point prior to closing that have an adverse affect on the score and ranking order and that would have resulted in the pre-application being placed below another pre-application in the ranking, the Department will terminate the Application and withdraw the Certificate of Reservation from the Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points). The Development and the Applicant must satisfy the requirements set forth in Chapter 10 of this title (relating to Uniform Multifamily Rules) and Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) in addition to Texas Government Code, Chapter 1372, the applicable requirements of Texas Government Code, Chapter 2306, and the Code. The Applicant will also be required to select a Bond Trustee from the Department's approved list as published on its website.

(c) Bond Documents. Once the Application has been submitted and the Applicant has deposited funds to pay costs, the Department's bond counsel shall draft Bond documents.

(d) Public Hearings. For every Bond issuance, the Department will hold a public hearing in order to receive comments from the public pertaining to the Development and the issuance of the Bonds. The Applicant or member of the Development Team must be present at the public hearing and will be responsible for conducting a brief presentation on the proposed Development and providing handouts at the hearing that should contain at a minimum, a description of the Development, maximum rents and income restrictions. If the proposed Development is Rehabilitation then the presentation should include the proposed scope of work that is planned for the Development. All handouts must be submitted to the Department for review at least two (2) days prior to the public hearing. Publication of all notices required for the public hearing shall be at the sole expense of the Applicant, as well as any ~~facility~~ rental fees or required deposits.

(e) Approval of the Bonds. Subject to the timely receipt and approval of commitments for financing, an acceptable evaluation for eligibility, the satisfactory negotiation of Bond documents, and the completion of a public hearing, the Board, upon presentation by Department staff, will consider the approval of the final Bond resolution relating to the issuance, final Bond documents and in the instance of privately placed Bonds, the pricing, terms and interest rate of the Bonds. The process for appeals and grounds for appeals may be found under §1.7 of this title (relating to Staff Appeals Process) and §1.8 of this title (relating to Board Appeals Process). To the extent applicable to each specific Bond issuance, the Department's conduit multifamily Bond transactions will be processed in accordance with 34 TAC Part 9, Chapter 181, Subchapter A (relating to Bond Review Board Rules) and Texas Government Code, Chapter 1372.

(f) Local Permits. Prior to closing on the Bond financing, all necessary approvals, including building permits from local municipalities, counties, or other jurisdictions with authority over the Development Site must have been obtained or evidence that the permits are obtainable subject only to payment of certain fees must be submitted to the Department.

§12.8. Refunding Application Process.

(a) Application Submission. Owners who wish to refund or modify tax-exempt bonds that were previously issued by the Department must submit to the Department a summary of the proposed refunding plan or modifications. To the extent such modifications constitute a re-issuance under state law the Applicant shall then be required to submit a refunding Application in the form prescribed by the Department pursuant to the Bond Refunding Application Procedures Manual.

(b) Bond Documents. Once the Department has received the refunding Application and the Applicant has deposited funds to pay costs, the Department's bond counsel will draft the required Bond documents.

(c) Public Hearings. Depending on the proposed modifications to existing Bond covenants a public hearing may be required. Such hearing must take place prior to obtaining Board approval and must meet the requirements pursuant to §12.7(d) of this chapter (relating to Full Application Process) regarding the presence of a member of the Development Team and providing a summary of proposed Development changes.

(d) Rule Applicability. Refunding Applications must meet the requirements pursuant to Chapter 10 of this title (relating to Uniform Multifamily Rules) and Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) with the exception of criteria stated therein specific to the Competitive Housing Tax Credit Program. At the time of the original award the Application would have been subject to eligibility and threshold requirements under the QAP in effect the year the Application was awarded. Therefore, it is anticipated the Refunding Application would not be subject to the site and development requirements and restrictions pursuant to §10.101 of this title (relating to Site and Development Requirements and Restrictions). The circumstances surrounding a refunding Application are unique to each

Development; therefore, upon evaluation of the refunding Application, the Department is authorized to utilize its discretion in the applicability of the Department's rules as it deems appropriate.

§12.9. Regulatory and Land Use Restrictions.

(a) Filing and Term of Regulatory Agreement. A Bond Regulatory and Land Use Restriction Agreement will be filed in the property records of the county in which the Development is located for each Development financed from the proceeds of Bonds issued by the Department. The term of the Regulatory Agreement will be based on the criteria as described in paragraphs (1) - (3) of this subsection, as applicable:

(1) the longer of thirty (30) years, from the date the Development Owner takes legal possession of the Development;

(2) the end of the remaining term of the existing federal government assistance pursuant to Texas Government Code, §2306.185; or

(3) the period required by the Code.

(b) Federal Set Aside Requirements.

(1) Developments which are financed from the proceeds of Private Activity Bonds must be restricted under one of the two minimum set-asides as described in subparagraphs (A) and (B) of this paragraph:

(A) at least 20 percent of the Units within the Development shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 50 percent of the area median income; or

(B) at least 40 percent of the Units within the Development shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 60 percent of the area median income.

(2) The Development Owner must designate at the time of Application which of the two set-asides will apply to the Development and must also designate the selected priority for the Development in accordance with Texas Government Code, §1372.0321. Units intended to satisfy set-aside requirements must be distributed evenly throughout the Development, and must include a reasonably proportionate amount of each type of Unit available in the Development.

(3) No tenant qualifying under either of the set-asides shall be denied continued occupancy of a Unit in the Development because, after commencement of such occupancy, such tenant's income increases to exceed the qualifying limit; provided, however, that should a tenant's income, as of the most recent determination thereof, exceed 140 percent of the applicable income limit and such tenant constitutes a portion of the set-aside requirement of this section, then such tenant shall only continue to qualify for so long as no Unit of comparable or smaller size is rented to a tenant that does not qualify as a Low-Income Tenant.

§12.10. Fees.

(a) Pre-Application Fees. The Applicant is required to submit, at the time of pre-application, the following fees: \$1,000 (payable to TDHCA), \$2,500 (payable to Bracewell & Giuliani, the Department's bond counsel) and \$5,000 (payable to the Texas Bond Review Board (BRB) pursuant to Texas Government Code, §1372.006(a)). These fees cover the costs of pre-application review by the Department, its bond counsel and filing fees to the BRB. If the Applicant intends to disclose, at the time of pre-application, the presence of an undesirable neighborhood characteristic pursuant to §10.101(a)(4) of this title (relating to Site and

Development Requirments and Restrictions) then the Undesirable Neighborhood Characteristic Disclosure Fee pursuant to §10.901(21) of this title (relating to Fee Schedule) must accompany the pre-application.

(b) Application Fees. At the time of Application the Applicant is required to submit a tax credit application fee of \$30/unit and \$10,000 for the bond application fee (for multiple site Applications the application fee shall be \$10,000 or \$30/unit, whichever is greater). Such fees cover the costs associated with Application review and the Department's expenses in connection with providing financing for a Development. For Developments proposed to be structured as part of a portfolio such application fees may be reduced on a case by case basis at the discretion of the Executive Director.

(c) Closing Fees. The closing fee for Bonds, other than refunding Bonds is equal to 50 basis points (0.005) of the issued principal amount of the Bonds. The Applicant will also be required to pay at closing of the Bonds the first two years of the administration fee equal to 20 basis points (0.002) of the issued principal amount of the Bonds and a Bond compliance fee equal to \$25/unit (such compliance fee shall be applied to the third year following closing).

(d) Application and Issuance Fees for Refunding Applications. For refunding Applications the application fee will be \$10,000 unless the refunding is not required to have a public hearing, in which case the fee will be \$5,000. The closing fee for refunding Bonds is equal to 25 basis points (0.0025) of the issued principal amount of the refunding Bonds. If applicable, administration and compliance fees due at closing may be prorated based on the current billing period of such fees. If additional volume cap is being requested other fees may be required as further described in the Bond Refunding Applications Procedures Manual.

(e) Administration Fee. The annual administration fee is equal to 10 basis points (0.001) of the outstanding bond amount on its date of calculation and is paid as long as the Bonds are outstanding.

(f) Bond Compliance Fee. The Bond compliance monitoring fee is equal to \$25/Unit.

Preamble, Reasoned Response, and Repealed Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 12, §§12.1 – 12.10, concerning the 2014 Multifamily Housing Revenue Bond Rules, without changes to the proposed text as published in the September 19, 2014 issue of the *Texas Register* (39 TexReg 7490) and will not be republished.

REASONED JUSTIFICATION. The Department finds that the purpose of the repeal is to enact new sections and improve the Private Activity Bond Program and achieve consistency with other multifamily programs.

The Department accepted public comments between September 19, 2014 and October 20, 2014. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on December 18, 2014.

STATUTORY AUTHORITY. The repealed sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§12.1. General.

§12.2. Definitions.

§12.3. Bond Rating and Investment Letter.

§12.4. Pre-Application Process and Evaluation.

§12.5. Pre-Application Threshold Requirements.

§12.6. Pre-Application Scoring Criteria.

§12.7. Full Application Process.

§12.8. Refunding Application Process.

§12.9. Regulatory and Land Use Restrictions.

§12.10. Fees.

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BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action to consider waiver of 10 TAC §49.4(14) and to approve a Land Use Restriction Agreement (“LURA”) Amendment for Chatham Green Village #11406 in Arlington.

RECOMMENDED ACTION

WHEREAS, the Owner of Chatham Green Village received an award of 4% Housing Tax Credits in 2011 to acquire and rehabilitate the 234 unit Development;

WHEREAS, the tax credit application for Chatham Green Village required specific mandatory development amenities described in 10 TAC §49.4(14) (2011 QAP) 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 the Development requires the mandatory development amenities to be present at the Development throughout the Extended Use Period;

WHEREAS, the Development has been renovated and has 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, §49.4(14) but is now requesting a waiver of the requirement and to remove the requirement from the LURA and;

WHEREAS, as a result of other rehabilitation developments identifying the difficulty in retrofitting bathroom fan vents in existing buildings, the Board eliminated this requirement for future rehabilitation developments in the 2015 QAP;

NOW, therefore, it is hereby

RESOLVED, that the requested waiver and LURA amendment are approved and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Chatham Green Village was originally constructed in 1984. The current Development Owner, Chatham Renovation, LLC, applied for and received 4% housing tax credits and tax-exempt bond financing in 2011 to acquire and rehabilitate this Development. The Development Owner used Bear Claw

Construction Management, LLC as the general contractor for the rehabilitation which was completed in 2014. During the course of TDHCA staff's review of the final cost certification documentation it was revealed that the architect did not certify that all required Mandatory Development Amenities had been built on the property. A deficiency letter dated November 10, 2014 was sent to the Development Owner addressing this and other items from the cost certification review. The Development Owner contacted TDHCA staff and confirmed that the exhaust/vent fans (vented to the outside) in bathrooms were not provided and that an amendment would be requested.

The Development Owner's amendment request indicates that there is ventilation into attic space currently in each bathroom and that the property has passed all city and fire inspections since 1984. Additionally, the owner indicates that bathroom venting directly to the outside of the building is not a requirement of the City of Arlington and that initially this specific TDHCA mandatory development amenity was interpreted by the owner to mean that the ventilation needed to be outside the bathroom, not outside of the building structure. The owner further states that venting to the outside of the building structure would be prohibitively complex for a property of this age and would disrupt existing residents and the estimated cost to re-direct the current vents would be greater than the derived benefit. A letter from the Development engineer and contractor, Bear Claw Construction Management, LLC, was also provided confirming that the bathrooms have vents that currently vent into the wall cavity and then to the attic. The owner's estimate to re-direct the current vents to the outside of the building structure would cost roughly \$1,432 per unit or \$335,000.

Staff reviewed the Property Condition Assessment (PCA), submitted at application, for the Development and performed by Underground Environmental Services, Inc. The scope of work and cost chart within the PCA did include "Upgrade Kitchen and/or Baths" as a line item and the detail associated with this scope of work stated the following: "Upgrade kitchen and baths. Satisfy TDHCA threshold requirements as outlined in §2306.187 of Bond Pre-Application, i.e., blinds, disposal and energy-star or equivalently rated dishwasher, refrigerator, oven/range, exhaust fans (vented to the outside) in baths, energy-star or equivalently rated ceiling fans in living areas and bedrooms, and CFL lights." Staff raised concerns regarding any potential moisture or mold issues due to the fact that the exhaust fans in place vent into the wall cavity and then to the attic. Staff contacted Bear Claw Construction Management, LLC to discuss these concerns and whether moisture or mold issues were considered pre or during rehabilitation of the development. The contractor indicated that residents have never complained about moisture or mold issues and did not believe that this was looked into at any length before or during the rehabilitation. The PCA submitted at application did address mold and moisture inspection which consisted of a visual survey for mold. The PCA states that the survey was limited to visual observations in the areas walked and that no sampling was conducted. Further, the PCA confirmed no inspection or investigation behind walls or in any other generally inaccessible areas was performed.

Staff recommends approval of the requested amendment.

SLCas, LLC

104 Armour Road, P.O. Box 34729, North Kansas City, MO 64116
(816) 303-4500 * FAX (816) 221-1829

November 21, 2014

Texas Department of Housing and Community Affairs
Raquel Morales
Senior Asset Manager
221 East 11th St.
PO Box 13941
Austin, Texas 78711-3941

RE: Requesting a Board Amendment for the Mandatory Amenity: Exhaust/vent fans (vented to the outside) in bathrooms (TDHCA #11406)
Chatham Renovation, LLC

Dear Ms. Morales:

The purpose of this letter is to request to be placed on the December 18th TDHCA Board meeting as we are requesting an Amendment to remove the above reference mandatory development amenity for the following reasons:

- The Chatham Green Village Apartments is a property that is 30 years old, built in 1984. There is ventilation currently in each bathroom.
- The property has passed all city and fire inspections since 1984....bathroom venting directly outside the building is not a requirement of the City of Arlington. Initially, we interpreted (vented to the outside) to mean the ventilation needs to be outside the bathroom – all units are vented within the wall cavity and subsequently to the attic. The attics are vented to the outside.
- Upon consultation with our contractor/engineer it was determined that in order to actually vent to the outside of the building structure, the alteration would be prohibitively complex for a property of this age. It has been quantified that the placement of the building soffits in the bathroom and adjacent bedrooms, running the metal ducts inside to an outside vent, working around electrical connections, the disruption to the residents not to mention the cost component is greater than the derived benefit. At this time it has been estimated that the cost to re-direct the current vents to the outside of the building structure would cost roughly \$1,432 per unit or \$335,000. Please see the attached letter from Bear Claw Construction Management, Architect, Mr. Donald Rich, P.E.

We have worked diligently with TDHCA for the last 3 years as we completed the rehabilitation of this project for our residents. Our complex provides wonderful amenities for the residents and their children. It has always been our intent to complete this project as stipulated in our application and all related documents. This particular item was not deleted due to anything other than misinterpretation of the amenity requirement as well as the complexity of completing due to the age of the rental property. The project will endure financial hardship if this amendment request is not approved.

We are asking to be placed on the December Board agenda as we are hopeful in receiving the 8609's before the calendar year-end, if that should be possible. The receipt of the final installment from our investor member is dependent on the receipt of the 8609's. The final installment will be used towards the payoff of certain member loans that are accruing 8% interest.

We request the amendment in good faith.

Sincerely,



DeAnn M. Totta
SLCas, LLC
Manager



CERTIFICATIONS: SPIHA • BUY-INDIAN • MBE/DBE • MAMBC • AMERIND DRP
PENDING: HUBZONE • 8(a)

November 21, 2014

Raquel Morales
Senior Asset Manager
Texas Department Of Housing And Community Affairs
221 East 11th Street
P.O. Box 13941
Austin, TX 78711-3941

RE: Request for Information for Cost Certification for Chatham Green Village
(TDHCA #11406)

Dear Ms. Morales:

Regarding your letter of November 10, 2014, Item 2. Exhibit 5A, Development Summary "Exhaust/vent fans (vented to the outside) in bathrooms", being an in house Registered Professional Engineer for Bear Claw construction Management, LLC. General Contractor that was contracted for improvements to Chatham Green Village, Chatham Renovation, LLC. requested that I address this requirement.

The language of the requirement "Exhaust/vent fans (vented to the outside) in bathrooms" does not specify directly to the outside of the building structure from each bathroom. In my opinion the language of this specification is vague.

Chatham Green Village is a two story complex with 234 resident units built in 1984. Bathrooms are all on interior walls, not adjacent to an outside wall. All units vent outside the unit. First floor units bath fans vent into the wall cavity and then to the attic. All second floor unit bath fans vent into the wall cavity and then to the attic. The attic is vented to the outside. So all bath vents do vent to attic and then to outside.

Although 2009 International Mechanical Code, part of the group of building codes currently adopted and enforced by the City of Arlington stipulates that new codes

require exhaust directly to the outside. However the code also "grandfathers" the reuse of existing systems.

102.2 Existing installations. Except as otherwise provided for in this chapter, a provision in this code shall not require the removal, alteration or abandonment of, nor prevent the continued utilization and maintenance of, a mechanical system lawfully in existence at the time of the adoption of this code.

At this point, remediation of this amendment would require disruption in each resident unit again and upwards of \$1,432 per unit or \$335,000.

It is my opinion that the current venting at Chatham is standard for the age and structure. The language of the requirement is not specific to directly outside the building and therefore is left to interpretation. There is no real assigned value to venting bathroom fans to the exterior of the building structure.

As the contractor and engineer, we recommend that the current bath exhaust system be approved.

Sincerely,

Bear Claw Construction Management, LLC



Donald L. Rich, P.E.



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BOARD ACTION REQUEST
OFFICE OF COLONIA INITIATIVES
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding a Memorandum of Understanding (“MOU”) between the Texas Department of Housing and Community Affairs and the Texas Department of Agriculture regarding the management of Community Development Block Grant (“CDBG”) funds for the Colonia Self-Help Center (“CSHC”) Program.

RECOMMENDED ACTION

WHEREAS, the MOU will make available federal CDBG funds through TDA to TDHCA for the administration, operation, and program activities of the CSHC Program;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director is hereby authorized to execute an MOU between TDHCA and TDA regarding the management of CDBG funds for the CSHC Program.

BACKGROUND

In accordance with Section 487.351 of the Texas Government Code, (see Act of June 16, 2001, 77th Leg., R.S., ch. 1367, § 2.15, 2001 Tex. Gen. Laws 3391, 3424), the purpose of this MOU is to transfer federal Community Development Block Grant (CDBG) funds from TDA to TDHCA for the administration and operation of the CSHC Program. This transfer is also documented in Texas Government Code, Subchapter Z, and in Rider 27 of TDA’s appropriation pattern and Rider 7 of TDHCA’s appropriation pattern for the 2014-2015 biennium.

Changes to the proposed MOU compared to the previous MOU update references to the General Appropriation Act, Period of Performance and other minor items. In addition, the proposed MOU provides the parties the ability to extend the 2-year Period of Performance up to an additional 3 years.

Upon approval of the Board, the MOU will be fully executed by the Executive Director of TDHCA and the Deputy Commissioner of TDA.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
TEXAS DEPARTMENT OF AGRICULTURE
AND
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

SECTION I. PARTIES

This Memorandum of Understanding, hereinafter referred to as “Memorandum,” is made and entered into between the Texas Department of Agriculture, hereinafter referred to as “TDA,” an agency of the State of Texas, and the Texas Department of Housing and Community Affairs, hereinafter referred to as “TDHCA,” an agency of the State of Texas.

SECTION II. PURPOSE

In accordance with Section 487.351 of the Texas Government Code, (see Act of June 16, 2001, 77th Leg., R.S., ch. 1367, § 2.15, 2001 Tex. Gen. Laws 3391, 3424) the purpose of this Memorandum is to make available federal Community Development Block Grant (“CDBG”) funds from TDA to TDHCA for the administration, operation, and program activities of the Colonia Self-Help Centers (“SHC”) and to partially fund TDHCA’s border field offices pursuant to the provisions of Rider 7 of TDHCA’s appropriation and the Rider 27 of TDA’s appropriation for the 2014-2015 biennium under the General Appropriations Act of the 82nd Legislature, Regular Session, and authorized pursuant to Subchapter Z of Chapter 2306, Texas Government Code.

SECTION III. PERIOD OF PERFORMANCE

This Memorandum shall begin on February 1, 2015 and shall terminate on January 31, 2017. If both parties are in agreement, TDHCA and TDA reserve the right to extend the Period of Performance of this Memorandum up to 3 additional years, or January 31, 2020, in accordance with Section VIII of this Memorandum.

SECTION IV. TDHCA PERFORMANCE

TDHCA shall allocate the funds received under this Memorandum to each county in which a Colonia SHC, designated in accordance with Section 2306.583, Texas Government Code or subsequent governing legislation, is located. TDHCA oversight of the program administration shall ensure that all activities are carried out in accordance with the federal law and regulations at 42 USC 5301 et seq. and 24 CFR Part 570, and the state law and rules at Chapter 2306, Subpart Z of the Texas Government Code, , and 10 T.A.C. Chapter 25. In addition, TDHCA shall:

- A. Approve all awards, amendments and modifications related to the funding of the Colonia SHCs in accordance with the Texas Community Development Block Grant (“TxCDBG”) Program, including the annual Action Plan, and Colonia SHC Program Rules.
- B. Participate in public hearings to solicit comments regarding the funds provided under this contract and provide input as necessary.
- C. Adhere to the certifications TDA makes to the U.S. Department of Housing and Urban Development (“HUD”) in order to receive CDBG funding.
- D. Ensure that each activity included in a Colonia SHC contract meets a national objective, and qualifies as an eligible activity as identified under the state CDBG regulations. Compliance with this requirement shall be clearly reflected in the Performance Statements and Budgets of all Colonia SHC contracts.
- E. Ensure that each activity in the contract’s Performance Statement has a corresponding budget line item in the budget.
- F. Obligate the funds provided under this Memorandum within fourteen months after the date the funds were provided to TDA from HUD. Funds deobligated and any program income recovered from the funds provided through the Colonia SHC Program shall be used by TDHCA for the Colonia SHCs in accordance with the applicable Consolidated/Action Plan.
- G. Ensure that direct delivery costs, associated with the delivery of housing assistance including the preparation of work write-ups and required architectural or professional services that are directly attributable to a particular housing unit, be charged to the housing related construction budget line item under each Colonia SHC contract.
- H. Provide oversight and monitoring of the activities of Colonia SHC subrecipients, units of local government and the respective Colonia SHC nonprofit service providers, to ensure that CDBG activities are completed, performance goals are met and funds expended in accordance with the Colonia SHC Program Rules, contract provisions, applicable state and federal rules, regulations, policies, including OMB Circulars A-87 and A-122 as applicable and starting with the 2015 Federal Year CDBG funds 2 CFR 200 and related statutes. Monitoring reviews may take place at any time or at the request of the unit of local government or TDHCA. A final monitoring review must take place within 120 days of the contract termination.
- I. Conduct the final monitoring review of contract close-out documents and an on-site review of subrecipient records to achieve the following monitoring objectives: ensure that activities have been completed and beneficiaries served in accordance with the contract’s Performance Statement and Budget; ensure that subrecipient systems, policies and procedures used to administer CDBG funds contain sufficient controls against fraud and misuse and that they are in place and operating efficiently; identify areas of specific need for additional technical assistance.
- J. Provide TDA a copy of any findings and associated necessary corrective actions to be carried out by the Colonia SHC subrecipient as well as concerns and recommendations that do not require corrective action.

SECTION V. TDA FUNDING AND PERFORMANCE OBLIGATIONS

- A. Colonia SHC funding. Notwithstanding any other provision of this Memorandum, the total obligations incurred by TDA shall not exceed 2.5% of the annual formula

allocation of regular CDBG funds received by the State of Texas from HUD for Federal Program Years 2015 and 2016. TDA shall transfer funds provided under this section to the appropriate local government upon receipt of requests for payment from TDHCA and receipt of funds from HUD. TDA shall simultaneously notify TDHCA of the transfer to the local government. TDA shall transfer to TDHCA administration funds for the period of February 1, 2015 until January 31, 2016, and for the period of February 1, 2016 until January 31, 2017, assuming TDA receives from HUD a regular annual state CDBG allocation and administration funds are available for the state CDBG program for Program Years 2015 and 2016, for costs incurred for TDHCA's border field offices and Office of Colonia Initiatives staff and planning activities. The amount of this reimbursement will be adjusted for Program Year 2015 and Program Year 2016 to total 4.47% of the Colonia SHC funding described in Paragraph A based upon the actual HUD CDBG Program Year funds that are made available to TDA for the state CDBG program for these Program Years. TDHCA shall submit a budget that defines the use of CDBG funds for this purpose.

- B. If determined necessary, TDA shall be responsible for initiating the reimbursement adjustment for Program Years 2015 and 2016 as an amendment according to the procedure described in Section VIII of this Memorandum. TDA shall submit an amended Memorandum, signed by the Deputy Commissioner of TDA or his authorized designee, for this purpose with back-up documentation sufficient to detail the adjustments to the transfer of funds to TDHCA respective to the changes in the annual allocation from HUD to the State of Texas. The amendment will become fully executed upon signature by the Executive Director of TDHCA.
- C. TDA shall be responsible for fulfilling the federal match requirement for the award of CDBG funds to TDA. If the state general revenue appropriations for the federal match requirement are reduced thereby necessitating a reduction in the overall Texas CDBG administration amount, the administration funds provided in Subsection B of this Section shall be reduced by the same percentage as the overall reduction in the state general revenue appropriations for the federal match requirement.
- D. All increases and reductions in the contract amount for the administration of the Colonia SHC Program should be in proportion to the amount of the grant award from HUD.
- E. TDA shall monitor TDHCA's oversight and monitoring of the activities of Colonia SHC subrecipients, units of local government and the respective Colonia SHC nonprofit service providers, to ensure that CDBG activities are completed, performance goals are met and funds expended in accordance with the Colonia SHC Program Rules, contract provisions, applicable state and federal rules, regulations, policies, including OMB Circulars A-87 and A-122 as applicable and starting with the 2015 Federal Year CDBG funds 2 CFR 200, and related statutes.
- F. TDA shall monitor TDHCA's monitoring activities to achieve the following monitoring objectives: ensure that activities have been completed and beneficiaries served in accordance with the contract's Performance Statement and Budget; ensure that subrecipient systems, policies and procedures used to administer CDBG funds contain sufficient controls against fraud and misuse and that they are in place and operating efficiently; identify areas of specific need for additional technical assistance.
- G. TDA shall identify in writing, through a monitoring report, any findings and recommended associated corrective actions that may be carried out by TDHCA or the

subrecipient of Colonia SHC funding as well as concerns and recommendations that do not require corrective action.

SECTION VI. MEASURE OF LIABILITY

- A. TDHCA continues to assume any responsibility and liability imposed by law for outstanding issues relating to the funding and operation of the Colonia SHCs prior to the execution of this Memorandum.
- B. TDHCA shall provide oversight of activities on a regular basis according to Colonia SHC Standard Operating Procedures that is separate from the monitoring responsibilities of TDA to ensure compliance with Colonia SHC Program Rules and federal and state regulations. TDA shall monitor the activities funded under this Memorandum as described in the previous section. Costs that are found to be disallowed, if any, by TDHCA, TDA or HUD may be deducted from existing and future allocations of CDBG funds to TDHCA in an amount agreed upon by the parties to this Memorandum, to the extent allowed by law.

SECTION VII. REPORTING REQUIREMENTS AND RETENTION OF AND ACCESS TO RECORDS

- A. TDHCA shall furnish to TDA, and TDA shall furnish to TDHCA, such reports on the operation and performance of work under this Memorandum as may be required by TDA or TDHCA in order to respond to requests for information. TDHCA has agreed that for the associated Legislative Budget Board (“LBB”) performance measure, TDA should perform the calculation from its records, provide the actual result, and provide any required explanation of a variance from the target.
- B. TDHCA shall retain all records relating to its responsibilities described by this Memorandum until its duties are completed and monitored by HUD or until the applicable retention period has expired, whichever is longer.
- C. TDHCA shall give the TDA, HUD, the Auditor of the State of Texas, and any of their duly authorized representatives access to, and the right to examine, all records relating to this Memorandum for as long as such records are retained by TDHCA as specified in Subsection B of this Section. TDHCA shall also provide TDA a copy of any audits conducted on the programs and services covered by this agreement.
- D. TDHCA shall maintain up-to-date accomplishments in quarterly reports and submit them on a timely basis in an agreed upon format sufficient for TDA to complete the CDBG Annual Performance Evaluation Report (“PER”) and for the purposes of drawing funds under the Integrated Disbursement & Information System (“IDIS”).
- E. TDHCA shall maintain up-to-date accomplishments in quarterly reports identifying cumulative data necessary for HUD’s IDIS reporting. Each contractor shall maintain data regarding all activities completed under the Colonia SHC contract.
- F. TDHCA shall submit Personnel Cost Calculation forms and timesheets or other approved method as agreed upon by the parties to this Memorandum to TDA for the reimbursement of administrative expenses.

- G. TDHCA shall respond to TDA in a timely manner regarding any HUD or other correspondence related to the Colonia SHC fund, including any monitoring or audit reports.
- H. TDHCA shall submit copies of Colonia SHC contracts and amendments necessary to keep TDA tracking systems updated and for the payment of draws.

SECTION VIII. AMENDMENTS AND CHANGES

Any alteration, addition or deletion to the terms of this Memorandum shall be by amendment hereto in writing and executed by both parties hereto except as may be expressly provided for in some other manner by the terms of this Memorandum.

SECTION IX. POLITICAL ACTIVITY

None of the activities or performances rendered hereunder by TDHCA shall involve and no portion of the funds received by TDHCA hereunder shall be used for any political activity, including but not limited to any activity to further the election or defeat of any candidate for public office, or any activity undertaken to influence the passage, defeat, or final contents of legislation.

SECTION X. SECTARIAN ACTIVITY

None of the activities or performances rendered hereunder by TDHCA shall involve and no portion of the funds received by TDHCA hereunder shall be used in support of any sectarian or religious activity.

SECTION XI. ORAL AND WRITTEN AGREEMENTS

All oral or written agreements between the parties hereto relating to the subject matter of this agreement that were made prior to the execution of this contract have been reduced to writing and are contained herein.

APPROVED AND ACCEPTED ON BEHALF OF THE TDHCA AND TDA EFFECTIVE THE 1ST DAY OF FEBRUARY 2015.

AGREED AND EXECUTED BY:

Drew DeBerry, Deputy Commissioner
Texas Department of Agriculture

Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs

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BOARD ACTION REQUEST

HOUSING RESOURCE CENTER

DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on the 2015-2019 State of Texas Consolidated Plan

RECOMMENDED ACTION

WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) requires the submission of a five year Consolidated Plan in accordance with 24 CFR §91.520;

WHEREAS, the 2015–2019 State of Texas Consolidated Plan (“Plan”) covers four HUD-funded programs: the Community Development Block Grant Program (“CDBG”), the HOME Investment Partnerships Program (“HOME”), the Emergency Solutions Grants Program (“ESG”), and the Housing Opportunities for Persons with AIDS Program (“HOPWA”). The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”), the Texas Department of Agriculture (“TDA”), and the Texas Department of State Health Services (“DSHS”) have collaborated to complete the Plan;

WHEREAS, the draft Plan was approved by the Board in September 4, 2014, and released for public comment;

WHEREAS, the public comment has been considered and reasoned responses have been provided; and

WHEREAS, HUD released Community Planning and Development (“CPD”) Notice 13-010 on December 13, 2013, which states that the Plan needs to have actual fiscal year formula allocation amounts;

NOW, therefore, it is hereby

RESOLVED, that the 2015-2019 State of Texas Consolidated Plan, in the form presented to this meeting, is hereby approved and the Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to submit the 2015-2019 State of Texas Consolidated Plan to HUD with the updated formula allocation amounts, once HUD releases the amounts, and, in connection therewith, to make such nonsubstantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The Plan covers four programs funded by HUD: TDHCA administers the HOME Program and the ESG Program; TDA administers CDBG; and DSHS administers the HOPWA Program. All three state agencies collaborated to complete the Plan, along with extensive input from other state agencies, stakeholders, advocates, and community members. TDHCA is lead agency for the Plan's development.

The Plan consists of five main chapters:

1. The **Process Chapter** describes the public input process.
2. The **Needs Assessment Chapter** outlines levels of relative need in the areas of affordable housing, homelessness, special needs, and community development. This information was gathered through consultation with local agencies, public outreach, and demographic and economic datasets.
3. The **Market Analysis Chapter** focuses on economic forces within Texas, as well as the current condition and availability of housing and community development resources Texas.
4. The **Strategic Plan** was formed from the Needs Assessment and Market Analysis, which are research-heavy chapters. The Strategic Plan details how the State will address its priority needs over a five-year period. The strategies must reflect the current condition of the market, expected availability of funds, and local capacity to administer the Plan.
5. The **One Year Action Plan** is based on the Strategic Plan. The One Year Action Plan will be updated once yearly for the next four years until the next Consolidated Plan is required. The One Year Action Plan reflects the intended uses of funds received by the State of Texas from HUD for Program Year 2015. The Program Year begins on February 1, 2015, and ends on January 31, 2016.

The Plan is due 45 days before the start of HUD's Program Year ("PY"), which is February 1 to January 31. December 18, 2014, is 45 days before February 1, 2015. For previous Plan submissions, HUD had accepted estimated 2015 allocation amounts with the understanding the percentages of funds estimated for each activity would remain approximately level when the actual allocation amounts were incorporated into the Plan prior to HUD's final approval. Guidance in CPD Notice 13-010, stated that "[a]n affected grantee may delay submission of its action plan to HUD until 60 days after the date allocations are announced". Therefore, after HUD releases the final allocation amounts, TDHCA will update the Plan with the amount of funds equal to the percentages in the Plan, and submit the Plan within 60 days.

Following the release of the draft 2015-2019 Plan, a 32-day public comment period was open from September 12, 2014, through October 13, 2014. During that time, four public hearings were held around the state in San Antonio, Harlingen, Austin, and Fort Worth. A total of 67 comments were received, and their summaries, along with staff reasoned responses, are provided in Attachment A below.

The Plan to be approved by the Board can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.

Attachment A: 2015-2019 State of Texas Consolidated Plan Comments

2015-2019 State of Texas Consolidated Plan Comments

The State of Texas provided a public comment period for the Draft 2015-2019 State of Texas Consolidated Plan (“Plan”) from September 12, 2014, to October 13, 2014. Four public hearings were held across the State at the following dates and times:

- September 30, 2014, San Antonio, 6:00pm
- October 2, 2014, Harlingen, 11:00am
- October 6, 2014, Austin, 5:00pm
- October 8, 2014, Fort Worth, 12:30pm

Two of the hearings were held after business hours. Six people commented at the hearings. Staff members received 28 email comments and 12 letter comments. Some of these commenters submitted oral and written comments and several of the letters represented comments of more than one person. A summary of the 67 total comments, along with staff responses, is below.

1. Two commenters supported the draft Plan’s goals of using Emergency Solutions Grants (“ESG”) funds for homelessness prevention, shelter, and rapid re-housing.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff Response: The Texas Department of Housing and Community Affairs (“TDHCA”) thanks Mary Dodson and Eric Samuels for their comments and appreciates their appraisal of the ESG program as it was presented in the draft Plan. Staff will continue to work to provide funding for programs that help those facing homelessness to enter and maintain permanent housing. As a result of these comments, staff has clarified in the Plan that the amounts targeted for each ESG activity in Action Plan Section 25 will be dependent on the final HUD allocation and the percentages (as limited by federal rules) will depend on local Continua of Care (“CoC”) or subrecipient decisions.

2. One comment was in favor of allocating more ESG funding toward rapid re-housing and less toward prevention; rapid re-housing has been shown in evidence-based practices to better benefit families and singles. The Texas Homeless Network is providing education for local communities on appropriate prevention versus rapid re-housing efforts.

(Eric Samuels, Texas Homeless Network)

Staff Response: TDHCA thanks Eric Samuels for his comments. The most important part of TDHCA’s closer collaboration with CoCs is allowing for more local control in ESG program planning and funding. TDHCA believes that applicant organizations know the needs of their service areas, know the services that are available locally, and are, therefore, better equipped to determine how ESG funds should be used. For this reason, TDHCA does not set statewide program requirements for ESG funds and only limits use of funds as required by

the federal rules for ESG. Currently, those limitations only apply to funds used for Street Outreach, Emergency Shelter, and Administration.

TDHCA appreciates the work that the Texas Homeless Network does to educate providers on best practices and trends. TDHCA staff will monitor the State's actual use of funds, seek ways to communicate those findings to CoCs and their providers, and consider any program changes during preparation of the 2016 One-Year Action Plan. TDHCA does not propose changes to the Consolidated Plan at this time, and will allow local entities to determine whether an increase in funding for homelessness prevention is the appropriate priority for their programs.

3. One comment was in favor of updating some of the statistics in the Consolidated Plan regarding homelessness. The Texas Homelessness Network said it could assist with this effort. For example, the 2014 Point-in-Time counts showed that the number of homeless persons had declined statewide, while the draft Plan currently includes the 2013 Point-in-Time count reduction.

(Eric Samuels, Texas Homeless Network)

Staff response: Staff agrees with the comment and changes have been made to the Plan as a result of the information provided. The 2014 Point-in-Time count 3.8% reduction of persons experiencing homelessness has been included in Needs Assessment Section 40, Homeless Needs Assessment. The Plan's Needs Assessment and Market Analysis were written in March/April 2014 so that the Strategic Plan and One Year Action Plan could develop actions in line with the data analysis in the previous chapters. As a result, some newer datasets, such as Point in Time Counts, became available after the chapters were drafted and before the public comment period in September 2014. Staff is aware that newer datasets are available, and these sets are included in other planning documents, such as the 2015 State Low Income Housing Plan and Annual Report. Because the Needs Assessment and Market Analysis' statistics are used throughout the Plan, these chapters will remain with the datasets available at the time of drafting so that comments relating to the Plan during the public comment period will relate to the actions built upon the analysis. However, updated statistics offered through public comment will be included when possible.

4. Two commenters thanked TDHCA for consulting with the Texas Homelessness Network on CoC goals, the allocation of ESG funds, the development of coordinated assessment systems, the establishment of standards for services, and the evaluation of ESG-funded projects.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff Response: TDHCA thanks Mary Dodson and Eric Samuels for their comments. TDHCA will continue to work with Texas' CoCs to develop a program that best meets the needs of persons who are homeless or at risk of homelessness in Texas.

5. Thirteen commenters were in appreciation of the following items included in the draft Plan:

- a. Consultation with various Texas family violence programs and stakeholders, several of which established the unique and critical need for shelter for survivors of domestic violence, dating violence, and stalking as well as other extended housing options;
- b. Inclusion of domestic violence as a major category of the special needs population;
- c. Acknowledgement of the need for a broad range of housing options for survivors of domestic violence with varying family compositions;
- d. Acknowledgement of the importance of supportive services that enhance survivor safety and housing stability; and
- e. Recognition of the federal requirements of the 2013 Reauthorization of the Violence Against Women Act ("VAWA").

(Toni Johnson-Simpson, Denton County Friends of the Family; Connie Sloan, Domestic Violence Prevention, Inc.; William Hall, Families in Crisis, Inc.; Marta Pelaez, Family Violence Prevention Services, Inc.; Rebecca White, Houston Area Women's Center; Mary Lee Hafley, SafeHaven of Tarrant County; Julia Spann, SafePlace; Carol Gresham, Shelter Agencies for Families in East Texas; Gloria Terry, Texas Council of Family Violence; Debbie Moseley, The Bridge Over Troubled Waters; Paige Flink, The Family Place; Sherry Taylor, Women's Protective Services; Frances Wilson, Women's Shelter of South Texas)

Staff Response: TDHCA appreciates the comments provided by the Texas Council of Family Violence and its affiliated agencies and acknowledges the role that domestic violence plays in homelessness and the importance of including this in planning for the use of funding to address homelessness.

6. Thirteen commenters provided additional statistics on domestic violence. For example, the United States Interagency Council on the Homeless found that 80% of families experiencing homelessness previously experienced domestic violence. Also, the National Law Center on Homelessness and Poverty shows that, depending on the region, between 22% and 57% of women experiencing homelessness report that domestic or sexual violence was the immediate cause of their homelessness. Finally, the 2013 National Census of Domestic Violence Services found that in Texas the program served 5,923 victims of domestic violence in one day, but 1,311 Texas survivors' requests for services went unmet, 500 of which were for housing.

(Toni Johnson-Simpson, Denton County Friends of the Family; Connie Sloan, Domestic Violence Prevention, Inc.; William Hall, Families in Crisis, Inc.; Marta Pelaez, Family Violence Prevention Services, Inc.; Rebecca White, Houston Area Women's Center; Mary Lee Hafley, SafeHaven of Tarrant County; Julia Spann, SafePlace; Carol Gresham, Shelter Agencies for Families in East Texas; Gloria Terry, Texas Council of Family Violence; Debbie Moseley, The Bridge Over Troubled Waters; Paige Flink, The Family Place; Sherry Taylor, Women's Protective Services; Frances Wilson, Women's Shelter of South Texas)

Staff response: Staff appreciates the provision of these additional statistics and changes have been made to the Plan as a result of this comment. These statistics have been incorporated into the Needs Assessment, Sections 10 and 40.

7. Three commenters noted that funding for the ESG Program to local CoCs has the unintended consequence of not including victims of domestic violence in the scoring goals. This is because chronically homeless populations are the current national priority, which leads to fewer available funds from the U.S. Department of Housing and Urban Development ("HUD") for family violence shelters and transitional housing for victims of domestic violence. Commenters recommend maintaining the allowance for family violence programs to use ESG funds for emergency shelters and transitional housing, independent of the CoC system.

(James Asky, Mary Lee Hafley, and Stephanie Storey, SafeHaven of Tarrant County)

Staff Response: TDHCA thanks Mary Lee Hafley, James Asky, and Stephanie Storey for their comments. The most important part of TDHCA's closer collaboration with CoCs is allowing for more local control of ESG Program planning and funding. TDHCA believes that applicant organizations know the needs of their service areas, know the services that are available locally, and are therefore better equipped to determine how funds received from TDHCA's ESG Program should be programmed. For this reason, TDHCA is contemplating a shift in funding allocation whereby local planning will determine the use of ESG funds within a CoC region. In planning this change in its funding model, TDHCA has not limited the allowance for family violence programs to use ESG funds only

for emergency shelters and transitional housing. TDHCA will investigate amending the planned CoC application for direct funding document to ensure that the CoC has carefully considered the availability of services for all persons experiencing homelessness or at risk of homelessness in its service area including victims of domestic violence.

TDHCA encourages organizations that provide services to persons fleeing domestic violence to work closely with CoCs throughout the planning process to ensure that appropriate services are available. Staff will monitor the State's actual use of funds, seek ways to communicate those findings to CoCs and their providers, and consider any program changes during preparation of the 2016 One-Year Action Plan. At this time, TDHCA proposes no changes to the Plan and will look to CoCs to determine whether funding for family violence programs is an area of high need as compared to other community needs.

8. Three commenters testified that there is a connection between domestic violence and homelessness, and that, as a result, homeless providers and domestic violence service providers should work together. Commenters offered statistics that, within the past one and a half years, SafeHaven of Tarrant County has moved 19 survivors of domestic violence from dangerous situations into transitional housing and then to permanent housing. Through SafeHaven's program, the survivors paid off debt, created savings, and many purchased vehicles.

(James Asky, Mary Lee Hafley, and Stephanie Storey, SafeHaven of Tarrant County)

Staff Response: TDHCA thanks Mary Lee Hafley, James Asky, and Stephanie Storey for their comments. Staff encourages organizations that provide services to persons fleeing domestic violence to strive for similar successes as that noted by SafeHaven of Tarrant County and work closely with CoCs and their member organizations throughout the CoC planning process to ensure that appropriate services for persons fleeing domestic violence are considered. No changes have been made to the Plan as a result of these comments.

9. Three commenters recommended that the ESG Program include priorities for serving domestic violence survivors, scoring methods that recognize the needs of domestic violence survivors, and outcomes that measure the success of domestic violence survivors. This includes emergency shelters and transitional housing with supportive services that help survivors flee abusive relationships.

(James Asky, Mary Lee Hafley, and Stephanie Storey, SafeHaven of Tarrant County)

Staff Response: TDHCA thanks Mary Lee Hafley, James Asky, and Stephanie Storey for their comments. Staff encourages organizations that provide services to persons fleeing domestic violence to work closely with CoCs to ensure that appropriate services are available. TDHCA will consider changes to the 2015

ESG Notice of Funding Availability (“NOFA”) priorities, scoring methods, and outcomes that meet the needs and remove the barriers for persons experiencing homelessness or are at risk of homelessness due to fleeing domestic violence.

10. Thirteen commenters asked for emphasis of the co-occurrence of domestic violence and homelessness. For example, the Balance of State Point in Time Count could identify domestic violence as a major contributor to homelessness.

(Toni Johnson-Simpson, Denton County Friends of the Family; Connie Sloan, Domestic Violence Prevention, Inc.; William Hall, Families in Crisis, Inc.; Marta Pelaez, Family Violence Prevention Services, Inc.; Rebecca White, Houston Area Women’s Center; Mary Lee Hafley, SafeHaven of Tarrant County; Julia Spann, SafePlace; Carol Gresham, Shelter Agencies for Families in East Texas; Gloria Terry, Texas Council of Family Violence; Debbie Moseley, The Bridge Over Troubled Waters; Paige Flink, The Family Place; Sherry Taylor, Women’s Protective Services; Frances Wilson, Women’s Shelter of South Texas)

Staff Response: TDHCA appreciates the comments provided by the Texas Council on Family Violence and its affiliated agencies. Staff encourages organizations that provide services to persons fleeing domestic violence to work closely with CoCs and their member organizations throughout the CoC planning process to ensure that Point-in-Time counts identify when domestic violence is a factor in persons becoming homeless. Where possible, TDHCA has edited the Plan to include information highlighting the co-occurrence of domestic violence and homelessness. TDHCA is unable to make substantial changes to the Plan because the Plan’s restrictive format, including the section focus and character limits for each answer, is set by HUD. For this reason, descriptions of the populations of persons experiencing homelessness are general in nature and are not descriptive of particular populations, except where directed by the Plan format.

11. Thirteen comments state that victims of domestic violence and their children are insufficiently prioritized in the Plan. They recommend the following revisions to the Plan:
 - a. Greater prioritization for domestic violence including establishing a stand-alone category within the plan specifically addressing Texas’ housing solutions for domestic violence survivors. As one of the largest populations within the homeless community, this is critical.
 - b. Formal recognition of domestic violence as one of the main factors of homelessness or being at-risk for homelessness.
 - c. Amend references indicating that Single Room Occupancy (“SRO”) housing, which is not the best practice approach when working with survivors, would meet the needs of all special populations as is indicated in the draft Plan.

- d. Continue to emphasize the importance of, and encourage all Public Housing Authorities (“PHAs”) to consider, adopting admission preferences for victims of domestic violence.
- e. Create outcomes that match the needs of family violence survivors and recognize the unique barriers they face. Although the commenters recognize and applaud the Housing First model, Texas Council for Family Violence recommends maintaining the allowance for family violence programs to utilize ESG funds to support emergency shelters and transitional housing because, for family violence services specifically, these efforts have produced highly successful outcomes throughout the years. Emergency family violence shelters and transitional housing programs must exist to allow victims and survivors to flee abusive relationships and have appropriate and available domestic violence specific housing options and supportive services. The troubling trend of limiting these long-successful funding opportunities for family violence programs represents one of the most significant areas of the Plan in need of augmentation and greater attention.
- f. Consider alternate solutions for coordinated access, data collection, and housing waiting lists, specifically in regards to Homeless Management Information System (“HMIS”), for organizations that serve survivors of domestic violence in order to comply with the federal legislation confidentiality requirements of the 2013 Reauthorization of VAWA.
- g. Assure that VAWA requirements are followed as well as having an alternate way for survivors and victims to gain access to the same types of services without being put into an identifiable centralized system.

(Toni Johnson-Simpson, Denton County Friends of the Family; Connie Sloan, Domestic Violence Prevention, Inc.; William Hall, Families in Crisis, Inc.; Marta Pelaez, Family Violence Prevention Services, Inc.; Rebecca White, Houston Area Women’s Center; Mary Lee Hafley, SafeHaven of Tarrant County; Julia Spann, SafePlace; Carol Gresham, Shelter Agencies for Families in East Texas; Gloria Terry, Texas Council of Family Violence; Debbie Moseley, The Bridge Over Troubled Waters; Paige Flink, The Family Place; Sherry Taylor, Women’s Protective Services; Frances Wilson, Women’s Shelter of South Texas)

Staff response: TDHCA appreciates the comments provided by the Texas Council of Family Violence and its affiliated agencies and provides the following response to listed items.

Regarding comment (a), where possible, TDHCA has edited the Plan to include information highlighting the co-occurrence of domestic violence and homelessness. TDHCA is unable to make substantial changes to the Plan because the Plan’s restrictive format, including the section focus and character limits for

each answer, is set by HUD. For this reason, descriptions of the populations of persons experiencing homelessness are general in nature, with reference primarily to special needs populations, and are not descriptive of particular populations, except where directed by the Plan format.

Regarding comment (b), staff agrees and changes have been made to the Plan as a result of this comment. In Needs Assessment Section 10, domestic violence is now reflected as a main factor of homelessness or risk of homelessness for certain populations.

Regarding comment (c), staff agrees and changes have been made to the Plan as a result of this comment. It was not the intent of the State to imply that SROs are appropriate for all special needs households; the reference to SROs was an example of appropriate housing for one special needs populations. The State has clarified that it recognizes SROs are not appropriate for all special needs populations.

Regarding comment (d), staff agrees with the comment and changes have been made to the Plan as a result of this comment. While TDHCA does not have any direct or indirect jurisdiction over the management or operations of PHAs other than itself, TDHCA has a relationship with the Texas Housing Association and the Texas chapter of the National Association of Housing and Redevelopment Officials. Whenever possible, the State will communicate the importance of serving special needs populations.

Regarding item (e), TDHCA encourages organizations that provide services to persons fleeing domestic violence to work closely with CoCs to ensure that appropriate services are available. TDHCA will consider changes to the 2015 ESG NOFA priorities, scoring methods, and outcomes that meet the needs and remove barriers for persons experiencing homelessness or at risk of homelessness due to fleeing domestic violence

TDHCA will monitor actual use of funds, seek ways to communicate those findings to CoCs and their providers, and consider any program changes during preparation of the 2016 One-Year Action Plan. At this time, TDHCA proposes no changes to the Consolidated Plan and will look to program applicants to determine whether funding for family violence programs is the correct determination for their programs.

Regarding item (f), in accordance with the Interim ESG Rules (24 CFR §576.107), TDHCA allows for the use of ESG funds for victim services providers and legal services providers to establish and operate a comparable database that collects client-level data over time and generates unduplicated aggregate reports based on the data. As directed, this data is not to be entered into or provided to an HMIS.

TDHCA encourages organizations that provide services to persons fleeing domestic violence to work closely with CoCs and their member organizations

throughout the CoC planning process to ensure that the specific privacy-related needs of persons fleeing domestic violence are met.

Regarding item (g), in accordance with the Interim ESG Rules(24 CFR §576.107), TDHCA allows for the use of ESG funds for victim services providers and legal services providers to establish and operate a comparable database that collects client-level data over time and generates unduplicated aggregate reports based on the data. As directed, this data is not to be entered into or provided to an HMIS.

TDHCA will investigate ways to further ensure the confidentiality of persons fleeing domestic violence; in the short term through additional requirements added during preparation of the 2015 ESG NOFA, and in the long term through additions to the Texas Administrative Code.

12. Thirteen commenters asked that references to the Texas Coalition on Family Violence be revised to Texas Council on Family Violence.

(Toni Johnson-Simpson, Denton County Friends of the Family; Connie Sloan, Domestic Violence Prevention, Inc.; William Hall, Families in Crisis, Inc.; Marta Pelaez, Family Violence Prevention Services, Inc.; Rebecca White, Houston Area Women’s Center; Mary Lee Hafley, SafeHaven of Tarrant County; Julia Spann, SafePlace; Carol Gresham, Shelter Agencies for Families in East Texas; Gloria Terry, Texas Council of Family Violence; Debbie Moseley, The Bridge Over Troubled Waters; Paige Flink, The Family Place; Sherry Taylor, Women’s Protective Services; Frances Wilson, Women’s Shelter of South Texas)

Staff response: Staff agrees with this comment and the change has been made.

13. Two commenters supported the draft Plan’s goals of using Housing Opportunities for Persons with AIDS (“HOPWA”) funding tenant-based rental assistance (“TBRA”) to assist with rapid re-housing and homelessness prevention; Short-term Rent Mortgage and Utility (“STRMU”) assistance to assist with homelessness prevention; and Permanent Housing Placement to assist with homeless prevention.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff response: The Texas Department of State Health Services (“DSHS”) acknowledges and appreciates the comments expressed, and clarification was made to the Plan as a result of these comments. Staff has clarified in the Plan that the allocation priorities for each HOPWA activity in Action Plan Section 25 will be dependent on the final HUD allocation.

14. Two commenters asked for HOPWA to prioritize projects that use evidence-based practices and promising practices in housing, such as prioritizing Permanent Supportive Housing and a Housing First Approach, as described by the U.S. Interagency Council on Homelessness. Permanent Supportive Housing includes housing that is decent, safe, affordable, and community-based; offers voluntary and flexible services and supports to

help people stay housed; does not limit the length of residency; and emphasizes tenant choice in housing and services. Housing First works to “screen in” people with significant challenges who might be screened out of other housing options because of poor credit or prior convictions, while maintaining tenant’s accountability for their behaviors that violate their lease agreements.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff response: DSHS’ Texas HOPWA Program does not fund Permanent Supportive Housing. The HOPWA activities funded under the Texas Program are TBRA; STRMU assistance, Permanent Housing Placement assistance (which consists of assistance for housing placement costs which may include application fees, related credit checks, and reasonable security deposits necessary to move persons into permanent housing); and Supportive Services (housing case management).

The Texas HOPWA Program already assists clients with significant challenges. Many clients are on TBRA long-term because they do not qualify for any other housing assistance programs due to credit and/or rental history, criminal justice history, undocumented immigration status, and/or multiple-diagnosed issues, to name a few. For additional information, please refer to the Texas HOPWA 2014 Consolidated Annual Performance and Evaluation Report (“CAPER”) narrative section titled “Barriers and Trends Overview.”

15. Two commenters asked for HOPWA to prioritize persons who are in homeless situations for TBRA.

(Eric Samuels and Mary Dodson, Texas Homeless Network)

Staff response: The Texas HOPWA Program helps low-income HIV-positive clients establish or maintain affordable and stable housing; helps reduce the risk of homelessness; and improves access to health care and supportive services through housing subsidy assistance and case management (supportive services). Upon intake, HOPWA clients are screened for Ryan White/State Services program services need, such as medical case management, oral care, medication, mental health, substance abuse, food bank, medical transportation, etc. Conversely, Ryan White clients are screened for housing needs. Case Managers work with clients on an individualized care plan designed to keep them housed and linked to medical care. DSHS utilizes Ryan White-funded Minority AIDS Initiative (“MAI”) funds to link incarcerated HIV-infected individuals to medical care and support services and enrollment for the HIV medications program prior to release. The Texas HOPWA Program’s priority is to assist low-income, HIV-positive clients establish and/or maintain stable housing, which includes clients entering the program from a homeless or unstably-housed situation. Additional priorities are to reduce the risk of homelessness and to improve access to supportive services and health care for HIV-positive, low-income clients.

16. One comment was that Page 26 of the Market Analysis Table 14 is missing a “P” in HOPWA.

(Jean M. Langendorf, Disability Rights Texas)

Staff response: Staff agrees with the comment and has corrected the typo. Note that the typo is hard-coded into HUD’s Integrated Disbursement and Information System (“IDIS”), which is the online system created by HUD for Participating Jurisdictions to enter the consolidated planning documents. This typo must be manually corrected by TDHCA every time the Plan is downloaded from IDIS.

17. Two commenters were in favor of the draft Plan’s goal of using \$30,000,000 of Community Development Block Grant (“CDBG”) funding for colonia housing.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff response: The Texas Department of Agriculture (“TDA”) recognizes the need for housing improvements in colonia areas, as well as basic infrastructure and other colonia needs, and appreciates the commenters’ support. The \$30,000,000 estimate reflects expected amount of available funds throughout the five year planning period. Staff has clarified in the Plan that the amounts targeted for each CDBG activity in Action Plan Section 25 will be dependent on the final HUD allocation. No changes have been made as a result of this comment.

18. Two commenters asked for CDBG to prioritize projects that use evidence-based practices and promising practices in housing, such as prioritizing Permanent Supportive Housing and a Housing First Approach, as described by the U.S. Interagency Council on Homelessness. Permanent Supportive Housing includes housing that is decent, safe, affordable and community-based; offers voluntary and flexible services and supports to help people stay housed; does not limit the length of residency; and emphasizes tenant choice in housing and services. Housing First works to “screen in” people with significant challenges who might be screened out of other housing options because of poor credit or prior convictions, while maintaining tenant’s accountability for their behaviors that violate their lease agreements.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff response: Housing rehabilitation, which may include accessibility modifications for disabled persons, and public services such as supportive services are eligible uses of CDBG funds under the Community Development Fund. Regional Review Committees (“RRCs”) establish local priorities that are used to score and rank applications, and all regions are encouraged to set aside funds to be dedicated for housing rehabilitation projects. Housing rehabilitation is also eligible under the Colonia Fund Construction Program, which specifically prioritizes housing rehabilitation activities. However, relatively few applications

have been received for this type of project. No changes have been made as a result of this comment.

19. Two commenters asked that CDBG use funds for public services to end homelessness, such as meeting match requirements and supportive services.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff response: Public services are an eligible use of CDBG funds under the Community Development Fund, up to a maximum of 16% of the total grant application. RRCs establish local priorities that are used to score and rank applications; although no regions have specifically prioritized public services in recent years, an application that includes public services may be competitive in certain regions that have chosen to prioritize all types of projects equally. No changes have been made as a result of this comment.

20. Two commenters supported the demand for community infrastructure in South Texas Communities. In a public hearing held the summer of 2014, the Coastal Bend RRC set water, sewer and streets as funding priorities for CDBG. Commenters ask that the State continue allocating the largest percentage of CDBG funds to water facilities, sewer facilities, and street improvements. Commenters ask for the State to consider increasing the percentage for those activities.

(Larry Martinez, Alice City Texas; Ralph Gomez, Alice-Jim Wells County Economic Development Corporation)

Staff response: Staff agrees that the demand for infrastructure is great. This need is demonstrated in the local priorities set by many RRCs. The current balance of statewide priorities between the various funding categories has been consistent for several years and has been successful in allowing many communities to meet their needs. No changes have been made as a result of this comment.

21. One comment was about the difficulty of persons who only have social security benefits to afford reduced-rent apartments, since many apartment buildings require two to three times the rent in income, which social security benefits do not provide.

(Renee S. Hopper, Individual)

Staff response: Any requirement related to the amount of income necessary to be eligible to rent an apartment varies from development to development and is up to the property manager/owner. Section 10.610 of the Department's Uniform Multifamily Rules related to Tenant Selection Criteria prohibits owners from using a minimum income standard for household's with rental assistance; household's with rental assistance, such as TBRA or Section 8 Housing Choice Vouchers, are not required to have a monthly income of more than 2.5 times the household's share of the total monthly rent. Almost all of TDHCA-monitored units accept Section 8 Housing Choice Vouchers and other types of rental assistance, allowing tenants to receive reduced rent paired with rental assistance.

22. One comment was about the difficulty of persons with credit scores under 620 or persons without a deposit or pet deposit to access reduced-rent apartments. This is in relation to rehabilitated units which may cause displacement of existing residents who may not be able to live in the new units because of credit scores or lack of deposits.

(Renee S. Hopper, Individual)

Staff response: Any requirement related to minimum credit score in order to be eligible to rent an apartment varies from development to development and is determined by the property manager/owner. TDHCA's rules related to Tenant Selection Criteria do not provide for a minimum or maximum credit score that can be used. TDHCA's proposed tenant selection rule proposes changes to protect tenants who already reside in developments from being displaced due to the application of new criteria.

23. One comment was that the discussion of farmworkers was very sparse.

(Kathy Tyler, Motivation, Education and Training, Inc.)

Staff response: Staff disagrees with the comment and no changes have been made as a result of this comment. The Plan has several different questions and sections to answer in order to accurately govern the programs involved and be approved by HUD. The information relating to farmworkers was sufficient to determine needs and also give resources for the reader to find additional information. In addition, IDIS, HUD's electronic system for inputting the Plan, has a character limit of 4,000 characters per answer. The farmworker population discussion was equal in substance to many other special needs populations in the space provided.

24. One comment was that there was no distinction between "migrant farmworkers" and "farmworkers". A recommendation was made to use the more inclusive term "farmworker" or "migrant and seasonal farmworkers" instead of only farmworkers.

(Kathy Tyler, Motivation, Education and Training, Inc.)

Staff response: Staff agrees with comment and changes have been made as a result of this comment. The inclusive terms "farmworker" and "migrant and seasonal farmworkers" are now used throughout the Plan.

25. One comment asked for clarification of farmworkers as a special needs population.

(Kathy Tyler, Motivation, Education and Training, Inc.)

Staff response: Staff made changes to the Plan as a result of this comment. Texas Government Code §2306.0721 requires that the State Low Income Housing Plan and Annual Report include consideration of farmworkers, including an estimate and analysis of their housing needs. While not officially a special needs category,

farmworkers are given consideration in plans and programming of funds. Clarification of the special needs population has been made in Needs Assessment Section 45.

26. One comment asked that HOME Investment Partnerships (HOME) Program funding and other TDHCA programs funding cycles match the funding cycles of U.S. Department of Agriculture (“USDA”). This would allow applicants to create a competitive application for farm labor housing (Section 514/516). Commenter suggested the creation of a multifamily program to provide conditional commitments in order to compete for USDA funding. Because HOME funds have to be project-ready, conditional commitments are not available to attract federal dollars.

(Kathy Tyler, Motivation, Education and Training, Inc.)

Staff response: While TDHCA does allow for funding applications to propose transactions that are layered with multiple sources, the timing of application reviews and awards are largely mandated by state statute and the federal government. For instance, state statute dictates when applications for competitive housing tax credits will be accepted and when they will be awarded. In addition, for the last few years TDHCA has released NOFAs within weeks of actually receiving the HOME funds from the federal government so that those funds can be layered with housing tax credits and potentially with USDA funds. The HOME Program also has strict federal deadlines for commitment and expenditure of HOME funds. TDHCA will consider the potential timelines of other federal sources when developing NOFAs for other possible funding sources, such as Tax Credit Assistance Program loan repayments. No changes were made to the Plan as a result of this comment.

27. One comment asked for pre-development funding and early commitments from the HOME Program in order to attract USDA funding for farmworker housing.

(Kathy Tyler, Motivation, Education and Training, Inc.)

Staff response: TDHCA’s HOME funds are in high demand since funding levels were reduced significantly in 2012. Therefore, TDHCA has prioritized development funding over pre-development funding in order to produce more units of affordable housing and be in a position to recycle the funds for future development. In addition, TDHCA needs to manage commitment and expenditure timelines imposed by HUD, making it difficult to sustain commitments for long periods of time without actually funding the transactions. No changes were made to the Plan as a result of this comment.

28. One commenter noted that only 15 migrant farmworkers were reported to be served through HOME from 2005 through 2013, according to the CAPERs. To serve more farmworkers, the commenter offered four suggestions: (a) create a small program specifically for farmworkers; (b) conduct better outreach for farmworker populations; (c)

require reporting of farmworkers assisted; and (d) change the term “migrant farmworker” to the more inclusive “farmworker” to get a better count of those assisted.

(Kathy Tyler, Motivation, Education and Training, Inc.)

Staff response: Staff agrees with some of the comments and changes have been made to the Plan as a result of the comments. Regarding suggestion (a), TDHCA makes available Community Service Block Grant (“CSBG”) discretionary funds for farmworkers as permitted by CSBG statute, 42 U.S.C. §9908, which requires that TDHCA support activities designed to assist migrant or seasonal farmworkers. In addition, as part of the 2010-2011 Housing Trust Fund Plan, TDHCA included several efforts to increase capacity in rural Texas in coordination with the Rural Housing Workgroup, advocates, local rural housing administrators, and USDA. Despite this coordinated effort, most of the funds were not accessed and have been utilized to address other housing needs. Given limited funding resources, TDHCA strives to program its funds in ways that do not preclude farmworkers from accessing affordable housing rather than creating small programs. The high demand for HOME funds makes it difficult to provide even a small set-aside for specific populations.

Regarding suggestion (b) concerning outreach for particular populations, Affirmative Marketing Plans require that property owners reach out to groups that are least likely to apply for program assistance. Although farmworkers are not a population listed on HUD’s Form 935.2A, related to Affirmative Marketing Plans, some of the groups targeted in those plans, such as minority populations, likely include farmworkers.

Regarding suggestion (c), the reporting of an individual’s status is a voluntary process and TDHCA cannot require grantees to solicit an individual’s status as a farmworker or non-farmworker. In addition there is neither a specific incentive for a household to divulge their status in this regard nor a specific incentive for the HOME grantee to request such information. On this basis, staff believes that the figure reflected in the CAPERs is likely to be understated.

Regarding suggestion (d), the term “migrant farmworker” has been changed to “farmworker” throughout the Plan.

29. One commenter requested implementation of recommendations cited in the *Texas Rural Farmworker Housing Analysis* and asked TDHCA leadership to bring recommendations into fruition in the State.

(Kathy Tyler, Motivation, Education and Training, Inc.)

Staff response: Staff disagrees with the comment, and no changes have been made as a result of this comment. Many of the recommendations from the Texas Rural Farmworker Housing Analysis that relate to the HOME, ESG, CDBG or HOPWA programs have been given as individual comments by Motivation Education, and Training, Inc, and are therefore answered in other staff responses related to farmworker housing. Two recommendations that were not given individually as

comments and that may relate to the programs governed by the Plan are as follows:

- a. provide incentives to use existing or planned housing stock for farmworkers. The analysis states that government entities should explore ways to assist and/or create incentives for developers of existing or planned non-farmworker housing to market their projects to farmworkers, and*
- b. create a rental or operating subsidy to sustain rural farmworker projects. The analysis states that, because farmworker housing often has fluctuating occupancies due to the nature of agricultural industry (e.g., seasonal work, migrant farmworkers, etc), consideration should be given to establishing rental and operating subsidies to support farmworker housing during periods of low occupancies.*

Concerning recommendation (a), many HOME rental developments are layered with Housing Tax Credits, and, for the last several years the Housing Tax Credit Program has provided a scoring incentive for serving several special needs populations, including farmworkers. Also, in 2015 the HOME Program is offering funds for the rehabilitation of multifamily units. These funds may be paired with USDA funds, such as Section 502 or Section 514/516, which may also focus on farmworker housing. No changes have been made to the Plan as a result of this comment.

Concerning recommendation (b), HOME funds cannot be used as an operating subsidy. No changes have been made to the Plan as a result of this comment.

30. One commenter asked for a TDHCA staff person to provide assistance to organizations seeking to provide farmworker housing or rural housing options.

(Kathy Tyler, Motivation, Education and Training, Inc.)

Staff response: Rural and farmworker housing options vary among different housing activities; staff with expertise in each program's uses and requirements are always available to work with organizations to determine how their program funds may be able to be used to serve farmworker or rural housing. TDHCA is committed to addressing rural housing needs within the confines of existing resources. No changes were made to the Plan as a result of this comment.

31. Two commenters were in favor of the draft Plan's proposed use of HOME funding TBRA for rapid re-housing and construction and rehabilitation of multifamily affordable housing.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff response: Staff agrees with the comment. TDHCA appreciates the commenters' support for the Plan to use HOME for TBRA and construction and rehabilitation of multifamily affordable housing. As a result of these comments, staff has clarified in the Plan that the amounts targeted for each HOME activity in Action Plan Section 25 will be dependent on the final HUD allocation, but the initial percentages allocated per activity will remain approximately the same.

32. Two commenters asked that HOME funds be used to prioritize persons who are in homeless situations for TBRA and families experiencing homelessness for affordable units in HOME multifamily properties.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff response: HOME TBRA Administrators may already design such a priority in their TBRA Program giving preferences to population in the special needs category provided that the limitations or preferences do not violate nondiscrimination requirements in 24 Code of Federal Regulations §92.350. TDHCA's HOME multifamily program funds are primarily layered with Housing Tax Credits and therefore can be used to serve more families at 30% area median income ("AMI"). In addition, the owners of these developments are required to accept tenants participating in rental assistance programs. Developments financed with both HOME and Housing Tax Credits, which constitute the vast majority of the HOME portfolio, are incentivized to set aside units for tenants with special housing needs, including homeless populations. No changes were made to the Plan as a result of this comment.

33. Two commenters asked that HOME funds be used to prioritize projects that use evidence-based practices and promising practices in housing, such as prioritizing Permanent Supportive Housing and a Housing First Approach, as described by the U.S. Interagency Council on Homelessness. Permanent Supportive Housing includes housing that is decent, safe, affordable and community-based; offers voluntary and flexible services and supports to help people stay housed; does not limit the length of residency; and emphasizes tenant choice in housing and services. Housing First works to “screen in” people with significant challenges who might be screened out of other housing options because of poor credit or prior convictions, while maintaining tenant’s accountability for their behaviors that violate their lease agreements.

(Mary Dodson and Eric Samuels, Texas Homeless Network)

Staff response: TDHCA’s HOME multifamily program funds are primarily layered with Housing Tax Credits, and those developments are required to provide a number of services to the tenants. In addition, TDHCA allows managers and owners of these developments to adjust the services provided in order to meet the specific needs of the tenants. No changes were made to the Plan as a result of this comment.

34. One comment recommends that HOME create a set-aside for TBRA under the Persons with Disabilities allocation to assure a quick solution to those confined to institutions waiting to move to the community on the Project Access wait list.

(Jean M. Langendorf, Disability Rights Texas)

Staff response: Five percent of HOME funds are specifically reserved by statute for persons with disabilities per Texas Government Code §2306.111(c)(2), but households with members who are disabled are also served using non-set-aside funding. TDHCA strongly supports initiatives to increase the ability of persons with disabilities to exit institutions and has taken proactive steps to guide administrators on how to “bridge” a client from the Project Access waiting list to the HOME TBRA Program. However, holding funds in a set aside solely for Project Access clients might place TDHCA in a position of having to deny an equally-qualified person with a disability not exiting an institution from access to assistance.

In the draft Plan, TDHCA set a goal for allocating more resources toward TBRA than in past years because of the evidence of high rates of renter cost burden. While the increased funding goal for TBRA does not specifically create a set aside for persons with disabilities or persons confined to institutions, it does increase the availability of funding for all populations. No changes to the Plan were made based on this comment.

35. One comment actively opposed funding HOME TBRA. Commenter believes that the program does not benefit the intended recipients (e.g., the tenants) and primarily benefits the landlords. Commenter suggested that the main use of TBRA is to allow tenants on the Section 8 Housing Choice Voucher waiting list to have housing until he/she receives a Section 8 voucher, thus remaining on assistance and not moving toward self-sufficiency. In addition, since TBRA is only available for two years but waiting lists are usually five years long, it is unclear what happens to the tenant after TBRA is exhausted.

(Michael Hunter, Hunter & Hunter Consultants, Inc.)

Staff response: Staff disagrees with this comment. Proposed funding in the Consolidated Plan reflects that currently the most common housing problem is moderate to severe cost burden, especially for households with incomes between 0-30% AMI, which is the income range of a majority of TBRA recipients. Using funds to help minimize cost burden is consistent with the Needs Assessment results. While TBRA is designed as short-term assistance to promote self sufficiency, TBRA can be available for up to five years for households that are currently on waiting lists for other types of assistance, such as Section 8 Housing Choice Vouchers, which provides them time to receive a voucher if the wait is up to five years. No changes are recommended based on this comment.

36. Twenty-eight commenters were in favor of reinstating the HOME Homebuyer Assistance Program. Commenters communicated that this program has been of tremendous help to thousands of Texans. Several commenters had worked to provide HOME homebuyer assistance to new homebuyers and wrote about the happiness of and life-changing effect it had on the persons and families receiving assistance. One commenter had used the HOME homebuyer assistance program personally and communicated that without the program she and her family would still be renting. She also praised the homebuyer education courses and the tools provided by the Homebuyer Assistance Program. Two commenters used the phrase “American Dream” to describe how homebuyer assistance affects lives.

(Alex Coronado, Alto Vista Realty; Paul K. Stevens, City of Waxahachie; Carlos Buitron, Nadia Erosa, Gina Gonzalez, Nick Mitchell-Bennett, Christina Herrera, Luciana Morales, Maria Pena, and Cynthia Rocha, Community Development Corporation of Brownsville; Maria I. Olivarez, Community Loan Center of Brownsville; Roberto Medrano, Diocese of Brownsville; Donna M. Johnson, Grantworks; Judge Richard Anderson, Harrison County Housing Finance Corporation and East Texas Housing Finance Corporation; Michael Hunter, Hunter & Hunter Consultants, Inc.; Vaughn Cox, La Union del Pueblo Entero; Joy Horak-Brown, New Hope Housing; Judy Martin, Paris Habitat for Humanity; Cynthia Gilcrease, Regency Post Acute Healthcare System; Jesse Miller, individual; Larry Hollmann, individual; Sofia L. Reyes, individual; Alicia Hernandez, Rio Grande Valley Abstract Co., Inc.; Donna Allen, Rockwall

Housing Development Corporation; Matt Hull, Texas Association of Community Development Corporations; Reynaldo D. Vasquez, U.S. Small Business Administration; Traci Wickett, United Way of Southern Cameron County; Ren Valdez, University of Texas at Brownsville)

Staff response: Staff agrees that homebuyer assistance programs serve a need in the community. The draft 2015 One Year Action Plan did not eliminate funding for homebuyer assistance through the HOME Program, and the final Plan allows for homebuyer assistance as an eligible activity. The Plan does not, however, prioritize funding for down payment assistance activities recognizing that there are multiple funding sources available statewide for down payment assistance in addition to the State of Texas' HOME funds, including TDHCA's Homeownership Programs. The One-Year Action Plan section of the Consolidated Plan has been revised to clarify that homebuyer activities are an eligible use of funds and that TDHCA may use more than one method to distribute HOME funds as described in future NOFA releases.

37. Five commenters communicated that there is high demand for homebuyer assistance. Two commenters specifically talked about demand in the Rio Grande Valley, such as Hidalgo and Cameron counties. One commenter talked about the demand in Rockwall and one commenter talked about demand in Paris. One additional commenter said that demand for homeownership is high, but the current HOME reservation system does not allow interest in homebuyer assistance to be adequately captured.

(Nick Mitchell-Bennett, Community Development Corporation of Brownsville; Roberto Medrano, Diocese of Brownsville; Michael Hunter, Hunter & Hunter Consultants, Inc.; Judy Martin, Paris Habitat for Humanity; Donna Allen, Rockwall Housing Development Corporation)

Staff response: Staff agrees with the comment and changes have been made to the Plan as a result of this comment. In Market Analysis Section 10, the State comments that the historically low inventory of for-sale housing indicates a demand by homebuyers and that the income distribution and cost of housing could indicate a need for homebuyer assistance. The Rio Grande Valley is in the South Texas Border Region (Region 11), Rockwall is in the Metroplex Region (Region 3), and Paris is in the Upper East Texas Region (Region 4). More details about each region can be found in the State Low Income Housing Plan and Annual Report, which is updated annually and available online at <http://www.tdhca.state.tx.us/housing-center/pubs-plans.htm>. Staff agrees that the housing market for down payment assistance in some areas of Texas may be on the rise; TDHCA offers several homebuyer programs to help meet this demand, including HOME funds. The One-Year Action Plan in the Consolidated Plan has been revised to clarify that homebuyer activities are an eligible use of funds and that TDHCA may use more than one method to distribute HOME funds as described in future NOFA releases.

38. One commenter noted that the HOME Homebuyer Assistance Program was used by veterans who found homeownership to be a practical option.

(Ren Valdez, University of Texas at Brownsville)

Staff response: Down payment assistance is an eligible activity under the TDHCA's HOME Program and it can be used to assist special needs populations, including veterans. No changes to the Plan are recommended based on this comment.

39. Twenty comments were in support of the commenters' belief that homebuyer assistance is the most or one of the most effective programs in creating lasting equity and assets for low-income Texans and is the most or one of the most effective anti-poverty programs that TDHCA offers.

(Alex Coronado, Alto Vista Realty; Maria Pena, Nick Mitchell-Bennett, Nadia Erosa, Carlos Buitron, Christina Herrera, Luciana Morales, Gina Gonzalez, and Cynthia Rocha, Community Development Corporation of Brownsville; Maria I. Olivarez, Community Loan Center of Brownsville; Michael Hunter, Hunter & Hunter Consultants, Inc.; Jesse Miller, individual; Larry Hollmann, individual; Sofia L. Reyes, individual; Vaughn Cox, La Union del Pueblo Entero; Joy Horak-Brown, New Hope Housing; Judy Martin, Paris Habitat for Humanity; Cynthia Gilcrease, Regency Post Acute Healthcare System; Reynaldo D. Vasquez, U.S. Small Business Administration; Traci Wickett, United Way of Southern Cameron County)

Staff response: Staff agrees that homeownership can be an effective anti-poverty tool while also recognizing that HOME funds are not the only source of funding available for down payment assistance. TDHCA offers homebuyer assistance programs through sources other than HOME, such as TDHCA's Homeownership Programs, and there are other funding sources around the state that can also be used to meet this need. Given limited HOME resources and the results of the needs assessment, TDHCA is focusing HOME funding on activities that address higher priority needs as identified in the consolidated planning process. No changes to the Plan are recommended based on this comment.

40. Two commenters said that using all of the non-Community Housing Development Organization (CHDO) single-family HOME funds for rental assistance will not directly encourage lower-income families to responsibly build assets and enjoy the financial and social benefits of homeownership. One commenter made reference to studies that homeownership can also result in better educational advancement for the children of homeowners, more involvement on the part of homeowners in local government, fewer incidences of teenage pregnancies and less gang involvement for homeowners' children, and that homeowners' children tend to become homeowners when they reach adulthood.

(Michael Hunter, Hunter & Hunter Consultants, Inc.; Matt Hull, Texas Association of Community Development Corporations)

Staff response: The allocation priorities identified in the 2015 One-Year Action Plan section of the Consolidated Plan reflect the conclusions of the market analysis and needs sections in terms of highest needs of the State. Changes have been made to the Plan clarifying that homebuyer assistance remains an eligible activity for HOME funds.

41. Seventeen commenters believe that the HOME Homebuyer Assistance Program moves persons from being renters to being homeowners who pay property taxes.

(Alex Coronado, Alto Vista Realty; Maria Pena, Nadia Erosa, Carlos Buitron, Christina Herrera, Luciana Morales, Gina Gonzalez, and Cynthia Rocha, Community Development Corporation of Brownsville; Maria I. Olivarez, Community Loan Center of Brownsville; Jesse Miller, individual; Larry Hollmann, individual; Sofia L. Reyes, individual; Vaughn Cox, La Union del Pueblo Entero; Judy Martin, Paris Habitat for Humanity; Cynthia Gilcrease, Regency Post Acute Healthcare System; Reynaldo D. Vasquez, U.S. Small Business Administration; Traci Wickett, United Way of Southern Cameron County)

Staff response: The needs assessment section of the Consolidated Plan identifies a great need for rental assistance for low-income Texans who may not be prepared for homeownership responsibilities. No changes are recommended to the Plan based on this comment.

42. Five commenters described the benefit of new construction of homes to be purchased with HOME homebuyer assistance. The new homes create additional tax revenue and create or sustain jobs, such as construction workers, insurance and title company staff, and Realtors. One commenter from Habitat for Humanity noted that HOME's homebuyer assistance helps her organization build more homes every year after the Habitat for Humanity receives the down payments from the prospective buyers. One commenter noted that the City of Waxahachie waived water/waste water impact fees for the new homes creating almost \$21,000 in match.

(Paul K. Stevens, City of Waxahachie; Nick Mitchell-Bennett, Community Development Corporation of Brownsville; Michael Hunter, Hunter & Hunter Consultants, Inc.; Judy Martin, Paris Habitat for Humanity; Alicia Hernandez, Rio Grande Valley Abstract Co., Inc.)

Staff response: Staff concurs on the positive economic impact that HOME construction-related activities may have and was not and is not proposing to eliminate the use of single-family HOME funds for down payment assistance. The 2015 One-Year Action Plan section of the Consolidated Plan has been revised to clarify that homebuyer activities are an eligible use of funds.

43. One comment was about the difficulty of using the reservation system to reserve funds for HOME homebuyer assistance.

(Donna Allen, Rockwall Housing Development Corporation)

Staff response: The 2015 One-Year Action Plan in the Consolidated Plan has been revised to state that TDHCA may utilize distribution methods other than the Reservation System in fiscal year 2015 and as allowed by the State's current HOME rules. The exact method(s) for distributing funds will be described in future NOFA releases.

44. One commenter disagreed that there are other sources for homebuyer assistance in the Rio Grande Valley outside of Participating Jurisdictions.

(Nick Mitchell-Bennett, Community Development Corporation of Brownsville)

Staff response: Staff disagrees with this comment. TDHCA offers homebuyer programs statewide through the HOME Program and is not proposing to eliminate homebuyer assistance as an eligible activity type at this time. In addition TDHCA's My First Texas Home Program and the Mortgage Credit Certificates Program are offered in Brownsville, Harlingen, and several other areas in the Rio Grande Valley. Lenders in other communities may also offer these programs if they wish. No changes to the Plan are recommended based on this comment.

45. One commenter disagreed that there was down payment assistance available through other sources than HOME homebuyer assistance. The down payment assistance referenced in the Plan was tied to mortgage bond programs. However, buyers with a third-party financing or local lender would not have access to down payment assistance.

(Matt Hull, Texas Association of Community Development Corporations)

Staff response: Homebuyer assistance is available statewide through various organizations, including TDHCA's HOME Program and other down payment assistance programs. While the use of a participating lender is necessary with the My First Texas Home Program offered by TDHCA, there are many other homebuyer assistance providers including Texas General Land Office's Veteran Housing Assistance Program; Texas State Affordable Housing Corporation's Homes for Texas Heroes Program, Home Sweet Texas Loan Program; the Federal Home Loan Bank which offers an Affordable Housing Program and Homebuyer Equity Leverage Partnerships; Veterans Affairs ("VA") Direct Home Loan Program for Native American veterans and VA-Guaranteed Loan Program; HUD's Good Neighbor Next Door program, Section 8 Housing Choice Homeownership Vouchers, and Section 184 Indian Home Loan Guarantee Program; and USDA's Section 502 Loan Guarantee Program. No changes are recommended to the Plan based on this comment.

46. One commenter disagreed that having other sources of funds for down payment assistance is a reason to reduce HOME homebuyer assistance. Commenter goes on to state that if other sources of assistance were counted as reasons for not providing assistance, homeowner rehabilitation would not need to be funded because of TDHCA's Housing Trust Fund's Bootstrap Loan Program, Texas Veteran's Fund, Federal Home Loan Bank programs, or Neighborhood Stabilization Program. Also, using the same logic, TBRA would not need to be funded because of Section 8 Housing Choice Voucher funding, Health and Human Services rental assistance, or the Veterans Assistance Fund.

(Matt Hull, Texas Association of Community Development Corporations)

Staff response: The 2014 State Low Income Housing Plan reports for state fiscal year 2013 that 55.62 percent of the total program funds were committed to single family homeownership, which indicates the availability of other TDHCA resources for homebuyers and helps in addressing the homeownership demand statewide. The sources of funding for homeowner rehabilitation or TBRA that come from TDHCA are much more limited than the funding for homeownership programs. TDHCA does not have control over the amount available for similar activities performed by other agencies like the Texas Veterans Commission and the Health and Human Services Commission. With limited HOME resources, TDHCA is focusing HOME funding on activities that address a higher priority need as identified in the Consolidated Planning process. No changes are recommended to the Plan based on this comment.

47. Two commenters suggested that homebuyer assistance and homeowner rehabilitation provide the longest-term assistance offered by the HOME Program, since TBRA lasts only up to 24 months while the other programs may allow the recipient of assistance to make permanent roots in the community.

(Donna M. Johnson, Grantworks; Michael Hunter, Hunter & Hunter Consultants, Inc.)

Staff response: Staff partially agrees with these comments. The Homeowner Rehabilitation Assistance Program and Homebuyer Assistance Programs are designed to be long-term assistance to a household, and TBRA is designed as short-term assistance to promote self sufficiency. It is correct that these activities target different housing needs, which is supported by the Needs Assessment. No changes are recommended based on this comment.

48. One comment was in support of the HOME Homeowner Rehabilitation Program. Commenter noted that this program has a long-term benefit for participants and has a spill-over effect so that neighbors also begin improving and maintaining their homes. Property taxes may also rise as a result of homeowner rehabilitation assistance.

(Michael Hunter, Hunter & Hunter Consultants, Inc.)

Staff response: Staff appreciates commenter's support of the Homeowner Rehabilitation Assistance Program.

49. Four comments were about the difficulty of the HOME Program's reservation system for homeowner rehabilitation. Administrators of the Homeowner Rehabilitation Program take applications from homeowners and then may not receive funding from the HOME Program because of technical difficulties with the reservation system or because the funding was taken too quickly by other administrators.

(Donald Warschak, City of Columbus; Tres Davis, Grantworks, Inc.; Teresa Offutt, Hill Country Home Opportunity Council, Inc.; Judge Rene Mascorro, Refugio County)

Staff response: The One-Year Action Plan in the Consolidated Plan has been revised to clarify that homebuyer activities are an eligible use of funds and that TDHCA may use more than one method to distribute HOME funds as described in future NOFA releases. However, the rapid reservation of funds by other administrators is not a flaw of the reservation program, but is an indicator of how significant the need for housing assistance is relative to the availability of resources.

50. One comment was about the difficulty of the reservation system for the HOME Homeowner Rehabilitation Program on builders. Because it is costly to submit a bid, builders prefer to bid on several houses at once. If multiple houses are awarded, instead of having to submit each house through a contract system, builders will be more encouraged to bid, which will bring quality builders to the program.

(Randy Malouf, Builder in Conroe, Texas)

Staff response: The Reservation System is designed to allow new entities to participate on a small scale basis while at the same time providing funding for ready-to-go activities. This model has been proven successful since its introduction; however, TDHCA also recognizes that it has some limitations. The One-Year Action Plan in the Consolidated Plan has been revised to clarify that TDHCA may use more than one method to distribute HOME funds, and that the exact method will be detailed in future NOFA releases. One possibility is the creation of a funding method that reflects some of the positive attributes of the contract system and the reservation system.

51. Four comments were about the expenses incurred to prepare an application for the HOME Homeowner Rehabilitation Program without reassurance of reimbursement, since not all applications will be funded through the Reservation System. These expenses include application intake, environmental clearance, appraisals, and ensuring clear title commitments. In addition, it is not known during time of application whether funds will be available to rebuild a site-built home or manufactured housing unit home.

(Donald Warschak, City of Columbus; Tres Davis, Grantworks, Inc.; Teresa Offutt, Hill County Home Opportunity Council, Inc.; Judge Rene Mascorro, Refugio County)

Staff response: Staff acknowledges that there are costs associated with program participation and additionally, under the reservation system, that some costs are incurred in preparation to submit the required documentation for a reservation without assurance that funds will be available when the project is ready for funding. Staff will consider possible changes to address these challenges; however, the majority of requirements are designed to limit liability and risk and to ensure readiness to proceed. No changes to the Plan are warranted based on this comment.

52. Three commenters asked that HOME's Homeowner Rehabilitation Program move back to awards through contracts which guarantee funding for a certain number of homes. Contracts would create an economy of scale for rural communities, consultants, and nonprofits. Contracts with a system of benchmarks to meet for the Administrator, such as a time limit of 12 to 15 months for set ups in the TDHCA contract system of five homes to be assisted, would also allow the current expenditure rate for homeowner rehabilitation to remain high. Finally, contracts would allow administrators and consultants to budget and plan ahead, also ensuring that a certain number of applications will be funded.

(Donald Warschak, City of Columbus; Tres Davis, Grantworks, Inc; Judge Rene Mascorro, Refugio County)

Staff response: The One-Year Action Plan in the Consolidated Plan has been revised to clarify that TDHCA may use more than one method to distribute HOME funds, and that the method will be detailed in future NOFA releases. However, one noted drawback of returning to contracts is that geographical dispersion and access to multiple funds by a broader array of housing providers, is significantly reduced as multiple units are committed to contracts with fewer providers.

53. Two commenters asked that HOME's Homeowner Rehabilitation Program move to a first-set-up, first-served system. The Reservation System currently works on the premise that all the applications are set-up, and then whichever Administrators press the reserve button first when the funds are released get the funds. If the Reservation System was

changed so there is no release-date for the funding, Administrators could submit homeowners once the homeowners' application is complete.

(Randy Malouf, Builder in Conroe, Texas; Teresa Offutt, Hill County Home Opportunity Council, Inc.)

Staff response: The Consolidated Plan does not include these commenters' level of specificity with regard to how the Reservation System should be administered, and therefore no changes are recommended to the Plan based on this comment. To the extent this model is utilized it will be clarified in NOFAs.

54. One comment was about the need for HOME homeowner rehabilitation projects in Kerr, Kendall, Bandera, and Gillespie counties. Many of the residents are extremely low- to low-income homeowners living in substandard housing.

(Teresa Offutt, Hill Country Home Opportunity Council, Inc.)

Staff response: Staff agrees with the comment and the need in those areas has been noted in the Plan. TDHCA conducts an annual analysis of each region's need in the State Low Income Housing Plan and Annual Report, which can be found online at <http://www.tdhca.state.tx.us/housing-center/pubs-plans.htm>. The counties in the comment are in the Alamo Region (Region 9).

55. Four comments noted that the current HOME Program Director, Jennifer Molinari, and her team have a high degree of professionalism and willingness to work with Administrators. There have been improvements in efficiencies and attitudes since Ms. Molinari entered that position.

(Randy Malouf, Builder in Conroe, Texas; Donald Warschak, City of Columbus; Tres Davis, Grantworks, Inc; Judge Rene Mascorro, Refugio County)

Staff response: Staff appreciates the comments. TDHCA management also highly values Ms. Molinari and her team.

56. One comment noted that on Page 36 of the Needs Assessment Table 18 and page 21 of the Market Analysis Table 12, it would be important to include the breakout of the Project Access vouchers which would fit into the "Special Purpose Voucher - Disabled" category.

(Jean M. Langendorf, Disability Rights Texas)

Staff response: Staff agrees with this comment and changes have been made to the Plan as a result of this comment. The chart itself was created by HUD's IDIS and could not be edited, but a footnote has been added with the information.

57. One comment was regarding Page 37 of the Needs Assessment in which Table 19 showed that 833 voucher holders had requested accessibility features. It has not been Disability Rights Texas' experience that all voucher holders request accessibility features.

(Jean M. Langendorf, Disability Rights Texas)

Staff response: Staff agrees with this comment and changes have been made to the Plan as a result of this comment. The chart itself was created by HUD's IDIS, and is incorrect, as acknowledged by the AskOneCPD helpdesk. A footnote has been created to explain this HUD error. For TDHCA, staff agrees that 833 is too high; typical requests for accessibility features are less than 10 per year.

58. One comment was that Page 39 of the Needs Assessment would be an appropriate place to include the Project Access wait list information. Commenter states that this wait list is important to include because of the incredible need demonstrated by its length. Based on the response to the question it would appear that no applications are submitted to TDHCA for the Project Access vouchers but it is Disability Rights Texas' understanding that to be put on the wait list one must complete an application.

(Jean M. Langendorf, Disability Rights Texas)

Staff response: Staff agrees with this comment and changes have been made to the Plan as a result of this comment. The waiting lists for TDHCA's Section 8 Program and Project Access Program have been added.

59. One comment was regarding the integration of housing with other components of a successful community, such as health care, location of jobs with sufficient income, and education.

(Cynthia Rocha, Community Development Corporation of Brownsville)

Staff response: Staff agrees with this comment and the support of the housing providers working with service providers has been noted in the Plan. The integration of housing and services was noted in Action Plan Section 65.

60. Two commenters declare that the State has a dual responsibility to affirmatively further fair housing for CDBG: the State must engage in its own activities that affirmatively further fair housing; and must also ensure that any subrecipient jurisdictions to which it is providing funds comply with their individual certifications in order to affirmatively further fair housing. The commenters cite HUD Office Of Fair Housing And Equal Opportunity ("FHEO"), Fair Housing Planning Guide: Volume 1 at 3.3-3.49, Chapter 3: Fair Housing Planning Guidelines for States and State-Funded Jurisdictions, (#HUD-1582B-FHEO) as a basis for this comment.

(Madison Sloan, Texas Appleseed; John Henneberger, Texas Low Income Housing Information Service)

Staff response: Staff acknowledges the dual responsibility of the State CDBG program, and reports on both State-level activities and enforcement of subrecipient fair housing requirements annually. Staff also notes that the Consolidated Plan and the intended use of CDBG funds is not limited to describing how the funds will address impediments to fair housing choice, but addresses the many requirements and goals of the CDBG program. No changes have been made as a result of this comment.

61. Two commenters request that the “Anti-Poverty Strategy” in the Plan acknowledge that the location of housing investment and infrastructure is a major determinant of current and future poverty. They write that increasing access to affordable housing for low-income Texans must include consideration of the location of that housing in order to both comply with the State’s certification that it is affirmatively furthering fair housing and to ensure that the State’s investment of public funds is efficient and effective.

(Madison Sloan, Texas Appleseed; John Henneberger, Texas Low Income Housing Information Service)

Staff response: TDA staff agrees that the location of infrastructure has a significant impact on current and future poverty. It is for this reason that the vast majority of CDBG funds are awarded for projects that provide or improve basic infrastructure for primarily low- to moderate-income populations. Access to safe drinking water and appropriate wastewater services improves residents’ health and quality of life, and avoids the expense of obtaining bottled or bulk transport water for drinking and cooking. Installation of fire hydrants not only enhances fire safety, but can lower home insurance premiums in some areas. Reliable streets enable residents to access the area on a daily basis and provide access for emergency vehicles and school buses. Each of these improvements affirmatively furthers fair housing by improving living conditions in existing low- to moderate-income communities. In addition, TDA provides funding for infrastructure for projects that commit to creating and retaining jobs for primarily low- to moderate-income persons, a powerful tool in both the anti-poverty strategy and in affirmatively furthering fair housing by securing local job opportunities. Language will be adjusted in the Anti-Poverty strategy to address this comment.

TDHCA staff agrees with part of the comment and changes have been made to the Plan as a result of the comment. While locating reduced-rent housing or encouraging housing subsidy recipients to move into areas with good schools, low unemployment, and low crime along with other positive factors may help break the cycle of poverty, it is also important to provide diversity in housing options and to allow tenants to remain in communities in which they have strong ties. Changes have been made to Strategic Plan Section 70, Anti-Poverty Strategy.

62. Two commenters support HOME Multifamily funds to be paired with Housing Tax Credits, which not only leverages those funds to produce a more efficient use of

resources, but means that those funds are expended on projects that are specifically scored on the basis of access to opportunity or, alternatively, on the presence of real and meaningful community revitalization. This is not presented as an action that affirmatively furthers fair housing, but it is a significant and meaningful one.

(Madison Sloan, Texas Appleseed; John Henneberger, Texas Low Income Housing Information Service)

Staff response: Staff agrees with comment and no changes to the Plan have been made as a result of the comment.

63. Two commenters support the decision of TDA to delay the new scoring criteria for further review and stakeholder input. The issues of (a) whether certain scoring criteria are a barrier to entry for small communities; (b) what is the most appropriate data to use to get an accurate picture of smaller and/or rural communities; and (c) the importance of level of need and project impact as criteria are all meaningful and important.

(Madison Sloan, Texas Appleseed; John Henneberger, Texas Low Income Housing Information Service)

Staff response: Staff agrees that stakeholder input is critical to developing a successful CDBG program. Staff also notes the following:

- (a) The comment inaccurately presents the previously proposed scoring criteria as “requiring an expenditure of resources”. The proposed scoring criteria was never a requirement to participate in the program, but rather a way to identify local initiative in communities with pressing needs that move forward with certain grant-related tasks, and allow related costs to be credited toward any matching fund requirements of the grant contract. The impact of the very small number of points proposed for completing these tasks prior to submitting the application is unlikely to exclude communities from participating in the program unless the regional scoring established by the RRCs results in very small point differentials between applicants.*
- (b) TDA must rely on consistent methods of data collection to effectively and fairly administer the statewide program. While Census data may not present an ideal “picture of smaller and/or rural communities” due to the limited data available, it is a data source that is readily available to small communities at little to no cost. The alternative of door-to-door surveys is not necessarily a more appropriate source; in addition to the expense and administrative burden on these small communities to conduct such surveys, any increase in accuracy of the data is dependent on individual residents’ willingness to respond to potentially sensitive questions on demographics and income levels, which is often a challenge for rural communities.*
- (c) Staff agrees that need and project impact are important considerations. Community need indicators, using the best data that is consistently available for rural cities and counties, have been a significant factor for most RRCs in setting local priorities. TDA has*

allowed regions and communities to determine for themselves what type of projects will have the most impact at the local level, as the specific need varies across a large state such as Texas. TDA remains willing to consider proposals for scoring criteria that better assess project impact using consistent data sources.

64. Two commenters recommend that TDA evaluate how its' CDBG scoring criteria and priority-setting process incentivize decisions which may disadvantage groups of persons protected under the Fair Housing Act. Commenters state that this evaluation should include the use of RRCs that determine priorities for awarding most of the funds, which promotes local control but can result in certain types of communities being less competitive in the application process. The commenters go on to say that awarding CDBG funds to principally benefit low- and moderate-income persons is not sufficient to reduce poverty or affirmatively further fair housing.

(Madison Sloan, Texas Appleseed; John Henneberger, Texas Low Income Housing Information Service)

Staff response: The CDBG Program is intended to be a flexible program to accommodate local needs and priorities. The scoring criteria and priority setting process must reflect multiple goals of the program including meeting local needs, affirmatively furthering fair housing, benefiting primarily low- and moderate-income people who may or may not also be included in a protected class, addressing urgent need and blighted conditions, and ensuring applicant financial and administrative capacity.

The comment incorrectly states that "rural communities often choose to use CDBG funds for public facilities like community centers or senior centers over their public infrastructure needs." The Consolidated Plan (Needs Assessment 50) states that "In line with CDBG priorities, the majority of RRCs prioritize public improvement projects. CDBG recognizes the importance for public facility projects; however, it does not represent a large percentage of the applications received or the funds dispersed." Language will be adjusted in the Priority Needs section of the Strategic Plan to address this comment. TDA understands that there are strengths and challenges of regional scoring and priorities. Competitively scoring criteria will inevitably affect communities in different ways; variations in impact exist based on community size, most immediate community needs, tax rate decisions, or other community characteristics. The RRCs are aware of the eligible applicants in their region and in a public hearing carefully consider how each criteria may impact those communities. Staff has no record of any proposed RRC criteria that intend to exclude communities based on protected status of residents, and if submitted TDA would not approve such criteria. Language will be adjusted in the Institutional Delivery Structure section of the Strategic Plan to address this comment.

65. Two commenters recognize that TDA and TDHCA's CDBG Colonias Set-Aside program, which (1) prioritizes basic human needs, particularly water and sewer

infrastructure; (2) seeks to co-ordinate housing and infrastructure spending; and (3) targets funding to a specific protected class that has been historically segregated; this provides another example of how the State is taking meaningful action to address an impediment to fair housing choice identified by the Draft AI.

(Madison Sloan, Texas Appleseed; John Henneberger, Texas Low Income Housing Information Service)

Staff response: Staff agrees with the comment and no changes to the Plan have been made as a result of the comment.

66. Two commenters support the importance of location in the Annual Plan, which includes in its description of CDBG goals a description of how proposed projects should be evaluated, in Action Plan Section 20, Annual Goals and Objective.

(Madison Sloan, Texas Appleseed; John Henneberger, Texas Low Income Housing Information Service)

Staff response: Staff agrees with the comment and no changes to the Plan have been made as a result of the comment.

67. Two commenters recommend that the action steps connected to identifying impediments to fair housing choice in Section 75 of its Annual Plan be incorporated into the planning process of the Plan as a whole. Commenters state that affirmatively furthering fair housing is not a silo-ed category of analysis and action, but an integral part of determining how public resources are allocated and spent.

(Madison Sloan, Texas Appleseed; John Henneberger, Texas Low Income Housing Information Service)

Staff response: Staff agrees that fair housing is integral to many levels of planning, program design, and program delivery and is reflected throughout the Plan directly and indirectly. HUD's online system for submission of the Plan, known as IDIS, has limitations on the number of characters that can be entered for many of the questions. Additionally, each question is specific to requirements in Title 24, Code of Federal Regulations Part 91, which relate to Consolidated Submissions for Community Planning and Development Programs. Options to add additional text that would allow for inclusion of fair housing considerations in other answers is not consistently provided in HUD's online system. No changes have been made as a result of this comment.

1i

BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding approving the draft 2015 State of Texas Low Income Housing Plan and Annual Report, to be published in the *Texas Register* for public comment

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs enabling statute, Texas Government Code §2306.0721, requires a state low income housing plan;

WHEREAS, Texas Government Code, §2306.0722 requires an annual low income housing report; and,

WHEREAS, the draft 2015 State of Texas Low Income Housing Plan and Annual Report must be published for public comment;

NOW, therefore, it is hereby

RESOLVED, that staff is hereby directed to cause the draft 2015 State of Texas Low Income Housing Plan and Annual Report, in the form presented to this meeting, together with such grammatical and non-substantive technical corrections as they may deem necessary or advisable, to be published online for public comment, a notice of which will be published in the *Texas Register*, and in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) is required to prepare and submit to the Board not later than March 18 of each year an annual report of the Department’s housing activities for the preceding year. This State of Texas Low Income Housing Plan and Annual Report (“SLIHP”) must be submitted annually to the Governor, Lieutenant Governor, Speaker of the House, and legislative oversight committee members not later than 30 days after the Board receives and approves the final SLIHP. The document offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. It reviews TDHCA’s housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on performance during the preceding state fiscal year (September 1, 2013, through August 31, 2014).

The draft SLIHP will be made available for public comment on Friday, December 19, 2014, through Wednesday, January 21, 2015. Written comments may be submitted to Texas Department of Housing and Community Affairs, Elizabeth Yevich, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: info@tdhca.state.tx.us, or by fax to (512) 475-0070. A public hearing will be held at

3:00 p.m. Central on Tuesday, January 6, 2015, at Stephen F. Austin State Office Building, Room #172, 1700 N. Congress, Austin, Texas 78701.

The full text of the draft 2015 SLIHP may be viewed at the Department's website: <http://www.tdhca.state.tx.us/board/meetings.htm>. The public may also receive a copy of the draft 2015 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

It is expected that the SLIHP will be presented to the Board for approval at the board meeting on Thursday, February 19, 2015. The approved SLIHP will then be distributed to the Governor, Lieutenant Governor, Speaker of the House, and legislative oversight committee members by the deadline of April 18, 2015.

Summary of Substantial Changes from the 2014 SLIHP

- Housing Analysis chapter:
 - added colonia population data by county; and
 - updated analysis figures with most recent socio-economic data available.
- Annual Report chapter:
 - updated numbers to reflect FY 2014 program performance by households/individuals and income group for the state and each region; and
 - updated performance measure information for goals and strategies reflecting FY 2014 performance, including updated targets for FY 2015.
- Action Plan chapter:
 - updated program descriptions to reflect programmatic changes;
- Stimulus Programs chapter:
 - removed the National Foreclosure Mitigation Counseling Program Round 6, which was completed; and
 - updated report data for other stimulus programs based on their multiyear cycles
- Updated Colonia Action Plan.

1j

BOARD ACTION REQUEST

SECTION 811 PROGRAM

DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Authority to Award a contract to one or more responsive bidders generated from a previously authorized Request for Proposal that provides assistance for the Section 811 Project Rental Assistance (“PRA”) Program’s responsibilities related to the HUD required Tenant Rental Assistance Certification System (“TRACS”).

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (“Department”) was awarded \$12 million from the U.S. Department of Housing and Urban Development (“HUD”) for the Fiscal Year 2012 Section 811 Project Rental Assistance Demonstration Program (“Section 811 PRA”) on February 12, 2013;

WHEREAS, the Department anticipates executing a Cooperative Agreement that will formalize the administration of those funds between HUD and the Department for the Section 811 PRA;

WHEREAS, the Department applied for an additional \$12 million in Fiscal Year 2013 Section 811 PRA funds from HUD on May 13, 2014;

WHEREAS, on December 12, 2013, the Department received authorization from this Board to release a Request for Information or Request for Proposals (“RFP”) to support the Department’s Section 811 PRA duties; and

WHEREAS, on September 18, 2014, the Department released an RFP with one amendment that extended the deadline to November 4, 2014, and received two bids by the November 4, 2014 deadline.

NOW, therefore, it is hereby

RESOLVED, that once the Cooperative Agreement with HUD is executed, 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 award a contract to one or more eligible and responsive bidders generated from the Request for Proposals released on September 18, 2014, to assist the Department and/or the Participating Multifamily Properties with the Section 811 Program’s TRACS related responsibilities.

BACKGROUND

The Section 811 Program provides project-based voucher funding to eligible Multifamily Developments to provide affordable housing for extremely low-income persons with disabilities. Households who qualify pay approximately 30 percent of their income for rent and utilities. The Section 811 Program grant pays for the difference between the household's rent payment and the rent payment charged for the unit by the Multifamily Development. In addition, the grant may pay for any utility assistance due to the tenant and vacancy payments.

In order to receive those payments, Multifamily Developments must enter resident data, called certifications or recertifications by HUD, and payment requests, called voucher data or special claims by HUD, through a HUD required system called the Tenant Rental Assistance Certification System ("TRACS"). The system is also required by HUD for other Project Based programs, such as Project Based Section 8.

The Department will be responsible for reviewing and approving the data entered into TRACS by the Multifamily Development and sending approval for payment through the TRACS system to HUD. The Department is responsible for reviewing the submissions from Multifamily Developments for accuracy and approving payment. Once the payment has been approved by the Department in the TRACS system, HUD will release payments due to the participating Multifamily Developments.

The Department does not have experience with the TRACS system, which requires software to interface with the system. The procurement of a vendor or vendors to assist the Department and/or the Properties with the TRACS-related duties supports the implementation of the Section 811 PRA Program.

In November 2014, the Board approved the 2015 Qualified Allocation Plan for the 9% Housing Tax Credit Program which included a point item for Applicants who agree to place Section 811 units at existing developments. If Applicants choose this option, the Department anticipates executing Property Agreements with the first participating Multifamily Developments in the Fall of 2015.

Section 811 PRA Program Background

On February 12, 2013, HUD announced that Texas was one of 13 states selected to participate in the first ever Section 811 Housing for Persons with Disabilities Project Rental Assistance Demonstration Program. This new Section 811 PRA is designed to assist state housing agencies to expand integrated supportive housing opportunities for people with the most significant and long term disabilities.

The Department anticipates executing a Cooperative Agreement with HUD soon which will serve as the guiding requirements for the program, since HUD has not yet promulgated rules.

TDHCA is a partner with the State's Medicaid agency, the Health and Human Services Commission ("HHSC"), and four of its other agencies in Section 811 PRA. In this partnership, TDHCA contributes the housing voucher administration and expertise, while the health and human service agencies contribute the provision and coordination of services.

The Section 811 PRA funds provide for five years of rental assistance, but the Department anticipates that funding will be renewed annually beyond the initial five years of funding. The Department anticipates this will serve between 300 and 400 households over the five year period, depending on household size, rents, and other factors.

1k

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on the 2015 Section 8 Payment Standards for Housing Choice Voucher Program (“HCVP”)

WHEREAS, the Department is designated as a Public Housing Authority (“PHA”); and,

WHEREAS, 24 CFR § 982.503 requires PHAs to establish Payment Standards annually;

NOW, therefore, it is hereby

FURTHER RESOLVED, that the Department publish Payment Standards for all Fair Market Rent (“FMR”) areas served by vouchers,

RESOLVED, the approval of the 2015 Section 8 Payment Standards for (“HCVP”) in accordance with 24 CFR § 982.505, are hereby approved in the form presented to this meeting, and,

BACKGROUND

The U.S. Department of Housing and Urban Development (“HUD”) requires Public Housing Authorities (“PHAs”), such as the Texas Department of Housing and Community Affairs (the “Department”) to annually adopt a payment standard schedule that establishes voucher payment standard amounts for each (“FMR”) area in the PHA jurisdiction. The PHA must establish payment standard amounts for each “unit size,” defined as the number of bedrooms (one-bedroom, two-bedrooms, etc.) in each housing unit.

The Department, operating as a PHA, may establish the payment standard amount at any level between 90% and 110% of the published FMR for that unit size. The Department operates its HCVP in 20 counties. Staff recommends establishing the payment standard for 18 counties at 100% of FMR, and 105% of FMR for the remaining two counties. The reason for the increase from 100% to 105% of the payment standards is because FMRs are reasonably not supportive enough to allow households the ability to locate acceptable units at the adjusted FMR without causing a rent burden to the household.

When the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard. This will affect the tenant upon a subsequent change to the Housing Assistance Payment (“HAP”) contract such as relocating to a new unit or a change in the family’s household composition. Households and property owners are given a minimum of 30

2015 Voucher Payment Standards

days to a maximum of 60 days prior to the change.

HUD requires that PHAs managing programs in the Dallas, TX HUD Metropolitan Fair Market Areas (“HMFA”) utilized the Small Area Fair Market Rents (“SAFMRS”). The SAFMRS are utilized in Denton and Ellis counties by ZIP code at 100%.

Staff recommends adopting these 2015 Payment Standards as proposed because it allows current tenants continued affordability in the units they have selected and helps new tenants find decent, safe, sanitary, and affordable units. The attached Exhibit A details the Department’s recommended payment standards.

2015 Voucher Payment Standards

	Bedroom Size				
	REGION	1 BR	2 BR	3 BR	4 BR
<u>Austin County:</u>					
HUD FMR	H	563	799	1089	1247
Payment Standard		563	739	1089	1247
% of Payment Standard		100%	100%	100%	100%
<u>Brazoria County:</u>					
HUD FMR	H	650	835	1150	1420
Payment Standard		650	835	1150	1420
% of Payment Standard		100%	100%	100%	100%
<u>Caldwell County:</u>					
HUD FMR	S	834	1050	1421	1723
Payment Standard		834	1050	1421	1723
% of Payment Standard		100%	100%	100%	100%
<u>Chambers County:</u>					
HUD FMR	H	721	890	1215	1502
Payment Standard		721	890	1215	1502
% of Payment Standard		100%	100%	100%	100%
<u>Colorado County:</u>					
HUD FMR	H	475	643	923	1138
Payment Standard		475	643	923	1138
% of Payment Standard		100%	100%	100%	100%
<u>Comanche County:</u>					
HUD FMR	F	475	643	801	933
Payment Standard		499	645	841	980
% of Payment Standard		105%	105%	105%	105%
<u>*Denton County: Pilot Point</u>					
HUD FMR	F	700	880	1170	1420
Payment Standard		700	880	1170	1420
% of Payment Standard		100%	100%	100%	100%
<u>* Denton County: Sanger</u>					
HUD FMR	F	770	980	1310	1580
Payment Standard		770	980	1310	1580
% of Payment Standard		100%	100%	100%	100%
<u>*Ellis County: Ennis</u>					
HUD FMR	F	670	850	1130	1370
Payment Standard		670	850	1130	1370
% of Payment Standard		100%	100%	100%	100%

2015 Voucher Payment Standards

	Bedroom Size				
	REGION	1 BR	2 BR	3 BR	4 BR
<u>*Ellis County: Italy</u> HUD FMR Payment Standard % of Payment Standard	F	820 820 100%	1040 1040 100%	1390 1390 100%	1680 1680 100%
<u>*Ellis County: Waxahachie</u> HUD FMR Payment Standard % of Payment Standard	F	740 740 100%	930 930 100%	1240 1240 100%	1500 1500 100%
<u>Erath County:</u> HUD FMR Payment Standard % of Payment Standard	D	547 547 100%	718 718 100%	964 964 100%	968 968 100%
<u>Falls County:</u> HUD FMR Payment Standard % of Payment Standard	F	475 475 100%	643 643 100%	887 887 100%	891 891 100%
<u>Fort Bend County:</u> HUD FMR Payment Standard % of Payment Standard	H	721 721 100%	890 890 100%	1215 1215 100%	1502 1502 100%
<u>Galveston County:</u> HUD FMR Payment Standard % of Payment Standard	S	721 721 100%	890 890 100%	1215 1215 100%	1502 1502 100%
<u>Grimes County:</u> HUD FMR Payment Standard % of Payment Standard	S	516 516 100%	646 646 100%	861 861 100%	937 937 100%
<u>Johnson County:</u> HUD FMR Payment Standard % of Payment Standard	F	690 725 105%	893 938 105%	1198 1258 105%	1426 1497 105%
<u>Lee County:</u> HUD FMR Payment Standard % of Payment Standard	S	542 542 100%	643 643 100%	948 948 100%	951 951 100%

2015 Voucher Payment Standards

	Bedroom Size				
	REGION	1 BR	2 BR	3 BR	4 BR
<u>Llano County:</u>					
HUD FMR	S	502	679	1001	1004
Payment Standard		502	679	1001	1004
% of Payment Standard		100%	100%	100%	100%
<u>McLennan County:</u>					
HUD FMR	F	566	766	1003	1122
Payment Standard		566	766	1003	1122
% of Payment Standard		100%	100%	100%	100%
<u>Medina County:</u>					
HUD FMR	S	495	670	885	958
Payment Standard		495	670	885	958
% of Payment Standard		100%	100%	100%	100%
<u>Waller County:</u>					
HUD FMR	H	721	890	1215	1502
Payment Standard		721	890	1215	1502
% of Payment Standard		100%	100%	100%	100%
<u>Wharton County:</u>					
HUD FMR	H	497	673	889	933
Payment Standard		497	673	889	933
% of Payment Standard		100%	100%	100%	100%

***Note 1: FMR areas designated for Denton & Ellis County (Dallas, TX HMFA) are part of the Small Area Fair Market Rents (SAFMRS) by zip code.**

Note 2: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

11

BOARD ACTION REQUEST

HOME PROGRAM DIVISION

DECEMBER 18, 2014

Presentation, Discussion and Possible Action to authorize the issuance of a 2014 HOME Program Notice of Funding Availability (“NOFA”) for the Single Family Development Program, and publication of the NOFA in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) has approximately \$1,000,000 of Community Housing Development Organization (“CHDO”) set-aside deobligated funds to make available for the HOME Program single family development activity, and \$150,000 in funding from HOME Program funds for CHDO operating expenses and

WHEREAS, the Department is experiencing continued interest for funding for single family development activities;

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 a 2014 HOME Single Family Development Program Reservation NOFA in the *Texas Register*; and

FURTHER RESOLVED, that funds in the amount of approximately \$1,000,000 available from previously deobligated HOME CHDO set-aside funds, and \$150,000 of HOME Program funds for CHDO operating expenses, is hereby made available to the 2014 HOME Single Family Development Program NOFA to be published in the *Texas Register*.

BACKGROUND

To ensure that the Department can meet the HUD HOME commitment and expenditure deadlines for CHDO funds, staff is proposing to release a HOME Single Family Development Program Reservation System NOFA for approximately \$1,000,000 from previously deobligated HOME CHDO set-aside funds and, an additional \$150,000 of HOME Funds for CHDO operating expenses. Funds for this NOFA are deobligated and unutilized HOME CHDO set-aside funds previously released under multifamily NOFAs.

These funds will be made available to single family development CHDO Administrators to develop new and rehabilitate existing single family housing for low-income households utilizing the HOME Program Reservation System. Approval for participation in the Reservation System is not a guarantee of funding availability.

This NOFA is not subject to the Regional Allocation Formula because funds were regionally allocated during the release of previous CHDO set-aside NOFAs.

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”), Texas Government Code, Chapter 2306, and the federal regulation governing the HOME Program at 24 CFR Part 92, as amended (“HOME Final Rule”).

The 2014 HOME Single Family Development Program 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 Single Family Development Program NOFA and application will be available on the Department’s website at www.tdhca.state.tx.us



**Texas Department of Housing and Community Affairs
HOME Investment Partnerships Program**

**2014 HOME Single Family Development (SFD) Program
Notice of Funding Availability (NOFA)**

1) Summary

- a) The Texas Department of Housing and Community Affairs (the “Department”) announces the availability of approximately \$1,000,000 in funding from the HOME Investment Partnerships Program (“HOME Program”) for Community Housing Development Organizations (“CHDOs”), which are defined in 24 CFR 92.208. to develop new and rehabilitate existing single family housing for low-income Texans, and \$150,000 in funding from the HOME Program for CHDO operating expenses. The availability and use of these funds is subject to HOME Program rules including, but not limited to the Texas Administrative Code, Title 10, Part 1, Chapter 20, Single Family Programs Umbrella Rule and Chapter 23, Single Family HOME Program Rule, as amended, concerning the state HOME rules (“State HOME Rules”), the federal HOME regulations governing the HOME program at 24 CFR Part 92, as amended (“HOME Final Rule”), and Chapter 2306 of the Texas Government Code. Other federal regulations include but are not limited to, 24 CFR Parts 50 and 58 for environmental requirements, 24 CFR §135.38 for Section 3 requirements and, 24 CFR Part 5, Subpart A for fair housing. Applicants must familiarize themselves with all of the applicable state and federal rules that govern the HOME Program.
- b) Capitalized terms in this NOFA have the meanings defined herein or as defined in State HOME Rules and the HOME Final Rule.

2) Allocation of HOME Funds

- a) **Single Family Development (“SFD”) Project Funds.** Approximately \$1,000,000 is available under this NOFA for SFD projects. These funds are made available from previously deobligated HOME CHDO set-aside funds. SFD project funds are for the new construction or rehabilitation of affordable single family homes that must be sold to low-income homebuyers after construction is completed. All funds distributed under this

NOFA are to be used for the creation of affordable housing for low-income Texans earning 80% or less of the Area Median Family Income (“AMFI”).

- i) In accordance with 10 TAC §23.23 (relating to Reservation System Participant Review Process), complete applications made under this NOFA will be reviewed and, except in instances of termination in accordance with 10 TAC §23.23(c), Reservation System Agreements will be drafted and presented to the Executive Director for approval in the order in which they are received. All funds are only available solely through the Reservation System. Reservation System Participants who hold a current Reservation System Agreement will have access to the funds on a first come, first served basis. Balances available for project reservations will be maintained by the Department and can be accessed at www.tdhca.state.tx.us.
 - ii) Approval for participation in the Reservation System is not a guarantee of funding availability and the Department reserves the right to withdraw funds from the Reservation System.
 - iii) Applications for Reservation System Participation will be accepted until 5:00 p.m. (Central time) on March 31, 2015.
 - iv) Reservations for funding will be approved on a first come, first served basis. Reservations for funding available under this NOFA will be accepted until August 14, 2015, or until all funds available under this NOFA have been reserved. Any Single Family Development funds remaining in the Reservation System as of August 15, 2015 may be re-programmed.
 - v) The Department provides HOME funds as a 0% interest loan to eligible entities for the provision of housing for low, very low and extremely low-income individuals and families, pursuant to 10 TAC §23.71 (relating to Single Family Development (“SFD”) Program Requirements).
- b) **CHDO Operating Expenses.** \$150,000 in funds is made available under this NOFA for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies. These funds are made available through the Department’s allocation of HOME funds from HUD. These funds have been programmed to provide operational support to CHDOs that have a new or existing HOME Reservation System Participation Agreement and which successfully close a minimum of three (3) Lot Acquisition and Interim Construction Loans between January 30, 2015 and August 14, 2015.
- i) The award for CHDO Operating Expenses shall be in the form of a grant to the CHDO not exceeding \$50,000.

- ii) Awards for operating expenses will be drawn over a two (2) year period of time. Funds for CHDO Operating Expenses may not be disbursed in any fiscal year in which the CHDO has not drawn funds in conjunction with a Single Family Development Project.
- iii) The Department reserves the right to limit an Applicant to receive not more than one award of CHDO Operating Expenses during the same fiscal year and to further limit the award of CHDO Operating Expenses.
- iv) Approval for participation in the Reservation System is not a guarantee of funding availability for CHDO Operating Expenses. Requests for CHDO Operating Expenses submitted under this NOFA will be accepted until 5:00 PM on August 14, 2015. Organizations must submit an application for CHDO Certification prior to award of CHDO Operating Expenses, in accordance with 24 CFR §92.300(a).

3) **Eligible and Prohibited Activities**

- a) Eligible activities will include those permissible under the federal HOME Final Rule at 24 CFR §92.205 and §92.254 and at 10 TAC §§23.70 - 23.72 (relating to SFD Program), which involve the construction of single family affordable housing.
- b) Prohibited activities include those under federal HOME rules at 24 CFR §92.214.
- c) Development funds will not be eligible for use in a Participating Jurisdiction (“PJ”). Any HOME funds available for serving households in a PJ will only be made available under a separate funding announcement..
- d) The CHDO must act as the owner and developer of the project.

4) **Eligible and Ineligible Applicants** Eligible Applicants are CHDOs which meet the requirements of 24 CFR Part 92 at the time of application. CHDOs must be certified as CHDOs by TDHCA. **CHDO Certifications from other Participating Jurisdictions may not be substituted for the Department’s CHDO Certification.**

5) **Public Notifications** Applicants must request a list of Neighborhood Organizations on record with the county and state whose boundaries include proposed Development sites. No later than fourteen (14) days prior to submission of a Reservation or grouping of Reservations, the Applicant must email, fax or mail with registered receipt a completed Neighborhood Organization Request letter to the local elected official, as applicable, based on where the Development is proposed to be located. If the Development is located in an area that has a district based on locally elected officials, or both at large and district based locally elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located in an area that has only at large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is in a City’s Extra Territorial Jurisdiction (“ETJ”) both the elected officials of the city and county must be contacted. If the Development is not located

within a city or an ETJ, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request Neighborhood Organizations from that source in the same format.

The Applicant must submit all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as provided by the local elected officials, or that the Applicant has knowledge of (regardless of whether the organization is on record with the county or state), with the Reservation or grouping of Reservations to be set-up.

The Department shall publicly notify all individuals and entities as required by Texas Government Code, §2306.1114.

6) Application and Threshold Criteria An Application must be compliant with the Threshold requirements in 10 TAC §23.24 (relating to General Threshold and Selection Criteria) and §23.70 (relating to SFD Threshold and Selection Criteria) and the Threshold Criteria listed in this section at the time of Application submission unless specifically indicated otherwise. In addition, an Application must be consistent with the Program and Administrative requirements in 10 TAC Chapter 23.

a) **Financing Documentation** A written narrative describing the financing plan for the units including the funding sources for the construction of the units. Bona fide commitment letters or term sheets for all sources of construction financing must be provided. If other sources of down payment assistance are proposed, commitment letters evidencing these sources must be provided.

b) **Application Certifications** All Applicants are required to certify to compliance with the following:

- i) Affirmative Marketing (24 CFR §92.351);
- ii) Davis-Bacon Act (24 CFR §92.354);
- iii) Environmental standards (24 CFR Parts 50 and 58);
- iv) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) and Section 104(d) of the Housing and Community Development Act of 1974;
- v) Section 3 of the Housing and Urban Development Act of 1968 at 24 CFR §135;
- vi) Lead Safe Housing Rule (24 CFR Part 35);
- vii) Audit Certification. An Applicant is not eligible to apply for funds or any other assistance from the Department unless audits are current at the time of Application and the Audit Certification Form has been submitted to the Department in a satisfactory format on or before the Application deadline for funds or other assistance per 10 TAC §1.3(b).
- viii) Other certifications may be required as specifically stated in the Application Submission Procedures Manual (“ASPM”) current at the time of Application.

7) Review Process All Applications will be reviewed in accordance with 10 TAC §23.23.

8) Application Submission

- a) All applications submitted under this NOFA must be received on or before 5:00 p.m. Central time on **March 31, 2015 for Reservation System Participation Applications** and **August 14, 2015 for CHDO Operating Expense Award Applications**. The Department will accept applications from 8:00 a.m. to 5:00 p.m. each business day, excluding federal and state holidays, from the date this NOFA is published on the Department's web site until the deadline. For questions regarding this NOFA please contact Abigail Versyp at (512) 475-0908 or via e-mail at abigail.versyp@tdhca.state.tx.us.
- b) All Reservation System Participation Applications and CHDO Operating Expense Award Applications must include an Application for CHDO Certification.
- c) Applicants must submit the Application materials as detailed in the Final ASPM in effect at the time the application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the Final ASPM in effect at the time the application is submitted.
- d) The application consists of several parts as further described in the Final ASPM. A complete application for each proposed development must be submitted in an electronic PDF format on a recordable compact disc (CD-R). Incomplete applications or improperly compiled applications will not be accepted. Applicants must submit the application materials as detailed in the Final ASPM in effect at the time the application is submitted.
- e) All Application materials including manuals, NOFA, activity guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.
- f) Reservation System Participation Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$300.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. §2306.147(b) of the Texas Government Code, requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not a reimbursable cost under the HOME Program.

g) Applications must be sent via overnight delivery to:

**Texas Department of Housing and Community Affairs
HOME Division
Attn: Abigail Versyp
221 East 11th Street
Austin, TX 78701-2410**

or via the U.S. Postal Service to:

**Texas Department of Housing and Community Affairs
HOME Division
Attn: Abigail Versyp
Post Office Box 13941
Austin, TX 78711-3941**

NOTE: This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular HOME Single Family Development Activity. For proper completion of the Application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.

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BOARD ACTION REQUEST

BOND FINANCE DIVISION

DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Resolution No. 15-006 authorizing a Mortgage Credit Certificate Program (“MCC”) for first-time homebuyers (“Program 83”) along with related program documents to be administered by the Texas Department of Housing and Community Affairs

RECOMMENDED ACTION

See attached Resolution.

BACKGROUND

The Texas Department of Housing and Community Affairs’ (“TDHCA” or the “Department”) current MCC program was released on April 15, 2014 (“Program 82”). Under this program, over 58% of funds available have been originated or are in the pipeline. In order to ensure a continuous flow of available MCC funds, staff is requesting approval of this resolution which will continue the issuance of new MCCs under Program 83 and to obtain approval of the MCC program along with related program documents to be administered by TDHCA.

TDHCA has received reservations of single family private activity bond authority in the amount of \$400,000,000 and \$399,586,213. The total of \$799,586,213 in volume cap will be able to provide MCC certificates to support an estimated \$500 million in related mortgage loans at a 40% credit rate.

An MCC is an instrument designed to assist persons of low to moderate income to better afford individual ownership. The procedures for issuing MCCs were established by the U.S. Congress as an alternative to the issuance of single family mortgage revenue bonds. As distinguished from a bond program, in an MCC program no bonds are issued, no mortgage money is actually used, many of the costs associated with a bond program are not incurred, and lenders are required to pay only nominal up-front fees.

MCC Program 83 Example

Volume Cap Allocated for MCCs	\$799,586,213
IRS MCC Conversion Factor	\$0.25
MCC Issuance Authority	\$199,896,553
Average P83 Mortgage Credit Certificate Program Mortgage Amount	\$142,055
Market Mortgage Interest Rate	4.50%
First Year Mortgage Interest	\$6,392
MCC Certificate Credit Rate	40%
Tax Credit Amount	\$2,557
Maximum Tax Credit Allowed	\$2,000
Schedule "A" Mortgage Interest Deduction	\$4,392

MCCs can help make ownership of a new or existing home more affordable by entitling the homeowner to a personal tax credit of up to \$2,000 against their federal tax liability for a portion of the interest paid on their home mortgage. For example, a homeowner that purchased a home with a mortgage loan in the amount of \$142,055 at a 4.50% interest rate for 30 years would have a monthly principal and interest payment of \$720. With an MCC, homeowners can submit a revised W-4 Withholding Form to his or her employer to reduce the federal withholding tax by up to \$166.67 per month (\$2,000/12). By reducing their federal income tax liability the borrower has more disposable income to service the mortgage and pay for living expenses. This same homeowner can continue to deduct the remaining yearly mortgage interest paid of approximately \$4,392 (\$6,392 less \$2,000) as an itemized deduction on their annual federal income tax return. Simply put, an MCC is a dollar for dollar reduction of income taxes owed.

In order to be eligible for an MCC, borrowers must comply with the same first-time homebuyer requirements stipulated by the Internal Revenue Code for mortgage revenue bonds. For example, MCC recipients must occupy the residence as their primary residence, comply with income limits and comply with home purchase price limits. MCCs cannot be used when mortgages are funded with tax-exempt bond proceeds.

Under Federal guidelines, the Department, as an issuer of mortgage revenue bonds can trade \$1 of bond authority for \$0.25 of MCC authority. Today, staff is recommending using \$799,586,213 of private activity volume cap authority for \$199,896,553 in MCC authority.

Lenders participating in TDHCA's previous MCC Programs have expressed continued interest in mortgage credit certificates. The proposed program would assist 3,500 to 4,000 Texas families in attaining the "American Dream" of homeownership. The Department's MCC programs in the past three fiscal years have assisted 3,679 homebuyers and subsidized approximately \$516 million in mortgage loan financing. Currently, Programs 81/82 have enough remaining MCC commitment authority to support approximately \$145 million in additional mortgage loan commitments. It is staff's intention to release Program 83 once Program 82 Non-Targeted Area funds have been fully committed or late January 2015, whichever occurs earlier.

RESOLUTION NO. 15-006

RESOLUTION AUTHORIZING THE IMPLEMENTATION OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MORTGAGE CREDIT CERTIFICATE PROGRAM 83; APPROVING THE FORM AND SUBSTANCE OF THE PROGRAM MANUAL AND THE PROGRAM SUMMARY; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT MORTGAGE CREDIT CERTIFICATE PROGRAM 83; 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 shall 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 Department has previously received reservations of a portion of the State ceiling private activity bond volume cap for qualified mortgage bonds (i) in the amount of \$400,000,000 and (ii) in the amount of \$399,586,213 (collectively, the "Reservations"); and

WHEREAS, the Department desires to convert an amount not to exceed \$799,586,213 of the Reservations to mortgage credit certificates ("MCCs"), to be used for the Department's Mortgage Credit Certificate Program to be designated as Program 83 ("MCC Program 83"); and

WHEREAS, the Governing Board desires to approve the Program Manual (the "Program Manual") in substantially the form attached hereto, setting forth the terms and conditions upon which MCCs will be issued by the Department; and

WHEREAS, the Governing Board desires to approve the Program Summary (the "Program Summary") in substantially the form attached hereto setting forth the terms of MCC Program 83; and

WHEREAS, the Governing Board desires to approve an initial range for the mortgage credit certificate rate; and

WHEREAS, the Governing Board desires to approve the use of an amount not to exceed \$250,000 of Department funds to pay the costs of implementing MCC Program 83 and to approve MCC processing and compliance fees in an amount not to exceed \$300 per loan; and

WHEREAS, the Governing Board desires to approve the forms of the Program Manual and the Program Summary, in order to find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to implement MCC Program 83 in accordance with such documents by authorizing MCC Program 83, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out MCC Program 83; NOW, THEREFORE,

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

ARTICLE 1

USE OF PRIVATE ACTIVITY BOND VOLUME CAP

Section 1.1. Authorization of Certain Actions. The Governing Board authorizes the Executive Director of the Department, 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 this Resolution.

Section 1.2. MCC Authority. The Department shall take such steps as are necessary to convert \$799,586,213 of its authority to issue qualified mortgage bonds under the Reservations to authority to issue MCCs in order to implement MCC Program 83.

ARTICLE 2

APPROVAL OF MCC DOCUMENTS

Section 2.1. Approval of Program Manual and Program Summary. The form and substance of the Program Manual and Program Summary are hereby authorized and approved.

Section 2.2. Mortgage Credit Certificate Rate. The mortgage credit certificate rate shall be specified by the Department in the manner set forth in the Program Manual, provided that the initial mortgage credit certificate rate shall not exceed 40%.

Section 2.3. Execution and Delivery of Other Documents and Waiver of Fees. The Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest, affix the Department's seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests, public notices 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, the

Program Manual and the Program Summary. The staff of the Department is authorized to waive the fees described in the Program Manual from time to time for marketing purposes.

Section 2.4. 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, and in the opinion of Bracewell & Giuliani LLP, Bond Counsel to the Department, 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 delivery of such documents by the Authorized Representatives.

Section 2.5. 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 - Program Manual
- Exhibit B - Program Summary

Section 2.6. 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 referred to in this Article 2: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, the Chief of Staff of the Department, the Deputy Executive Director of Asset Analysis and Management 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.

Section 2.7. Department Contribution and Fees. The Department authorizes the contribution of Department funds in an amount not to exceed \$250,000 to pay certain costs of implementing MCC Program 83 and approves MCC processing and compliance fees not to exceed \$300 per loan.

ARTICLE 3

GENERAL PROVISIONS

Section 3.1. Purposes of Resolution. The Governing Board of the Department has expressly determined and hereby confirms that the implementation of MCC Program 83 contemplated by this Resolution accomplishes a valid public purpose of the Department by providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State.

Section 3.2. 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 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 18th day of December, 2014.

Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

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BOARD ACTION REQUEST

BOND FINANCE DIVISION

DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Resolution No. 15-007 authorizing application to the Texas Bond Review Board for reservation of the 2014 single family private activity bond authority carry forward from the Unencumbered State Ceiling

RECOMMENDED ACTION

See attached Resolution.

BACKGROUND

Each year, any State Agency may apply to the Texas Bond Review Board (“BRB”) for private activity bond carry-forward from the Unencumbered State Ceiling. The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) has requested and received \$300 million in private activity bond carry-forward allocation from the Unencumbered State Ceiling in calendar years 2010, 2011 and 2013. Bond Finance is again requesting authorization to draw down an amount not to exceed \$500 million of additional unreserved 2014 volume cap from the Unencumbered State Ceiling if it remains available at year end. As of December 1, 2014, approximately \$500 million of state ceiling was available. All volume cap will be used for future single family mortgage revenue bond – new origination and refunding – issues and for future MCC programs. Any requested volume cap must be used within three years.

At the beginning of each new TDHCA single family bond issuance, the Governing Board of the Department petitions the BRB to start the process in the form of a resolution followed by an application to draw down the Department’s private activity bond authority, also known as “volume cap.” Staff at this time is not seeking, nor is the Board giving, final approval of a program using this volume cap. Staff will come back to the Board at a later date with a final structure for the Board’s review and approval.

The chart below outlines the Department’s available single family volume cap for the calendar year 2014. All current volume cap must be used by December 31, 2016 – and 2014 requested volume cap must be used by December 31, 2017.

<i>Sources as of September 1, 2014</i>	
2013 Additional and Unencumbered Volume Cap ⁽¹⁾	399,586,213
2014 Additional Volume Cap ⁽²⁾	400,000,000
2014 Unencumbered Cap - Proposed	<u>500,000,000</u>
Available Cap as of January 1, 2015	1,299,586,213
<i>Projected Uses</i>	
2015A MCC (expected to Close January 2015)	799,586,213
Carryforward for Future Transactions ⁽²⁾	<u>500,000,000</u>
Total Uses	1,299,586,213
1. Derived from 2013 additional volume cap. Must be used by 12/31/16.	
2. Derived from 2014 unreserved housing volume cap. Must be used by 12/31/17.	

By way of reference the actual MCC volume cap usage for the last three years has been \$180 million for calendar year 2011, \$260 million for calendar year 2012, \$260 million for calendar year 2013, and \$525 million for calendar year 2014.

RESOLUTION NO. 15-007

RESOLUTION AUTHORIZING REQUEST FOR UNENCUMBERED STATE CEILING; 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 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 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, Section 146(a) of the Internal Revenue Code of 1986, as amended (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 provides that on the last business day of the year the Texas Bond Review Board (the "Bond Review Board") may assign as carryforward to state agencies at their request any State ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending (referred to herein as "Unencumbered State Ceiling"); and

WHEREAS, the Governing Body desires to request that Unencumbered State Ceiling for the year 2014 be assigned to the Department as carryforward;

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 Assignment of Unencumbered State Ceiling. The Department is authorized to submit a request to the Bond Review Board for assignment as carryforward to the Department of all remaining Unencumbered State Ceiling for the year 2014 in an aggregate amount not to exceed \$500,000,000.

Section 1.2 Authorization of Certain Actions. The Authorized Representatives of the Department named in this Resolution are hereby authorized to take such actions on behalf of the Department as may be necessary to carry out the purposes of this Resolution.

Section 1.3 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 Chief of Staff of the Department, the Deputy Executive Director of Asset Analysis and Management 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

CERTAIN FINDINGS AND DETERMINATIONS

Section 2.1 Purposes of Resolution. The Governing Board has expressly determined and hereby confirms that the Department's receipt of Unencumbered State Ceiling will accomplish a valid public purpose of the Department by providing for the housing needs of persons and families of low, very low and extremely low income and families of moderate income in the State.

ARTICLE 3

GENERAL PROVISIONS

Section 3.1 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 3.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 18th day of December, 2014.

Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

10

BOARD ACTION REQUEST
TEXAS HOMEOWNERSHIP DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Resolution No. 15-008 authorizing programmatic changes to the To Be Announced (“TBA”) Single Family Taxable Mortgage Program (“TMP-79”).

RECOMMENDED ACTION

See attached resolution.

BACKGROUND

Market conditions for issuing bonds to finance single family home loans have not been favorable in recent years. 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 originators criteria.

Working with its TBA provider, First Southwest, the Department developed and received approval at the October 13, 2014, TDHCA Board meeting to implement several programmatic changes. These included 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%.
- Authority to provide the Executive Director with the flexibility to offer a range of point options for loan origination ranging from 0% to 2%.

- Authority to change the method of income calculation from the IRS MRB income qualification to credit qualifying income as reflected on the standard mortgage application (Form 1003, the process that more closely mirrors the mortgage industry standard).

The Department is statutorily charged with providing assistance to first time homebuyers of low to moderate income and for utilizing down payment and closing cost assistance to facilitate the origination of single family mortgage loans to individuals and families earning eighty percent (“80%”) and below the Area Median Family Income (“AMFI”). In its current Single Family Taxable Mortgage Program, TMP-79, the Department provides down payment and closing cost assistance in the amount of 5% of the mortgage amount. The assistance is made available in the form of a non-amortizing, 0% interest, repayable 2nd lien. The recently approved and implemented 0% origination point program allow borrowers to net the full 5% in assistance instead of the net 3% to apply towards their down payment requirement with a slightly higher 1st lien mortgage interest rate. Borrowers may continue to utilize the net 3% assistance option in order to receive a lower 1st lien mortgage interest rate.

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 lower income borrowers utilizing either of the Department’s current origination point options still need additional down payment assistance to cover their closing costs. Closing costs typically amount to 2% to 3% of the purchase price or in some instances an even higher percentage for smaller mortgage loan amounts. In order to further assist, staff is proposing to increase the amount of down payment assistance, at the option of the homebuyer, from its current 5% of the mortgage loan amount to an amount up to \$8,000. The cost associated with providing the additional assistance will be incorporated into the slightly higher interest rate charged to the borrowers. Offering an additional down payment assistance option will allow qualified borrowers to select the option that best fits their individual financial needs.

Additionally, when TMP-79 was released in October 2012, the Department established an arbitrary amount of \$600 million in available funds. Since the program is funded through the private sector TBA mortgage banking model, there is no actual limitation on the amount of available funding; however, the limit was established to keep oversight control over the program. To date, over \$520 million in TBA funds have been reserved for mortgage loan reservations. Whenever interest rate changes occur, each new interest rate option offered by the Department requires a portion of the remaining amount of funds to be dedicated and to be available until that commitment lot is fully expended or withdrawn and replaced with updated interest rates and a new commitment lot notice. Currently, four interest rate options are made available by the Department, each of which historically has had \$10 - \$35 million allocated to them. The current allocations have been adjusted downward necessitating more frequent re-pricing and resulting in the appearance of less funding available for each interest rate option. If the proposed “up to

\$8,000” down payment option is approved, a new funding allocation and interest rate option will need to be added to the four existing options further limiting the size of each commitment lot notice. This necessitates the need to increase the maximum amount available from a practical standpoint. Since it is still unknown when the mortgage revenue bond market will return, staff is proposing to increase the amount available from \$600 million to \$1 billion which should provide sufficient funding for the next 12 to 18 months.

Staff is seeking Board authority for these programmatic changes so that it may continue to manage its TBA products in a manner which is constantly evolving to address current needs 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. 15-008

RESOLUTION AUTHORIZING MODIFICATIONS TO TAXABLE MORTGAGE PURCHASE PROGRAM AND APPROVING AMENDED PROGRAM GUIDELINES; 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 designated as "TMP-79" (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, pursuant to Resolution No. 15-002 adopted on October 9, 2014, the Governing Board approved amendment of the Program Guidelines and the Fourth Amendment to Servicing Agreement and the

Second Amendment to Master Mortgage Origination Agreement 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 provide borrowers with an additional option for down payment assistance in an amount of up to \$8,000 and to authorize an increase the amount of mortgage loans to be acquired and sold under the Program from \$600,000,000 to \$1,000,000,000; and

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

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 Authorization to Modify Program. The Governing Board hereby authorizes modification of the Program by (i) providing an additional option for down payment assistance in an amount of up to \$8,000 and (ii) increasing the amount of mortgage loans to be acquired and sold under Program to \$1,000,000,000.

Section 1.2 Approval of Amended Program Guidelines. The form and substance of the Amended Program Guidelines are hereby approved.

Section 1.3 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 1.4 Power to Revise Form of Document. 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 document attached hereto as an exhibit 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 delivery of such document by the Authorized Representatives.

Section 1.5 Exhibit Incorporated Herein. All of the terms and provisions of the document 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

Section 1.6 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 Chief of Staff of the Department, the Deputy Executive Director of Asset Analysis and Management 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 18th day of December, 2014.

Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Program Year 2014 Department of Energy Weatherization Assistance Program Awards

RECOMMENDED ACTION

WHEREAS, the Department has received Federal Fiscal Year (“FFY”) 2014 Department of Energy Weatherization Assistance Program (“DOE WAP”) funds in the amount of \$4,284,475;

WHEREAS, the Energy Conservation In Existing Buildings Act of 1976 (42 USC §6851), as amended in Title II, Part 2 of the National Energy Conservation Policy Act allows DOE WAP funds to be utilized to carry out a program of weatherization assistance for low-income person, as well as 10% for planning and administration;

WHEREAS, on February 20, 2014, the Board authorized a 2014 DOE Plan; and

WHEREAS, the DOE WAP funds are allocated based on the formula detailed in 10 TAC §5.503, Distribution of WAP Funds;

NOW, therefore, it is hereby

RESOLVED, that the awards to DOE WAP Subrecipients for the Program Year 2014 be and are hereby approved, and

FURTHER RESOLVED, that subsequent 2014 DOE WAP funds received and 2013 unutilized funds will be similarly awarded in accordance with the approved method and formula or as needed to accommodate full utilization of funds among only those providers with ability to expend additional funds.

BACKGROUND

The Department has received an award of FFY 2014 DOE WAP funds in the amount of \$4,284,475. The DOE awards provide funding for weatherization services and are governed the DOE State Plan. Effective dates for contracts will be September 1, 2014, through July 31, 2015.

If approved, the Board action would award PY 2014 DOE WAP Subrecipients for weatherization payment activities by formula that utilizes a multi-factor distribution detailed 10 TAC §5.503, Distribution of WAP Funds which considers poverty, household income, population density, and weather factors.

Department staff requests authority to obligate the awarded 2014 DOE WAP funds and any subsequent 2014 awards. Staff also requests authority to reobligate the unutilized fund balance of the PY 2013 DOE WAP awards by the same formula or as needed to accommodate full utilization of funds among only those providers with the ability to expend additional funds within the required timeframe. The award for each Subrecipient is attached.

At this time, Programs for Human Services, the entity that administers the DOE WAP in Chambers, Galveston, Hardin Jefferson, Liberty and Orange counties, is in the process of merging with another service provider. The DOE WAP funds allocated to the service area covered by this entity by formula will be awarded to the existing provider. The Department will execute the contract amendment actions needed with the resulting entity once the merger is completed.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter A, §1.5) includes a review of DOE WAP awards prior to contract execution. The review has been performed and the following entities have been identified with issues:

Agency	Issue
Cameron and Willacy Counties Community Projects, Inc.	<p>Financial management and expenditure documentation: Staff is working with the entity to obtain and evaluate additional information in order to finalize the monitoring issue.</p>
Neighborhood Centers, Inc.	Disallowed costs associated with a finding in the entity’s 2013 A-133 audit.
Tri-County Community Action Agency	Staff is working with the entity to obtain and evaluate additional information in order to finalize the monitoring issue.

Cameron and Willacy Counties Community Projects, Inc.

Staff recommends that the funds allocated to Cameron and Willacy counties (the service area covered by this entity) by formula will be held for the service area pending a response from the entity and resolution of the monitoring issues. Staff will continue to work with the entity to resolve the remaining monitoring issues.

Neighborhood Centers, Inc.

Staff recommends approval of the award on the condition that prior to contract execution, the entity pays \$14,458.28 in disallowed costs associated with a finding in the entity’s 2013 A-133 audit. Staff will continue to work with the entity to resolve the issue.

Tri-County Community Action Agency

Staff recommends approval of the award on the condition that prior to contract execution, the entity provides an acceptable cost allocation plan. Staff will continue to work with the entity to resolve the issue.

2014 DOE WAP Awards

	SUBRECIPIENT	AWARD
1	Alamo Area Council of Governments	\$ 296,982
2	Big Bend Community Action Committee, Inc.	\$ 66,287
3	Brazos Valley Community Action Agency	\$ 130,281
5	City of Fort Worth	\$ 183,060
6	Combined Community Action, Inc.	\$ 91,949
7	Community Action Committee of Victoria	\$ 119,663
8	Community Action Corporation of South Texas	\$ 297,785
9	Community Council of South Central Texas	\$ 85,809
10	Community Services, Inc.	\$ 213,868
11	Concho Valley Community Action Agency	\$ 79,776
12	Dallas County Department of Human Services	\$ 286,833
13	Economic Opportunities Advancement Corporation of Planning Region XI	\$ 83,361
14	El Paso Community Action Program-Project BRAVO, Inc.	\$ 171,625
15	Greater East Texas Community Action Program	\$ 115,899
16	Hill Country Community Action Association, Inc.	\$ 109,288
17	Neighborhood Centers, Inc.	\$ 443,361
18	Nueces County Community Action Agency	\$ 73,519
19	Panhandle Community Services	\$ 110,968
20	Programs for Human Services	\$ 118,332
21	Rolling Plains Management Corporation	\$ 144,270
22	South Plains Community Action Association, Inc.	\$ 102,394
23	Texoma Council of Governments	\$ 118,268
24	Travis County Health and Human Services and Veteran Services Department	\$ 120,343
25	Tri-County Community Action, Inc.	\$ 75,403
26	West Texas Opportunities, Inc.	\$ 109,990
	TOTAL*	\$ 3,749,314

*Total excludes \$121,732 held for Cameron and Willacy counties

1q

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Program Year 2015 Low-Income Home Energy Assistance Program Awards

RECOMMENDED ACTION

WHEREAS, the Department expects to receive Federal Fiscal Year (“FFY”) 2015 Low Income Home Energy Assistance Program (“LIHEAP”) funds from the U.S. Department of Health and Human Services (“USHHS”) in the estimated amount of \$105,156,993;

WHEREAS, the LIHEAP Act of 1981 (42 USC §§8623-8624) allows LIHEAP funds to be utilized to provide energy assistance, low-cost weatherization assistance and other cost-effective energy-related home repair, as well as 10% for planning and administration;

WHEREAS, on July 31, 2014, the Board authorized a 2015 LIHEAP Plan that allocates 80% of LIHEAP program funds to the Comprehensive Energy Assistance Program (“CEAP”) and up to 15% to the LIHEAP Weatherization Assistance Program (“WAP”);

WHEREAS, the CEAP funds are allocated based on the formula detailed in 10 TAC §5.403, Distribution of CEAP Funds, and the LIHEAP WAP funds are allocated based on the formula detailed in 10 TAC §5.503, Distribution of WAP Funds; and

WHEREAS, additional or fewer funds from USHHS may be received by TDHCA for 2015 LIHEAP;

NOW, therefore, it is hereby

RESOLVED, that the estimated awards to CEAP and LIHEAP WAP Subrecipients for the Program Year 2015 be and are hereby approved; and

FURTHER RESOLVED, that actual 2015 LIHEAP funds received from USHHS and 2014 unutilized funds will be similarly awarded in accordance with the approved method and formula or as needed to accommodate full utilization of funds among only those providers with ability to expend additional funds.

BACKGROUND

The Department expects to receive an award of FFY 2015 LIHEAP funds from USHHS in the estimated amount of \$105,156,993.

LIHEAP allows for funding to pay utility bills and weatherization activities. The Department administers LIHEAP funds through the CEAP and LIHEAP WAP. The program year runs from January through December for both programs.

If approved, the Board action would award the PY 2015 CEAP Subrecipients for utility bill payment activities and PY 2015 LIHEAP WAP Subrecipients for weatherization activities by formula that utilizes a multi-factor distribution detailed in 10 TAC §5.403, Distribution of CEAP Funds, and 10 TAC §5.503, Distribution of WAP Funds which considers poverty, household income, population density, and a weather factor.

Department staff requests authority to obligate the estimated 2015 LIHEAP funds and adjust any subsequent 2015 awards for the CEAP and LIHEAP WAP programs by the formula after the final allocation is determined. Staff also requests authority to reobligate the unutilized fund balance of the PY 2014 LIHEAP awards by the same formula, or as needed to accommodate full utilization of funds among only those providers with the ability to expend additional funds within the required timeframe.

At this time, Programs for Human Services, the entity that administers the CEAP in Chambers, Hardin, Jefferson, Liberty and Orange counties and the LIHEAP WAP in Chambers, Galveston, Hardin Jefferson, Liberty and Orange counties, is in the process of merging with another service provider. The CEAP and LIHEAP WAP funds allocated to the service area covered by this entity by formula will be awarded to the existing provider. If necessary, the Department will execute contract amendment actions with the resulting entity once the merger is completed.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter A, §1.5) includes a review of LIHEAP awards prior to contract execution. The review has been performed and the Executive Award and Review Advisory Committee (“EARAC”) recommends denial or conditions for the following entities:

Agency	Issue
Kleberg County Human Services	Award is conditioned upon receipt of sufficient update on the status of the implementation of corrective actions outlined in Kleberg County’s 2013 A-133 audit.
Cameron and Willacy Counties Community Projects, Inc.	Financial management and expenditure documentation: Staff is working with the entity to obtain and evaluate additional information in order to finalize the monitoring issue.
Northeast Texas Opportunities, Inc.	<ul style="list-style-type: none">• Issues related to findings included in a PY2013 CEAP/CSBG monitoring report that are currently uncorrected and the

	<p>corrective action period has ended.</p> <ul style="list-style-type: none"> Deficiencies in internal control considered to be material weaknesses and significant deficiencies noted in the most recent A-133 audit. <p>The entity failed to provide any response during the corrective action period.</p>
Tri-County Community Action Agency	Staff is working with the entity to obtain and evaluate additional information in order to finalize the monitoring issue.

Cameron and Willacy Counties Community Projects, Inc.

Staff recommends that the funds allocated to Cameron and Willacy counties (the service area covered by this entity) by formula will be held for the service area pending a response from the entity and resolution of the monitoring issues. Staff will continue to work with the entity to resolve the remaining monitoring issues.

Kleberg County Human Services

Staff believes that the issues noted in the single audit are significant. Therefore, staff recommends obligation of an award to this entity with the condition that the contract will not be executed by the Department until the county judge provides an updated status of the implementation of corrective actions outlined in its 2013 A-133 audit. Since LIHEAP funds are programmed to provide direct services to low-income clients, if the identified issues are not resolved in a time period that allows for uninterrupted provision of services, staff will seek approval to secure an alternate provider at a future board meeting.

Northeast Texas Opportunities, Inc.

Staff believes that the issues noted bear on the entity’s ability to perform, in a compliant manner, with regard to funding and allocation decisions by the Board. Therefore, staff recommends no obligation of an award to this entity in this board action. With this action, staff requests approval to release a Request for Applications (“RFA”) to secure an alternate provider for the service area, which includes Delta, Franklin, Hopkins, Lamar, Rains, Red River, and Titus counties.

Northeast Texas Opportunities, Inc. is currently receiving administrative assistance for its CEAP from Community Services of Northeast Texas, a CEAP provider whose service area borders theirs. With this action, staff requests permission to award 24.99% of the CEAP funds allocated to the service area by formula (\$209,820) to Community Services of Northeast Texas to ensure uninterrupted services for the low-income residents of Delta, Franklin, Hopkins, Lamar, Rains, Red River, and Titus counties. This amount would be awarded through a separate contract to ensure that the expenditures and performance are tracked separately from those of its own service area.

Tri-County Community Action Agency

Staff recommends approval of the award on the condition that prior to contract execution, the entity provides an acceptable cost allocation plan. Staff will continue to work with the entity to resolve the issue.

2015 CEAP Awards

SUBRECIPIENT	Estimated Award
1 Aspermont Small Business Development Council	\$ 585,826
2 Bexar Co. Community and Develoment Services	\$ 5,534,765
3 Big Bend Community Action Agency	\$ 685,456
4 Brazos Valley Community Action Agency	\$ 2,771,547
6 Central Texas Opportunities	\$ 904,124
7 Fort Worth, City of	\$ 4,121,912
8 Lubbock, City of, Community Development	\$ 969,170
9 Combined Community Action	\$ 611,806
10 Community Action Committee of Victoria, Texas	\$ 1,051,670
11 Community Action Corporation of S. Tx	\$ 934,097
12 Community Action Inc. of Central Texas	\$ 577,522
13 Community Council of South Central TX	\$ 2,811,830
14 Community Services Agency of South Texas	\$ 674,329
15 Community Services Inc	\$ 3,512,897
16 Community Services Northeast Texas	\$ 959,477
17 Community Services Northeast Texas*	\$ 209,820
18 Concho Valley Community Action Agency	\$ 1,148,372
19 County of Hidalgo Community Services Agency	\$ 3,978,257
20 Dallas County Department of HHS	\$ 6,776,940
21 Economic Action Committee of the Gulf Coast	\$ 181,142
22 Economic Opportunities Advancement Corp. of PR XI	\$ 1,571,126
23 El Paso Community Action Program	\$ 3,829,343
24 Galveston County Community Action Council	\$ 2,121,508
25 Greater E. Tx Community Action Program	\$ 3,043,888
26 Hill Country Community Action Association	\$ 1,432,293
27 Kleberg County Human Services**	\$ 461,237
28 Neighborhood Centers, Inc.	\$ 10,781,702
29 Reserved for Service Area***	\$ 629,798
30 Nueces County Community Action Agency	\$ 1,319,305
31 Panhandle Community Services	\$ 2,277,457
32 Pecos County Community Action Agency	\$ 450,033
33 Programs for Human Services	\$ 1,719,228
34 Rolling Plains Manangement Corporation	\$ 1,881,213
35 South Plains Community Action Assoc. Inc.	\$ 1,090,107
36 South Texas Development Council	\$ 709,473
37 Texas Neighborhood Services	\$ 1,071,394
38 Texoma Council Of Governments	\$ 667,508
39 Travis County Health and Human Services	\$ 2,517,304
40 Tri-County Community Action Inc.	\$ 1,367,528
41 Webb County Community Action Agency	\$ 1,126,862
42 West Texas Opportunities	\$ 2,252,415
43 Williamson-Burnet Co. Opportunities, Inc.	\$ 581,887
TOTAL****	\$ 81,903,568

*Awarded for the benefit of Delta, Franklin, Hopkins, Lamar, Rains, Red River, and Titus Counties

**Awarded with conditions

***Total includes \$647,531 held for the benefit of Delta, Franklin, Hopkins, Lamar, Rains, Red River, and Titus Counties (to be awarded via RFA)

****Total excludes \$2,552,845 held for the benefit of Cameron and Willacy Counties

2015 LIHEAP WAP Awards		
SUBRECIPIENT		Estimated Award
1	Alamo Area Council of Governments	1,381,036
2	Big Bend Community Action Committee, Inc.	224,101
3	Brazos Valley Community Action Agency	545,025
6	Combined Community Action, Inc.	352,798
7	Community Action Committee of Victoria	491,781
8	Community Action Corporation of South Texas	1,385,058
9	Community Council of South Central Texas	322,001
10	Community Services, Inc.	964,219
11	Concho Valley Community Action Agency	291,747
12	Dallas County Department of Human Services	1,330,135
13	Economic Opportunities Advancement Corporation of Planning Region XI	309,726
14	El Paso Community Action Program-Project BRAVO, Inc.	752,367
5	Fort Worth, City of	809,714
15	Greater East Texas Community Action Program	472,903
16	Hill Country Community Action Association, Inc.	439,751
21	Neighborhood Centers, Inc.	2,115,122
17	Nueces County Community Action Agency	260,366
18	Panhandle Community Services	448,177
19	Reserved for Service Area	485,102
20	Rolling Plains Management Corporation	615,182
22	South Plains Community Action Association, Inc.	405,175
23	Texoma Council of Governments	484,782
24	Travis County Health and Human Services and Veteran Service	495,190
25	Tri-County Community Action, Inc.	269,818
26	West Texas Opportunities, Inc.	443,268
	TOTAL*	16,094,544

*Total excludes \$502,156 held for Cameron and Willacy counties

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Program Year 2015 Community Services Block Grant Awards

RECOMMENDED ACTION

WHEREAS, while the Department has received notification of a first-quarter allocation of funding, the Department is pending notification from the U.S. Department of Health and Human Services (“USHHS”) of the full 2015 Community Services Block Grant (“CSBG”) awards. Based on the first-quarter allocation, the Department expects to receive \$32,251,784 in funding for Federal Fiscal Year “FFY”) 2015;

WHEREAS, the CSBG Act (42 USC §9901 *et seq.*) requires that not less than 90% (approximately \$29,026,605) of annual CSBG funds be used by the state to make grants to eligible entities; as well as 5% for state administration, and up to 5% for discretionary purposes;

WHEREAS, the CSBG network is comprised of 42 eligible entities serving all 254 counties with an array of services to low income Texans; and

WHEREAS, the CSBG funds are allocated based on the formula detailed in 10 TAC §5.203, Distribution of CSBG Funds;

NOW, therefore, it is hereby

RESOLVED, that the awards to the CSBG Eligible Entities for the Program Year 2015 be and are hereby approved; and

FURTHER RESOLVED, that any subsequent 2015 CSBG funds received from USHHS will be similarly awarded in accordance with the approved method and formula.

BACKGROUND

The 2015 CSBG estimated allocation is \$28,230,378, which reflects an estimated 7.2% funding reduction. Of this, 90% is recommended to be distributed to eligible entities totaling \$25,407,340. Final CSBG program allocations will be the program funds, less any reduction from federal budget cuts and/or sequestration.

Staff proposes distributing the available funds to CSBG-eligible entities as quarterly releases are received. Staff utilizes a multi-factor fund distribution formula detailed in 10 TAC §5.203,

Distribution of CSBG Funds. The formula incorporates the U.S. Census Bureau Decennial 2010 Census and the most recent American Community Survey 5-Year Estimates data related to persons in poverty; a 98% weighted factor for poverty population; and, a 2% weighted factor for the inverse ratio of population density. Department staff requests authority to obligate the 90% CSBG funds through the formula after the final allocation is determined. The program year for CSBG runs from January through December.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter A, §1.5) includes a review of CSBG awards prior to contract execution. The review has been performed and the following entities have been identified with issues:

Agency	Issue
Cameron and Willacy Counties Community Projects, Inc.	Issues related to PY2013 and PY2014 CEAP/CSBG monitoring reports. Staff is working with the entity to obtain and evaluate additional information in order to finalize the monitoring issue.
Northeast Texas Opportunities, Inc.	<ul style="list-style-type: none"> • Issues related to a PY2013 CEAP/CSBG monitoring report that are currently uncorrected and the corrective action period has ended. • Deficiencies in internal control considered to be material weaknesses and significant deficiencies noted in the most recent single audit. • The entity did not provide any response during the corrective action period.
Tri-County Community Action Agency	Staff is working with the entity to obtain and evaluate additional information in order to finalize the monitoring issue.
Urban League of Greater Dallas	<ul style="list-style-type: none"> • A-133 single audit has not been received. Staff is working with the entity to obtain the audit. Entity will be reconsidered after audit is received and reviewed.

Cameron and Willacy Counties Community Projects, Inc.

Staff recommends that the funds allocated to Cameron and Willacy counties (the service area covered by this entity) by formula will be held for the service area pending a response from the entity and resolution of the monitoring issues. Staff will continue to work with the entity to resolve the remaining monitoring issues.

Northeast Texas Opportunities, Inc.

Staff believes that the issues noted above bear on the entity’s ability to perform, in a compliant manner, with regard to funding and allocation decisions by the Board. And therefore, staff recommends no obligation of an award to this entity in this board action. While not awarded at this time, the funds allocated to this entity by formula will be held for this entity pending

resolution of the monitoring and audit issues. Staff will continue to work with the entity to resolve the remaining issues and will present any award of CSBG funds at a future board meeting once these issues are resolved.

Tri-County Community Action Agency

Staff recommends approval of the award on the condition that prior to contract execution, the entity provides an acceptable cost allocation plan. Staff will continue to work with the entity to resolve the issue.

Urban League of Greater Dallas

Staff recommends that the funds allocated to Dallas County (the service area covered by this entity) by formula will be held for the service area pending a response from the entity and resolution of any issues revealed. Staff will continue to work with the entity to resolve the remaining issues.

CSBG PY 2015 Awards

SUBRECIPIENT		Estimated Award
1	Aspermont Small Business Development Center, Inc.	\$ 150,000
2	Austin, City of	\$ 1,061,618
3	Bee Community Action Agency	\$ 187,464
4	Big Bend Community Action Committee, Inc.	\$ 266,575
5	Brazos Valley Community Action Agency	\$ 996,818
6	Central Texas Opportunities, Inc.	\$ 198,415
7	Combined Community Action, Inc.	\$ 197,842
8	Community Action Council of Victoria	\$ 255,923
9	Community Action Corpotation of South Texas	\$ 214,720
10	Community Action Inc. of Hays, Caldwell and Blanco Counties	\$ 245,935
11	Community Action Social Services and Education	\$ 161,645
12	Community Council of South Central Texas, Inc.	\$ 623,076
13	Community Services Agency of South Texas	\$ 150,000
14	Community Services of Northeast Texas	\$ 232,462
15	Community Services, Inc.	\$ 1,291,742
16	Concho Valley Community Action Agency	\$ 206,481
17	Economic Action Committee of the Gulf Coast	\$ 150,000
18	Economic Opportunities Advancement Corporation of Planning Region XI	\$ 464,959
19	El Paso Community Action Program, Project BRAVO, Inc.	\$ 1,281,250
20	Forth Worth, City of	\$ 1,631,859
21	Galveston County Community Action Council, Inc.	\$ 848,217
22	Greater East Texas Community Action Program (GETCAP)	\$ 845,167
23	Gulf Coast Community Services Association	\$ 4,472,562
24	Hidalgo County Community Services Agency	\$ 1,618,528
25	Hill Country Community Action Association, Inc.	\$ 477,414
26	Lubbock, City of	\$ 363,462
27	Nueces County Community Action Agency	\$ 453,668
28	Panhandle Community Services	\$ 495,490
29	Pecos County Community Action Agency	\$ 154,724
30	Rolling Plains Management Corporation	\$ 399,714
31	San Antonio, City of	\$ 1,858,013
32	South Plains Community Action Association, Inc.	\$ 229,479
33	South Texas Development Council	\$ 228,016
34	Southeast Texas Regional Planning Commission	\$ 437,006
35	Texas Neighborhood Sevices	\$ 400,266
36	Texoma Council of Governments	\$ 231,634
37	Tri-County Community Action, Inc.	\$ 314,118
38	Webb County Community Action Agency	\$ 501,149
39	West Texas Opportunities, Inc.	\$ 472,094
40	Williamson-Burnet County Opportunities, Inc.	\$ 276,792
	Total*	\$25,046,300

* Total excludes \$926,949 held for Cameron and Willacy Counties Community Projects, Inc., \$228,578 held for Northeast Texas Opportunities, Inc., and \$2,824,779 held for Urban League of Greater Dallas.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Award of Recaptured State Fiscal Year (“SFY”) 2014 Homeless Housing and Services Program Funds

RECOMMENDED ACTION

WHEREAS, the Homeless Housing and Services Program (“HHSP”) was created during the 81st Legislative Session to be administered by the Texas Department of Housing and Community Affairs (the “Department”) to fund HHSP in the municipalities in Texas with a population of 285,500 or more;

WHEREAS, the continued funding of the HHSP has been identified by the Texas Legislature as a high priority;

WHEREAS, the Texas Legislature, through the enactment of Senate Bill 1 and Senate Bill 2 (83rd Legislature, 1st called session), provided General Revenue funds of \$10 million over the biennium for construction, development, or procurement of housing for homeless persons; rehabilitation of structures targeted to serving homeless persons or persons at-risk of homelessness; provision of direct services and case management to homeless persons or persons at risk of homelessness; or other homelessness-related activity as approved by the Department, and

WHEREAS, of the \$5 million awarded in SFY 2014, \$46,477 remains unexpended.

NOW, therefore, it is hereby

RESOLVED, that the Executive Director, his designees, and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the award of \$46,477 in one SFY 2014 HHSP contract to the United Way of Tarrant County, the recipient designated by the City of Fort Worth through a contract with a term of September 1, 2014 through January 31, 2015.

BACKGROUND

The Department awarded \$5 million in HHSP funds to the eight municipalities in Texas with populations of 285,500 or more. At contract closeout, \$46,477 remains. City of Arlington had \$2,530.46 remaining at contract end, and United Way of Tarrant County had \$43,947. United Way of Tarrant County did not return a timely amendment request to extend its contract period

to allow them to expend the remaining funds, so staff is requesting to provide them the funds through a new contract. This contract would include both the unexpended funds from the City of Arlington and the funds from United Way of Tarrant County. The City of Arlington will be made whole through an addition of \$2,530.46 to its SFY 2015 HHSP contract, paid by a reduction of \$2,530.46 from the SFY 2015 HHSP contract to United Way of Tarrant County.

The Department administers the HHSP in accordance with Texas Government Code §2306.2585 and 10 TAC Chapter 5, Subchapter J. Allowable activities include construction, development, or procurement of housing for homeless persons; rehabilitation of structures targeted to serving homeless persons or persons at-risk of homelessness; provision of direct services and case management to homeless persons or persons at risk of homelessness; or other homelessness-related activity as approved by the Department.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter A, §1.5) includes a review of HHSP awards prior to contract execution. The review has been performed and revealed no issues for either of these awardees.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding State Fiscal Year (“SFY”) 2015 Homeless Housing and Services Program Awards

RECOMMENDED ACTION

WHEREAS, the Homeless Housing and Services Program (“HHSP”) was created during the 81st Texas Legislature to be administered by the Texas Department of Housing and Community Affairs (the “Department”) to fund HHSP in the municipalities in Texas with a population of 285,500 or more;

WHEREAS, the continued funding of the HHSP has been identified by the Texas Legislature as a high priority; and

WHEREAS, the Texas Legislature, through the enactment of Senate Bill 1 and Senate Bill 2 (83rd Legislature, 1st called session), provided General Revenue funds of \$10 million over the biennium for construction, development, or procurement of housing for homeless persons; rehabilitation of structures targeted to serving homeless persons or persons at-risk of homelessness; provision of direct services and case management to homeless persons or persons at risk of homelessness; or other homelessness-related activity as approved by the Department.

NOW, therefore, it is hereby

RESOLVED, that the Executive Director, his designees, and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the award of not less than \$5,000,000 in SFY 2015 HHSP contracts to the cities of Arlington, Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Houston, and San Antonio, with a contract term of September 1, 2014 through August 31, 2015. Such actions will include, but not be limited to:

- 1) Use of the allocation formula shall be as set forth in 10 TAC Chapter 5, Subchapter J, §5.1004, except for actions taken as a result of an item regarding reobligation of funds presented separately at this meeting.
- 2) The award of contracts shall be based on allocations identified in Attachment A of this request.
- 3) Recipients will not be permitted to draw SFY2015 funds until their prior year HHSP contracts have been fully expended.

BACKGROUND

The Department administers the HHSP in accordance with Texas Government Code §2306.2585 and 10 TAC Chapter 5, Subchapter J. Allowable activities include construction, development, or procurement of housing for homeless persons; rehabilitation of structures targeted to serving homeless persons or persons at-risk of homelessness; provision of direct services and case management to homeless persons or persons at risk of homelessness; or other homelessness-related activity as approved by the Department.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter A, §1.5) includes a review of HHSP awards prior to contract execution. The review has been performed and revealed no issues that would bear on the awardees' ability to perform, in a compliant manner, with regard to this funding decision by the Board.

Effective dates for contracts will be September 1, 2014, through August 31, 2015.

2015 Homeless Housing and Services Program Awards

	SUBRECIPIENT	Award
1	City of Arlington*	\$ 189,023
2	City of Austin	\$ 512,272
3	City of Corpus Christi, with Mother Teresa Shelter	\$ 216,430
4	City of Dallas	\$ 776,960
5	City of El Paso	\$ 442,223
6	City of Fort Worth, with United Way of Tarrant County**	\$ 516,907
7	City of Houston	\$ 1,381,788
8	City of San Antonio, with Haven for Hope of Bexar County	\$ 964,397
	Total	\$ 5,000,000

* Includes an additional \$2,530 per Board action

**Award reduced by \$2,530 per Board action

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BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with other Issuers

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for the Park at Cliff Creek was submitted to the Department on April 14, 2014;

WHEREAS, in lieu of a Certificate of Reservation, a Carryforward Designation Certificate was issued from the Texas Bond Review Board (“BRB”) on January 9, 2014, and will expire on December 31, 2016;

WHEREAS, the proposed issuer of the bonds for the Development is the City of Dallas Housing Finance Corporation; and

WHEREAS, the Executive Award and Review Advisory Committee (“EARAC”) recommends the issuance of the Determination Notice with the condition that closing occur within 120 days (by April 17, 2015);

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$768,300 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 the Park at Cliff Creek is hereby approved in the form presented to this meeting and

FURTHER RESOLVED, that provided the Applicant has not closed on the bond financing by April 17, 2015, the Board authorizes EARAC to extend the Determination Notice date subject to an updated previous participation review, if necessary.

BACKGROUND

General Information: The Park at Cliff Creek consists of the rehabilitation and acquisition of 280 units targeted to a general population in Dallas, Dallas County, which is currently appropriately zoned. Although the Carryforward Designation issued from the BRB does not have a requirement regarding the percentage of units that must be leased to low-income households, all of the units will be rent and income restricted at 60% of Area Median Family Income (“AMFI”) and there will be 1 employee occupied unit.

The development was previously awarded an allocation of competitive Housing Tax Credits in 1994. The initial Tax Credit Compliance Period expired on December 31, 2010, and there is an Extended Use

Restriction Agreement in place until December 31, 2025, which has a Right of First Refusal requirement. On July 15, 2014, the Department issued a letter confirming the Development successfully met the Right of First Refusal requirement and is therefore eligible to be sold.

Conditions to Award: The application and underwriting report were reviewed by EARAC and it was recommended by EARAC that any Board approval of the Determination Notice include a condition related to the closing of the bonds. Specifically, EARAC recommended that the closing must occur within 120 days (April 17, 2015) and that if closing has not occurred by such date, the Board authorizes EARAC to extend the Determination Notice date subject to an updated previous participation review, if necessary. This condition is generally consistent with the requirements of a bond transaction utilizing non-traditional carryforward (the subject applicant received a traditional carryforward reservation). For non-traditional carryforward reservations, a statutory 150-day deadline from the date of the reservation for closing is imposed and the Determination Notice for any associated 4% award expires if closing does not occur within this timeframe or if the financing structure or terms change. Traditional carryforward reservations are not specifically addressed in the rule and this recommendation addresses the proposal in a manner to result in consistency. Staff believes that closing within a reasonable period after Board action is important and consistent with the constraints present for most other bond transactions.

Organizational Structure: Previous ownership transfers were approved in December 2013 and January 2014 and in conjunction with this award includes a replacement of the General Partner. The Borrower is Riverside CCF/CB Partners, L.P., and the General Partner is PCC 280, LLC, which includes the City of Dallas Housing Finance Corporation and is comprised of the following individuals: Mike Harling, Sherman Roberts, Monique Allen, Jim Harp, Randall Parker, James Armstrong, Trent Hughes, David Kitner, Eric Anderson, Ben Brown, Marcos Rincon, Don Robinson, and Karen Schaffner. The General Partner is a subsidiary of the City of Dallas Housing Finance Corporation, thereby allowing the development to seek a 100% property tax exemption.

Previous Participation Review: The EARAC met on December 9, 2014, and considered the previous participation review documentation relating to the organizational structure as noted above in accordance with the Previous Participation Reviews requirements found in 10 TAC §1.5. After considering information provided in association with Park at Cliff Creek, EARAC determined that there were no previous participation issues.

Census Demographics: The development is located at 7310 Marvin D. Love Freeway in Dallas. Demographics for the qualified census tract (0109.02) include an AMFI of \$32,947; the total population is 6,211; the minority population is 97.75%; the poverty rate is 35.37%; there are 760 owner-occupied units and 1,691 renter units. (Census information is from FFIEC Geocoding for 2014.)

Public Comment: The Department has not received any letters of support or opposition for this development.

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with other Issuers

RECOMMENDED ACTION

WHEREAS, a Housing Tax Credit application for Fairmount Crossing was submitted to the Department on June 18, 2014;

WHEREAS, in lieu of a Certificate of Reservation, a Carryforward Designation Certificate was issued on January 9, 2014, and will expire on December 31, 2016;

WHEREAS, the proposed issuer of the bonds is Housing Options, Inc.;

WHEREAS, the Executive Award and Review Advisory Committee (“EARAC”) recommended the issuance of the Determination Notice with the condition that closing occur within 120 days (by April 17, 2015); and

WHEREAS, EARAC had concerns about the compliance issues noted in association with the previous participation review and initially recommended denial but after meeting with the applicant and reviewing changes in the applicant’s procedures for tracking and responding to compliance violations recommended approval;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$2,225,672 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 Fairmount Crossing is hereby approved in the form presented to this meeting;

FURTHER RESOLVED, that provided the Applicant has not closed on the bond financing by April 17, 2015, the Board authorizes EARAC to extend the Determination Notice date subject to an updated previous participation review, if determined to be appropriate and necessary.

BACKGROUND

General Information: Fairmount Crossing, located in Dallas, Dallas County, involves the new construction of 366 units, all of which will be rent and income restricted at 60% Area Median Family Income (“AMFI”) and include two employee occupied units for the property management and a law enforcement officer. The units will be subsidized either through project based vouchers or as public housing units both funded through Annual Contribution Contracts between the City of Dallas Housing

Authority and the U.S. Department of Housing and Urban Development (“HUD”). The development will serve the general population and is currently appropriately zoned. It should be noted that the proposed site was originally developed using federal funds by City of Dallas Housing Authority in the early 1940’s as a public housing development, subsequently using additional federal funds in 1989 the development was modernized. Due to the deteriorating condition of the existing structures, any remaining occupants were relocated to units in other public housing developments. After receiving HUD approval the vacant structures were demolished in 2012 resulting in the subject undeveloped property.

In addition to the Private Activity Bonds and Housing Tax Credits, the application proposes a subordinate loan using federal Replacement Housing Factor and Capital Fund Program funds as well as a loan of non-federal monies, both of which will be from Housing Options, Inc.

Conditions to Award: The application and underwriting report were reviewed by EARAC and it was recommended by EARAC that any Board approval of the Determination Notice include a condition related to the closing of the bonds. Specifically, EARAC recommended that the closing must occur within 120 days (April 17, 2015) and that if closing has not occurred by such date, the Board authorizes EARAC to extend the Determination Notice date subject to an updated previous participation review, if necessary. This condition is generally consistent with the requirements of a bond transaction utilizing non-traditional carryforward (the subject applicant received a traditional carryforward reservation). For non-traditional carryforward reservations, a statutory 150-day deadline from the date of the reservation for closing is imposed and the Determination Notice for any associated 4% award expires if closing does not occur within this timeframe or if the financing structure or terms change. Traditional carryforward reservations are not specifically addressed in the rule and this recommendation addresses the proposal in a manner to result in consistency. Staff believes that closing within a reasonable period after Board action is important and consistent with the constraints present for most other bond transactions.

Organizational Structure: The Borrower is Kings Parc I, L.P, and the General Partner is Hawthorne Street Development I, Inc., a not for profit entity, comprised of the following individuals serving in the capacity of Officers: William Manning, Timothy J. Lott, and Debbie Quitugua.

Previous Participation Review: The EARAC initially met on October 14, 2014, and considered the previous participation documentation relating to the organizational structure as noted above in accordance with the Previous Participation Reviews requirements found in 10 TAC §1.5. There were some previous participation issues noted that resulted in a denial by EARAC of the previous participation review. After a conference with the Applicant and additional information they provided, EARAC re-considered the previous participation review and on December 9, 2014, EARAC re-affirmed the applicant met the criteria in 10 TAC §1.5(i)(3).

Census Demographics: The development is to be located at 2741 Hawthorne Avenue in Dallas. Demographics for the census tract (0004.05) include AMFI of \$21,214; the total population is 2,710; the percent of population that is minority is 85.31%; the percent of the population that is below the poverty line is 47.54%; the number of owner-occupied units is 65, and the number of renter units is 1,029. (Census information is from FFIEC Geocoding for 2014.)

Public Comment: The Department received one letter of support from Dallas County Commissioner John Wiley Price and no letters of opposition for this Development.

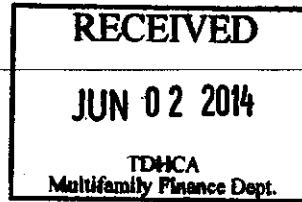


John Wiley Price

County Commissioner Road & Bridge No. 3

DALLAS COUNTY

A 21st Century Mosaic



June 3, 2014

Mr. Tim Irvine
Executive Director
Texas Department of Housing & Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

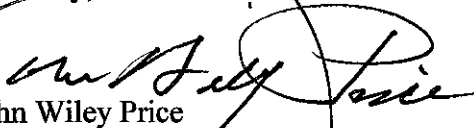
Dear Mr. Irvine:

I am writing to express my strong support for the 4% Housing Tax Credit application that Kings Park I, LP has submitted for Fairmount Crossing which will be located at 2741 Hawthorne Street in Dallas.

The Dallas area has an acute shortage of affordable housing, and Fairmount Crossing will create 364 new units for low-income households. Moreover, these units will be strategically located near the center of Dallas County, which has significant employment opportunities, a DART light rail station, and a major medical complex.

Your favorable consideration of this application will be greatly appreciated. If I can be of any assistance to you and TDHCA, please do not hesitate to call me.

Sincerely,


John Wiley Price
Dallas County Commissioner
District 3

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with other Issuers

RECOMMENDED ACTION

WHEREAS, a Housing Tax Credit application for THF Palladium Midland was submitted to the Department on September 26, 2014;

WHEREAS, the Certificate of Reservation from the Texas Bond Review Board expires on February 13, 2015;

WHEREAS, the proposed issuer of the bonds for the Development is the Texas State Affordable Housing Corporation; and

WHEREAS, the Executive Award and Review Advisory Committee (“EARAC”) considered the previous participation information in accordance with 10 TAC §1.5 and recommended the issuance of the Determination Notice provided that two weeks prior to bond closing, evidence is submitted to the Department that establishes reserve accounts for Southwest Village Apartments (HOME 534339), Turtle Creek Townhomes (HOME 537072), Creek View Apartments (HOME 1000968), Creek View Apartments II (HOME 1001589) and that the funded reserves are acceptable to the Department;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$1,023,254 in 4% Housing Tax Credits, subject to the EARAC condition noted above and underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for THF Palladium Midland, is hereby approved in the form presented to this meeting.

BACKGROUND

General Information: THF Palladium Midland, located in Midland, Midland County, involves the new construction of a mixed income development. Of the 264 total residential units, 207 units will be rent and income restricted at 60% of AMFI and the remaining 57 units will be market rate with no rent or income restrictions. The development will serve the general population and is currently in the process of requesting a zoning change to allow for multifamily development. Evidence of final zoning will be due at the time of Determination Notice.

Organizational Structure and Compliance: The Borrower is THF Palladium Midland, Ltd. The General Partner is THF Palladium Midland GP, LLC, of which the sole member is THF Housing Development Corporation; a Texas nonprofit and a wholly-owned instrumentality of Texas Housing Foundation which is comprised of the following individuals: Susan Hamm, Johnny White, Griffith Morris, Nancy Jackson and Mark Mayfield.

The EARAC met on December 9, 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 THF Palladium Midland application the EARAC recommended approval of the issuance of a Determination Notice conditioned upon evidence that is submitted to the Department two weeks prior to bond closing that establishes reserve accounts for certain previously funded HOME applications that are affiliated with Texas Housing Foundation and that the funded reserves are acceptable to the Department. Specifically, these reserve accounts are for the following properties: Southwest Village Apartments (HOME 534339), Turtle Creek Townhomes (HOME 537072), Creek View Apartments (HOME 1000968), Creek View Apartments II (HOME 1001589).

Census Demographics: The development is to be located at the northwest quadrant of S. Lamesa and IH-20 in Midland. Demographics for the census tract (0014.00) include an AMFI of \$41,465; the total population is 4,576; the population that is minority is 87.85%; the population that is below the poverty line is 31.42%; the number of owner-occupied units is 840 and the number of renter units is 462. (Census information is from FFIEC Geocoding for 2014.)

Public Comment: The Department has not received any letters of support or opposition for this Development.

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BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action on Inducement Resolution No. 15-009 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for Private Activity Bond Authority - 2015 Waiting List

RECOMMENDED ACTION

WHEREAS, Board approval of the inducement resolution is the first step in the application process for a multifamily bond issuance by the Department; and

WHEREAS, the inducement allows staff to submit an application to the Bond Review Board (“BRB”) to await a Certificate of Reservation;

NOW, therefore, it is hereby

RESOLVED, that Inducement Resolution No. 15-009 to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority from the 2015 Private Activity Bond Program for Chisolm Trace Apartments (\$9,000,000) and Cheyenne Village Apartments (\$4,500,000) is hereby approved in the form presented to this meeting.

BACKGROUND

The BRB administers the state’s annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the Development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a Certificate of Reservation, the Applicant has 150 days to close on the private activity bonds.

During the 150-day process, the Department will review the complete application for compliance with the Department’s Rules and underwrite the transaction in accordance with the Real Estate Analysis Rules. The Department will schedule and conduct a public hearing and the complete application including a transcript from the hearing will then be presented before the Board for a decision on the issuance of the bonds as well as the determination of housing tax credits.

Each year, the State of Texas is notified of the cap on the amount of private activity tax exempt revenue bonds that may be issued within the state. While these pre-applications were submitted under the 2014 program year, the Certificates of Reservation will be issued in 2015. Approximately \$595 million is anticipated to be set aside for multifamily until August 15th for the 2015 program year which includes the TDHCA set aside of approximately \$120 million. Inducement Resolution No. 15-009 reserves

\$9,000,000 for Chisolm Trace Apartments and \$4,500,000 for Cheyenne Village Apartments in state volume cap.

Chisolm Trace Apartments (#14608)

General Information: The existing development is located at 10503 Huebner Road in San Antonio, Bexar County. The application proposes the acquisition and rehabilitation of 126 total units serving the general population. This transaction is proposed to be Priority 2 consisting of low income units that will be rent and income restricted at 60% of the Area Median Family Income (AMFI) and 1 employee occupied unit.

Census Demographics: Demographics for the census tract (1818.08) include an AMFI of \$55,002; the total population is 1,478; the minority population is 59.07%; the poverty rate is 18.06%; there are 167 owner occupied units and 471 renter units. (Census information from FFIEC Geocoding 2014).

Public Comment: The Department has not received any letters of support or opposition for this development.

Cheyenne Village Apartments (#14609)

General Information: The existing development is located at 147 Cheyenne Ave. in San Antonio, Bexar County. The application proposes the acquisition and rehabilitation of 60 total units serving the general population. This transaction is proposed to be Priority 2 consisting of low income units that will be rent and income restricted at 60% of the Area Median Family Income (AMFI).

Census Demographics: Demographics for the census tract (1605.01) include an AMFI of \$18,598; the total population is 4,117; the minority population is 94.63%; the poverty rate is 61.32%; there are 433 owner occupied units and 762 renter units. (Census information from FFIEC Geocoding 2014).

Public Comment: The Department has not received any letters of support or opposition for this development.

RESOLUTION NO. 15-009

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS WITH RESPECT TO RESIDENTIAL RENTAL DEVELOPMENTS; AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR ALLOCATION OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

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, (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, very low and extremely low income and families of moderate income (all as defined in the Act); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by persons and families of low, very low and extremely low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, 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 multifamily residential rental development loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, it is proposed that the Department issue its revenue bonds in one or more series for the purpose of providing financing for the multifamily residential rental developments (the "Developments") more fully described in Exhibit A attached hereto. The ownership of the Developments as more fully described in Exhibit A will consist of the applicable ownership entity and its principals or a related person (the "Owners") within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Owners have made not more than 60 days prior to the date hereof, payments with respect to the Developments and expect to make additional payments in the future and desire that they be reimbursed for such payments and other costs associated with the Developments from the proceeds of tax-exempt and taxable obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, the Owners have indicated their willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that the requirements of the Act and the Department will be satisfied and that the Developments will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse the Owners for the costs associated with the Developments listed on Exhibit A attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of the Owners, the Department reasonably expects to incur debt in the form of tax-exempt and taxable obligations for purposes of paying the costs of the Developments described on Exhibit A attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for the Developments one or more Applications for Allocation of Private

Activity Bonds or Applications for Carryforward for Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review Board's authority to administer the allocation of the authority of the State to issue private activity bonds; and

WHEREAS, the Governing Board of the Department (the "Board") has determined to declare its intent to issue its multifamily revenue bonds for the purpose of providing funds to the Owners to finance the Developments on the terms and conditions hereinafter set forth; NOW, THEREFORE,

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

ARTICLE 1

OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1 Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Developments in an aggregate principal amount not to exceed those amounts, corresponding to the Developments, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the "Attorney General"); (v) satisfaction of the Board that the respective Development meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

Section 1.2 Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 1.3 Reimbursement. The Department reasonably expects to reimburse the Owners for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction of its Development and listed on Exhibit A attached hereto ("Costs of the Developments") from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction or rehabilitation of its Development, including reimbursing the applicable Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction or rehabilitation of the Developments; (b) to fund any reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 1.4 Principal Amount. Based on representations of the Owners, the Department reasonably expects that the maximum principal amount of debt issued to reimburse the Owners for the Costs of the Developments will not exceed the amount set forth in Exhibit A which corresponds to the applicable Development.

Section 1.5 Limited Obligations. The Owners may commence with the acquisition and construction or rehabilitation of the Developments, which Developments will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement, on terms agreed to by the parties, on an installment payment basis with the Department under which the Department will make a loan to the applicable Owner for the purpose of reimbursing the Owner for the Costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for its Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 1.6 The Developments. Substantially all of the proceeds of the Bonds shall be used to finance the Developments, which are to be occupied entirely by Eligible Tenants, as determined by the Department, and which are to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 1.7 Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse the Owners for costs of its Development.

Section 1.8 Costs of Developments. The Costs of the Developments may include any cost of acquiring, constructing, reconstructing, improving, installing and expanding the Developments. Without limiting the generality of the foregoing, the Costs of the Developments shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Developments, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Developments, the placing of the Developments in operation and that satisfy the Code and the Act. The Owners shall be responsible for and pay any costs of its Development incurred by it prior to issuance of the Bonds and will pay all costs of its Development which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 1.9 No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under the Owners shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 1.10 Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by the Owners and the Department of contractual arrangements, on terms agreed to by the parties, providing assurance satisfactory to the Department that all requirements of the Act will be satisfied and that the Development will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds); (b) the receipt of an opinion from Bracewell & Giuliani LLP or other nationally recognized bond counsel acceptable to the Department (“Bond Counsel”), substantially to the effect that the interest on the tax-exempt Bonds is excludable from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

Section 1.11 Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of the Developments’ necessary review and legal documentation for the filing of one or more Applications and the issuance of the Bonds, subject to satisfaction of the conditions specified in this Resolution. The Board further authorizes staff, Bond Counsel and other consultants to re-submit an Application that was withdrawn by an Owner.

Section 1.12 Related Persons. The Department acknowledges that financing of all or any part of the Developments may be undertaken by any company or partnership that is a “related person” to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the Owners.

Section 1.13 Declaration of Official Intent. This Resolution constitutes the Department’s official intent for expenditures on Costs of the Developments which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of the Developments may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 1.14 Execution and Delivery of Documents. The Authorized Representatives named in this Resolution are each hereby authorized to execute and deliver all Applications, certificates, documents, instruments, 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 1.15 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 Board, the Executive Director of the Department, the Chief of Staff of the Department, the Deputy Executive Director of Asset Analysis and Management 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 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

CERTAIN FINDINGS AND DETERMINATIONS

Section 2.1 Certain Findings Regarding Developments and Owners. The Board finds that:

- (a) the Developments are necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owners are financially responsible;
- (d) the financing of the Developments is a public purpose and will provide a public benefit;
and
- (e) the Developments will be undertaken within the authority granted by the Act to the Department and the Owners.

Section 2.2 No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

Section 2.3 Certain Findings with Respect to the Bonds. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Developments will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

ARTICLE 3

GENERAL PROVISIONS

Section 3.1 Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 3.2 Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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 Board.

Section 3.3 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[Execution page follows]

PASSED AND APPROVED this 18th day of December, 2014.

[SEAL]

By: _____
Chair, Governing Board

ATTEST:

Secretary to the Governing Board

Signature Page to Intent Resolution

EXHIBIT "A"

Description of the Owners and the Developments

Project Name	Owner	Principals	Amount Not to Exceed
Cheyenne Village Apartments	Cheyenne TAP Limited Partnership	General Partner: Cheyenne TAP Partners LLC, and it's Managing Members are: Christian Szymczak, Alara Ventures, Ltd., and William Szymczak	\$4,500,000.00
Costs: Acquisition/rehabilitation of a 60-unit affordable, multifamily, rental community located at 147 Cheyenne Avenue, San Antonio, Texas 78207, Bexar County.			
Project Name	Owner	Principals	Amount Not to Exceed
Chisolm Trace Apartments	Chisolm TAP Limited Partnership	General Partner: Chisolm TAP Partners LLC, and it's Managing Members are: Christian Szymczak, Alara Ventures, Ltd., and William Szymczak	\$9,000,000.00
Costs: Acquisition/rehabilitation of a 126-unit affordable, multifamily, rental community located at 10503 Huebner Road, San Antonio, Texas 78240, Bexar County.			

REPORT ITEMS

R1

TDHCA Outreach Activities, November 2014

A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public

Event	Location	Date	Division	Purpose
Weatherization Assistance Program Training/Tri-County Community Action	Center	Nov 3-6	Community Affairs	Training
Housing Tax Credit Training	El Paso	Nov 5	Compliance	Training
ARCIT/Access Austin Annual Summit	El Campo	Nov 6	Policy & Public Affairs	Presentation
First Thursday Income Eligibility Training	Austin	Nov 6	Compliance	Training
DADS/Relocation Specialist Training	Austin	Nov 6	3PM, Community Affairs, Housing Resource Center	Presentation
Housing Tax Credit Training	San Antonio	Nov 11	Compliance	Training
TDHCA-TACAA/CSBG Organizational Standards Conf Call	Austin	Nov 11	Community Affairs	Training
Austin Clubhouse/Psychosocial Rehabilitation Program	Austin	Nov 12	Housing Resource Center	Presentation
TAAHP Executive Management Series	Austin	Nov 12	3PM, Multifamily Finance	Presentation
Amy Young Barrier Removal Program/Forms and Inspections Workshop	Austin	Nov 12-13	Housing Trust Fund	Training
TDHCA-HHSC/Mental Health Coordination Initiatives Meeting	Austin	Nov 17	Housing Resource Center	Presentation
Community Resource Coordination Groups State Workgroup	Austin	Nov 17	Housing Resource Center	Participant
United Texas – Housing Initiatives That Work/Realtor Continuing Education Course	Austin	Nov 18	Homeownership	Training
Community Affairs Network Training Conf Call	Austin	Nov 19	Community Affairs	Training
Texas Mortgage Bankers Association/Education Seminar & Marketplace	Houston	Nov 19-20	Homeownership	Exhibitor
Amy Young Barrier Removal Program/Inspections Workshop	El Paso	Nov 20-21	Housing Trust Fund	Training
Weatherization Assistance Program Training/Alamo Area COG	San Antonio	Nov 20-21	Community Affairs	Training
Real Estate Settlement Procedures Act, Secure and Fair Enforcement for Mortgage Licensing Act/Webinar	Austin	Nov 21	HOME	Training

Internet Postings of Note, November 2014

A list of new or noteworthy documents posted to the Department's web site

Davis-Bacon Compliance Mandates for Subrecipients — detailing compliance procedures relating to specific labor laws that apply to all Department properties funded through HUD:

www.tdhca.state.tx.us/program-services/davis-bacon/hud.htm

2013 Annual Report to the Texas Interagency Council for the Homeless — *progress report of the Council required by Texas Government Code and provided to the governing body of each agency represented:*
www.tdhca.state.tx.us/tich/index.htm

Colonia Self-Help Center: County Contacts — *listing name and related information for new contact for Val Verde County:*
www.tdhca.state.tx.us/oci/centers/countycontacts.htm

Section 811 PRA Program Selection Guidelines for 2015 QAP Applicants — *detailing requirements for property owners wishing to participate in the Section 811 PRA Program under 2015 Housing Tax Credit cycle and who intend to apply their Section 811 units on an existing property:*
www.tdhca.state.tx.us/section-811-pra/announcements.htm

2014 HOME Multifamily Development Program: Application Log as of October 31, 2014 — *listing the names, locations, funding amounts requested and status of applications seeking funding through the Department's HOME Program:*
www.tdhca.state.tx.us/multifamily/home/index.htm

HOME Program Single Family Intake Form — *featuring updated language satisfying the requirements of the Dodd-Frank Act for homeownership programs:*
www.tdhca.state.tx.us/home-division/forms/home_forms_hra.htm; www.tdhca.state.tx.us/home-division/forms/home_forms_hba.htm; www.tdhca.state.tx.us/home-division/forms/home_forms_sfd.htm

Housing Tax Credits Consultants List — *providing contact information for consultants serving the HTC development community:*
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm; www.tdhca.state.tx.us/multifamily/housing-tax-credits-4pct/index.htm

2015 Regional Allocation Formula — *detailing the methodology behind and the specifics of the formula used by the Department to regionally allocate funds through its HOME, Housing Trust Fund, and Housing Tax Credit programs:*
www.tdhca.state.tx.us/housing-center/pubs-plans.htm

Draft Application for 2015 Housing Tax Credit Applicants placing Section 811 Units on Existing Developments — *draft language for tax credit property owners intending to participate in Section 811 PRA Program who intend to apply their Section 811 units on an existing property:*
www.tdhca.state.tx.us/section-811-pra/announcements.htm

R2

BOARD REPORT ITEM
ASSET MANAGEMENT DIVISION
DECEMBER 18, 2014

Executive Report of Multifamily Program Amendments, Extensions, and Ownership Transfers

REPORT ITEM

This report contains information on 4th Quarter of Fiscal Year 2014 (6/1/2014 to 8/31/2014) and 1st Quarter of Fiscal Year 2015 (9/1/2014 to 11/30/2014).

2014 – Quarter 4

- 9 LURA Amendments (All Administratively Approved)
- 12 Application Amendments (8 Administratively Approved; 4 Board Approved)
- 14 Extensions (2 Cost Certification and 12 Ten Percent Test; All Approved Administratively)
- 6 Ownership Transfers (All Approved Administratively)

2015 – Quarter 1

- 13 LURA Amendments (13 Administratively Approved)
- 24 Application Amendments (14 Administratively Approved; 10 Board Approved)
- 9 Extensions (3 Cost Certification and 6 Ten Percent Test; All Approved Administratively)
- 24 Ownership Transfers (All Approved Administratively)

Information for 2nd Quarter of Fiscal Year 2015 will be reported at the March 2015 meeting.

Land Use Restriction Agreement (LURA) Amendments

2014 Quarter 4

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
07054, 04224	7/1/2014	Commons of Grace Senior	Houston	Barbara Gaston	Add Elderly requirement which was inadvertently left out
15090009961, 09135	7/8/2014	Villas on the Hill (fka Lincoln Terrace)	Fort Worth	Owner- Ft. Worth HA	identify mobility accessible and hearing/visual accessible units; correct amenities
11246	7/15/2014	Tylor Grand	Abilene	Lisa Saigebrook	need to correct Hearing/Visual accessible unit numbers
05447	7/24/2014	Providence Place II	Denton	William Walter- Coats Rose	revised legal desc due to City taking of 0.295 acre portion.
060615, 060615B	7/24/2014	Hillcrest Apartments	Mesquite	Scott Crossfield	Add missing tract to legal description, add 50% rent restrictions, and correct minimum applicable fractions in Appendix E.
060199	7/25/2014	Legacy Senior Housing of Port Arthur	Port Arthur	Cynthia Bast	Amenity Reduction
10150	7/29/2014	Woodlawn Ranch Apts	San Antonio	Erin Mitchell	accessible units - typo in CC - update LURA & add Legal Descrip (exhibit A)

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
11055	8/15/2014	Valley at Cobb Park	Fort Worth	Owner	correct mobility accessible units
94237	8/26/2014	Briarcrest Apartments	Madisonville	Randilyn Ladig-MWS Management	Reduce units (convert 1 to an office) and swap amenities

Housing Tax Credit Application Amendments

2014 Quarter 4

Board Approved

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
13090009761, 09404	7/31/2014	Cevallos Lofts	San Antonio		bond restructure from variable rate to fixed rate- \$500K paydown on TCAP loan.
94237	8/6/2014	Briarcrest Apartments	Madisonville	Randilyn Ladig	Request to convert one unit to a leasing office and to revise amenities originally selected at application
13044	8/15/2014	Villas of Vanston Park	Mesquite	Shackelford on behalf of owner	number of residential units decreased from 160 to 155, thereby changing the bedroom unit mix and net rentable area.
13240	8/28/2014	Summit Place	Dallas	Owner	change to site plan, # of units, 5% reduction to common area, 4% reduction to NRA, cost changes

Administratively Approved

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
11195	6/20/2014	Stonebridge at Ironton	Lubbock	GS Housing 71, LP	request to increase number of buildings from 7 to 8 . LURA does not have to be amended because it identifies the 8 buildings.
13131	7/1/2014	Montana Vista Palms	El Paso	Bobby Bowling	Site plan inverted per City's site plan review. 3% acreage reduction due to ROW dedication.
13071	7/1/2014	Windy Ridge	Austin	Cynthia Bast	change number of residential buildings from 7 to 6, eliminate secondary access, and decrease number of parking spaces.

Administratively Approved

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
13193	7/2/2014	Balcones Lofts	Balcones Heights	Jason Arechiga-NRP Group	Waiver of 10 TAC §10.101(a); access point cannot be constructed at least 6 inches above floodplain
01111	8/14/2014	Village at Meadowbend	Temple	Owner	swap public telephone w/a bike rack and gazebo w/sitting area
1002040, 13046	8/14/2014	La Esperanza Del Rio	Rio Grande City	Sara Reidy	approve guarantor and SLP as required by syndicator/interim lender
13062	8/27/2014	The Retreat at Westlock	Tomball	Barry Kahn	Increase the number of 30% units from 10 to 23 as required by HOME funding source Harris County
10007	8/29/2014	Mexia Gardens	Mexia	Frank Pollacia	Amenity swap

Housing Tax Credit Extensions

2014 Quarter 4

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Type of Extension	Original Deadline	Approved Deadline
13214	6/4/2014	Flora Street Lofts	Dallas	10% Test	7/1/2014	10/1/2014
13281	6/5/2014	Sunquest Apartments	La Feria	10% Test	7/1/2013	8/31/2014
13003, 1002024	6/5/2014	Crossing at Oak Grove	Kerens	10% Test	7/1/2014	10/1/2014
10007	6/9/2014	Mexia Gardens	Mexia	cost certification	1/15/2013	5/20/2014
13207, 06649	6/25/2014	Pecan Creek Village (fka Pecan Grove)	Lampasas	10% Test	7/1/2014	10/1/2014
13006	6/27/2014	Country Place Apartments	Atlanta	10% Test	7/1/2014	11/1/2014
1001506, 11061	7/3/2014	Pioneer Crossing for Seniors Burkburnet	Burkburnett	Cost Certification	1/15/2014	9/30/2014
13119, 1002050	7/14/2014	Emma Finke Villas	Beeville	10% Test	7/1/2014	10/1/2014
13007	7/14/2014	Spring Creek Apartments	Linden	10% Test	7/1/2014	11/1/2014
13234	7/14/2014	Wynnewood Family Housing	Dallas	10% Test	7/1/2014	8/1/2014

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Type of Extension	Original Deadline	Approved Deadline
13180, 1002030	7/14/2014	Mission Village of Pecos	Pecos	10% Test	7/1/2014	9/15/2014
13139, 1002119	7/16/2014	Stonebridge of Plainview	Plainview	10% Test	7/1/2014	9/1/2014
13047-1	7/17/2014	Garden Walk of LaGrange *	La Grange	10% Test	7/1/2014	11/1/2014
13112	7/21/2014	Liberty Trails Townhomes	Liberty Hill	10% Test - Request Withdrawn	7/1/2014	
13139, 1002119	8/28/2014	Stonebridge of Plainview	Plainview	10% Test	9/1/2014	10/1/2014

Housing Tax Credit Program Ownership Transfers

2014 Quarter 4

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Person/Entity Departing	New Person/Entity	Type of Ownership Change
533308	6/4/2014	Webb Street Revitalization	Smithville	Combined Community Action, Inc.	Samuel (Sam) Moffett	Sale
92176	6/9/2014	Garden Gate - Alvin	Alvin	HPD Ridgeline Garden Gate, LP	LNC Garden Gate LLC	Purchase
70133	8/6/2014	Spring Hill Apartments	Dallas	HS Springhill LLC and K&S Hospitality	The Presidium Group, LLC	sale of property
04427	8/29/2014	Rosemont at Hidden Creek	Austin	TX Old Manor Development, L.L.C.	TCHP Old Manor, LLC	replace General Partner
04447	8/29/2014	Rosemont at Bethel Place	San Antonio	TX Acme A South Development, LLC	TCHP Bethel Place, LLC	replace General Partner
07053, 04222	8/29/2014	Primrose at Highland Meadows (Tennison)	Dallas	SHC Development, L.L.C.	TCHP Highland Meadows, LLC	replace General Partner

Land Use Restriction Agreement (LURA) Amendments

2015 Quarter 1

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
1001255, 15090009370, 10211	9/3/2014	Riverplace Apartments	Hooks	Kim Youngquist	Change Accessible Unit Numbers and Applicable Percentage per building
1001540, 11041	9/11/2014	Riverwood Commons	Bastrop	Will Markel	Substitute laundry equipment in each unit for community laundry room. Eliminate Structural Insulated Panel construction.
10007	9/16/2014	Mexia Gardens	Mexia	Frank Pollacio	Request to revise accessible units and to swap an amenity
11200	9/22/2014	The Ranch at Silvercreek	Houston	Michael Robinson	Delete HUB requirement; Correct Visual/Hearing Unit #; and Add covered pavilion/Delete bbq grills
1001129, 15090009987, 09267	9/23/2014	Heritage Crossing	Santa Fe	Ron Williams	State/Galveston County is purchasing 10-foot strip of land adjacent to FM 646 on east side of the property
060627B, 060627	9/23/2014	Aspen Park Apartments	Houston	Sandra McBride	Swapping of Multiple Amenities & Correction to Appendix E (BINs)
11082, 1001591, 06362, 94250	9/29/2014	Oakwood Apartments	Madisonville	Jacob Horner	amendment was approved to swap amenities

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
1001590, 11081, 94249	9/29/2014	Northwood Apartments	Navasota	Jacob Horner	amendment was approved to swap amenities
11260	10/17/2014	Braeburn Village Apts	Houston	Amay Inamdar	Swap Community Laundry for 1 Playscape, Increase # of Bldgs, NRA and community bldg, & Remove elevator
99013T	10/20/2014	Stone Brook Seniors	San Marcos	Wendy Quackenbush	Add and clarify elderly requirement. Also added "good cause eviction" language to Section 4.
11097	10/30/2014	RoseHill Ridge	Texarkana	Will Henderson	LURA Amendment for Unit Set-Asides and Mobility and Hearing or Visual Impairment Accessible Units
97146	11/12/2014	La Vista Retirement Community	San Marcos	Christopher Nevit	eliminate requirements for "representation where required."
11238	11/17/2014	The Sunningdale	Shenandoah	Sarah Anderson	Correct HUB name; Correct Hearing/Visual Unit Number; Correct Threshold Criteria and Green Building Amenities

Housing Tax Credit Application Amendments

2015 Quarter 1

Board Approved

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
13115	9/4/2014	Abbingtion Meadows	Howe	Owner	reduction in common area square footage; change in site plan and design of building elevations; change in unit amenities
05612, 05612B	9/4/2014	Park Manor Senior Community	Sherman	Cynthia Bast	change in number of buildings from 29 to 26, change in amenities, identify only 20 buildings as part of the HTC Program.
12409, 94189	10/9/2014	Tealwood Place Apartments	Wichita Falls	Cynthia Bast	Waiver of Rule 50.4(d)(16)(H) (bathroom exhaust fans do not vent to the outside)
12404, 94187	10/9/2014	Pine Club Apartments	Beaumont	Cynthia Bast	Waiver of Rule 50.4(d)(16)(H) (bathroom exhaust fans do not vent to the outside)
12405, 94185	10/9/2014	Saddlewood Club	Bryan	Cynthia Bast	Waiver of Rule 50.4(d)(16)(H) (bathroom exhaust fans do not vent to the outside)
12407, 93199, 94183	10/9/2014	Woodglen Park Apartments	Dallas	Cynthia Bast	Waiver of Rule 50.4(d)(16)(H) (bathroom exhaust fans do not vent to the outside)
12406, 94184	10/9/2014	Ridgewood West Apartments	Huntsville	Cynthia Bast	Waiver of Rule 50.4(d)(16)(H) (bathroom exhaust fans do not vent to the outside)

Board Approved

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
12408, 93201	10/9/2014	Willow Green Apartments	Houston	Cynthia Bast	Waiver of Rule 50.4(d)(16)(H) (bathroom exhaust fans do not vent to the outside)
13247	10/15/2014	The Reserves at South Plains	Lubbock	Alyssa Carpenter	Reduction in acreage, change in residential density
13144	11/14/2014	Mariposa at Pecan Park	La Porte	Stuart Shaw	Acreage increased due to purchase of entry drive resulting in >5% change in density

Administratively Approved

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
13223	9/4/2014	Campanile at Jones Creek	Richmond	Les Kilday	Change in site plan, change in survey, change in bldgs & units, reduction of 1 market rate unit
1001540, 11041	9/4/2014	Riverwood Commons	Bastrop	Jill Lafferty/Will Markel	Decrease in common area square footage
77110000110	10/2/2014	The Works at Pleasant Valley	Austin	Andrew Sinnott/Mitch Weynand	Increase in number of bathrooms from one to two in four of the three-bedroom units.
11260	10/15/2014	Braeburn Village Apts	Houston	Amay Inamdar	Swap Community Laundry for Playscape, Increase # of Bldgs, NRA and Comm Bldg, & Remove Elevator
13262	10/16/2014	Paso Fino Apartment Homes	San Antonio	Manish Verma	change in unit sq footage of less than 3% - no fee required.

Administratively Approved

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
13016	10/23/2014	Westridge	Midland	Lucille Jones/T. Justin MacDonald	eliminate swimming pool.
98005	10/30/2014	Falcon Pointe Apartments	Rosenberg	Ysella Kaseman	Remove Community Laundry Room and replace with School Activity area to facilitate program with YMCA
07035, 04146	10/31/2014	Casa Saldana	Mercedes	Owner	swap public telephone w/a bike rack and gazebo w/sitting area
04145, 07034	10/31/2014	Village at Meadowbend Apartments II	Temple	owner	eliminate public telephone and add a bike rack and a gazebo with sitting area.
13212	11/4/2014	Prairie Village	El Campo	JoEllen Smith	Changing financing structure - replacing HUD 221(d)(4) with CDT conventional loan
1001681, 12388	11/5/2014	Paseo Pointe	Los Fresnos	Cynthia Bast	several buildings may not meet the 12/31/14 PIS deadline
1001682, 12339	11/5/2014	Hacienda del Sol Apartments	San Benito	Cynthia Bast	several buildings may not meet the PIS deadline of 12/31/2014
00028T, 850007	11/7/2014	Southwest Trails	Austin	John Guttman	Removal of 2-4 parking spaces to connect Phase I and Phase II.

Administratively Approved

Dev. No.	Date of Approval	Development Name	City	Owner Name/Contact	Type of Amendment
060627B, 060627	11/17/2014	Aspen Park Apartments	Houston	Sandy McBride	Swap Amenities & Correct Appendix # (BINs)

Housing Tax Credit Extensions

2015 Quarter 1

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Type of Extension	Original Deadline	Approved Deadline
13207, 06649	9/8/2014	Pecan Creek Village (fka Pecan Grove)	Lampasas	10% Test	10/1/2014	11/25/2014
1001687, 12166	9/17/2014	Villa Brazos	Freeport	Cost Certification	1/15/2014	2/2/2015
1002040, 13046	9/25/2014	La Esperanza Del Rio	Rio Grande City	10% Test Ext - 2nd	10/1/2014	11/1/2014
12300	10/3/2014	Capital Studios	Austin	Cost Certification	1/15/2015	4/30/2015
13047-2, 94171	10/6/2014	Garden Walk of Schulenburg *	Schulenburg	10% Test	11/1/2014	10/31/2014
13119, 1002050	10/22/2014	Emma Finke Villas	Beeville	10% Test	10/1/2004	12/16/2014
1002041, 13051	10/28/2014	Royal Gardens	Rio Grande City	10% Test	7/1/2014	12/16/2014
13600, 13600B	11/12/2014	Waters at Willow Run Apartments	Austin	Cost Certification	1/15/2015	6/1/2015
13167	11/12/2014	Freedoms Path at Kerrville	Kerrville	10% Test	7/1/2014	11/25/2014

Housing Tax Credit Program Ownership Transfers

2015 Quarter 1

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Person/Entity Departing	New Person/Entity	Type of Ownership Change
01005	9/11/2014	Chaparral Townhomes	Allen	investor related GP	Chaparral Townhomes GP, LLC	GP and LP interest transfer
03417	9/16/2014	North Forest Trails Apartments	Houston	North Forest Partners LLC	BFIM North Forest Trails GP, Inc.	Change in GP-Affiliated
98005	9/17/2014	Falcon Pointe Apartments	Rosenberg	Helfant Realty, Inc.	Fort Bend National Housing, L.L.C.	Co-GP Transfer to Existing Co-GP
14410, 93155	9/18/2014	Fountains Of Rosemeade	Carrollton	Outreach Housing Corporation and Colonial Equities, Inc.	Rainbow Housing Assistance Corporation	5% NP owner being replaced
14409, 93153	9/18/2014	Lakes Of El Dorado	Mckinney	Outreach Housing Corporation and Colonial Equities, inc.	Rainbow Housing Assistance Corporation	NP owner being replaced
93102, 14411	9/18/2014	Ash Lane Apartments	Eules	Outreach Housing Corporation and Colonial Equities, Inc.	Rainbow Housing Assistance Program	NP owner being replaced
1001256, 10126	9/18/2014	Auburn Square	Vidor	N/A	GS Auburn Squaure, LLC	Non-Affiliate
01410	10/3/2014	Cullen Park Apartments	Houston	Columbia Housing	Cullen Park GP, LLC	Change in GP and LP
13144	10/3/2014	Mariposa at Pecan Park	La Porte	Stuart Shaw Family Partnership, Ltd.	Stuart Shaw Family Development LLC	Affiliated - No New Members
91081	10/3/2014	Granada Terrace Apartments	South Houston	2007 South Houston, LP	Chateau Sera SPE, LLC & The Pad on 30th Street SPE, LLC	Purchase/Sale

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Person/Entity Departing	New Person/Entity	Type of Ownership Change
060610B, 060610	10/3/2014	Meadowlands Apartments	Houston	Gregory L. Thorse Living Trust	H.T. Seattle Slew, Ltd.	Transfer of GP Interests
13193	10/7/2014	Balcones Lofts	Balcones Heights	Kell Munoz Architects, Inc. - SLP	Balcones Lofts SLP LLC, an affiliate of The NRP Group	SLP / LP
137027145, 94022	10/7/2014	North Park Townhomes	Houston	Imperial Formosa Investments, LP	NPTH Investments LP	Purchase/Sale
11185	10/15/2014	Azure Pointe	Beaumont	N/A	RD Holdco LLC	SLP Acknowledgement
13090009704, 09013	10/17/2014	Desert Villas	El Paso	IBI Desert Villas, LLC	AHV Desert Villas, Inc.	GP interest sale
10176	10/17/2014	Canyon Square Village	El Paso	IBI Canyon Square, LLC	AHV Canyon Square, Inc.	Sale of general partnership interest
01078	10/28/2014	Rancho De Luna Apartments	Robstown	Mgroup Holdings, Inc.	RT Ranch de Luna, LLC	Non-Affiliate
95144	10/29/2014	Casitas de Merced	Somerset	Mercy Properties, Inc.	Merced - Somerset, LLC	GP and LP transfer
98002	11/6/2014	Primrose at Johnson Creek	Arlington	Bethesda Holdings III, LLC	Arlington Senior Preservation, LLC	Affiliate GP transfer
96015	11/6/2014	Birchwood Apartments	Dallas	Bethesda Holdings III, LLC	Birchwood Apartments Preservation, LLC	GP Transfer- affiliate of LP
70129	11/12/2014	Sandpiper Cove	Galveston	Sandpiper Cove Apartments, LLC	Compass Pointe Apartments Texas, LLC	sale

ADMINISTRATIVELY APPROVED

Dev. No.	Date of Approval	Development Name	City	Person/Entity Departing	New Person/Entity	Type of Ownership Change
04498	11/12/2014	Park at Woodland Springs	Spring	TCR Woodline Park Partners Limited Partnership	Vesta Equity Woodland Springs LLC	General Partner
01467	11/21/2014	Arbors on Wintergreen	Desoto	Covenant Place of North Richmond Hills, Inc.	DGM Arbors, LLC	Transfer of GP
13270	11/25/2014	Bella Terra	Brownsville	Madhouse Development Services	HACB - Housing Authority of the City of Brownsville	OTR prior to 8609s - hardship

R3

BOARD REPORT ITEM
FINANCIAL ADMINISTRATION DIVISION
DECEMBER 18, 2014

Report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the Housing Trust Fund

WHEREAS, Texas Government Code §2306.204 requires an audit of the Department's Housing Trust Fund to be completed by December 31st of each year to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund;

WHEREAS, Housing Finance Division unencumbered funds are the funds associated with any and all of the Department's housing finance activity which are not subject to any restriction precluding their immediate transfer to the housing trust fund. Such restrictions include: being subject to a state or federal law or other applicable legal requirement such as the General Appropriations Act, being held in trust subject to the terms of a bond indenture, or having been designated by the Department's Governing Board for a specific use or contingency;

WHEREAS, Texas Government Code §2306.205 provides a formula for determining the amount of unencumbered fund balances and the amounts, if any, to transfer to the Housing Trust Fund before January 10th; and

WHEREAS, Staff has drafted a process for determining the three year-end values total and non highest rated bond indebtedness, the amount of unencumbered fund balances and the amounts, if any, to transfer to the Housing Trust Fund;

NOW, therefore, it is hereby

RESOLVED, that the *Draft Computation of Unencumbered Fund Balances Report as of August 31, 2014*, is presented to this meeting and the Board and the Executive Director accepts this report in satisfaction of the requirements of Texas Government Codes §2306.204 and §2306.205 with its final approval determined by the year-end audit performed by the State Auditor's Office.

BACKGROUND

Pursuant to Texas Government Codes §2306.204 and §2306.205, the Department is required to transfer to the Housing Trust Fund annually a portion of the unencumbered funds, if any, meeting certain threshold and criteria. This statute also requires the Department to undergo an annual audit of its unencumbered fund balances and to transfer excess funds to the Housing Trust Fund based on a calculation set forth in the statute. Using the methodology outlined in the statute, Department staff

formally documented a policy in the form of a Standard Operating Procedure (#1210.05) to calculate statutorily-required transfers to the Housing Trust Fund.

The *Draft Computation of Unencumbered Fund Balances Report as of August 31* (Exhibit A) reflects funds held by the Department deemed to be unencumbered of \$156,203; the *Calculation of Bonded Indebtness Report* (Exhibit B) that only includes bonds outstanding not rated in the highest long-term debt rating category to calculate the 2% threshold of \$24,937,655; and the *List of Bond Ratings* (Exhibit C) from rating agencies. Since the unencumbered balance is less than the 2% threshold it does not meet the first threshold in Texas Government Code §2306.205(a) for any transfer to the Housing Trust Fund.

In conclusion, the *Draft Computation of Unencumbered Fund Balances Report as of August 31, 2014*, yielded a zero transfer to the Housing Trust Fund. Again, this report is included for review in the year-end financial audit performed by the State Auditor's Office and therefore subject to revision based on such audit.

Texas Department of Housing and Community Affairs - Housing Finance Division

Draft Computation of Unencumbered
Fund Balances as of August 31, 2014

EXHIBIT A

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Computation of Unencumbered Fund Balances
August 31, 2014**

	S/F Program	RMRB Program	CHMRB Program	Taxable Mortgage Program	M/F Program	Operating Fund	Housing Trust Fund	Special Housing Programs	Governmental Fund
Qualifying Assets:									
Cash and Cash Equivalents	\$ 39,746,360	\$ 14,985,359	\$ 137,559	\$ 4,242,424	\$ 64,099,759	\$ 7,972,711	\$ 5,134,147	\$ 16,220,358	\$ 17,211,470
Investments @ fair value	28,188,158		363,456		446,002				
Mortgage-backed Sec @ fair value	449,807,929	297,861,196	4,981,580	6,583,387	38,104,491	764,250			
Fair Value Adjustment	(41,044,839)	(20,726,119)	(456,726)	(233,128)	(1,577,487)	(37,363)			
Loans and Contracts	20,985,966	42,283,415			997,721,774	41,709	52,864,694	113,416	474,610,148
Real Estate owned, @ net	74,107					798	152,468		
Accrued Interest receivable	1,799,215	1,043,937	26,914	20,704	9,156,327	3,967	13	33,413	
Federal Receivable									6,105,741
Legislative Appropriations									4,834,624
Subtotal	\$ 499,556,896	\$ 335,447,788	\$ 5,052,783	\$ 10,613,387	\$ 1,107,950,866	\$ 8,746,072	\$ 58,151,322	\$ 16,367,187	\$ 502,761,983
Less restrictions:									
Trust Indenture	\$ (499,556,896)	\$ (335,447,788)	\$ (5,052,783)	\$ (6,376,442)	\$ (1,107,950,866)	\$ -	\$ -	\$ -	\$ -
Operating Reserve						(672,310)		(7,327,690)	
Appropriated State Treasury Funds						(1,239,504)			(4,834,624)
Designated for program use per Government Code, Chapter 2306							(53,017,175)		
Funds Reserved, Committed or under Contract							(5,134,147)		
Add'l restrictions per Department				(4,236,945)		(6,008,988)			
Fee Reductions									
Contingent Legal Expenses								(1,893,969)	
Capital Budget								(429,240)	
Restricted Use of Fees for Administrative Expenses						(815,896)		(6,569,459)	
Federal Funds									(497,927,359)
Subtotal	\$ (499,556,896)	\$ (335,447,788)	\$ (5,052,783)	\$ (10,613,387)	\$ (1,107,950,866)	\$ (8,736,698)	\$ (58,151,322)	\$ (16,220,358)	\$ (502,761,983)
Unencumbered fund balances	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,374	\$ -	\$ 146,829	\$ -
									\$ 156,203

EXHIBIT B

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Calculation of Bonded Indebtedness as of August 31, 2014
Pursuant to Texas Government Code Section 2306.205

	Highest Bond Rating	Bonds Outstanding (Par)	Bonded Indebtedness Not Rated in the Highest Category
Single-family	AA+	\$ 429,890,000	\$ 429,890,000
RMRB	Aaa	260,775,000	
CHMRB	AA+	3,700,000	3,700,000
Multifamily	Various	997,897,738	813,292,739
		<u>\$ 1,692,262,738</u>	<u>\$ 1,246,882,739</u>

Section 2306.205(a)	
2% of bonded indebtedness	\$ 24,937,655
Unencumbered Fund Balance (UFB) per Calculation	\$ 156,203
Does UFB exceed 2% of bonded indebtedness?	No
If UFB exceeds 2% of bonded indebtedness:	
What amount exceeds 2% of bonded indebtedness?	\$ -
Half of UFB in excess of 2% of bonded indebtedness (Transfer to Housing Trust Fund)	\$ -

Section 2306.205(c)	
4% of bonded indebtedness	\$ 49,875,310
Unencumbered Fund Balance (UFB) per Calculation	\$ 156,203
Does UFB exceed 4% of bonded indebtedness?	No
If UFB exceeds 4% of bonded indebtedness:	
What amount exceeds 4% of bonded indebtedness?	\$ -
All of UFB in excess of 4% of bonded indebtedness (Transfer to Housing Trust Fund)	\$ -

EXHIBIT C

Single Family Indenture				Rating Agencies				
Series	CUSIP	Maturity Date	Interest Rate	8/31/2014	Moody's	Standard & Poor's	Fitch	
				Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch	
2004A JL	88275FNM7	9/1/2036	VAR	\$ 3,855,000.00	Aa2/VMIG1	AA+/A-1+	#N/A N/A	
2004B	88275FNN5	9/1/2034	VAR	\$ 53,000,000.00				
2004D	88275FNP0	3/1/2035	VAR	\$ 35,000,000.00	Aa1/VMIG1	AA+/A-1+	#N/A N/A	
2005A	88275FNQ8	9/1/2036	VAR	\$ 45,070,000.00	Aa1/VMIG1	AA+/A-1+	#N/A N/A	
2005B	88275FKJ 7	9/1/2014	4.400%	\$ 95,000.00	Aa1	AA+	WD	
	88275FKK 4	3/1/2015	4.550%	\$ 90,000.00	Aa1	AA+	WD	
	88275FKL 2	9/1/2015	4.550%	\$ 90,000.00	Aa1	AA+	WD	
	88275FKM 0	9/1/2020	4.800%	\$ 1,100,000.00	Aa1	AA+	WD	
	88275FKN 8	9/1/2025	4.900%	\$ 1,360,000.00	Aa1	AA+	WD	
				\$ 2,735,000.00				
2005D	88275FKQ1	9/1/2035	5.000%	\$ 1,295,000.00	Aa1	AA+	WD	
2005C	88275FNR6	9/1/2017	VAR	\$ 3,430,000.00	Aa1/VMIG1	AA+/A-1+	#N/A N/A	
2006A	88275FKS7	9/1/2037	5.000%	\$ 19,720,000.00	Aa1	AA+	#N/A N/A	
2006B	88275FKT5	9/1/2034	5.000%	\$ 21,075,000.00	Aa1	AA+	#N/A N/A	
2006C	88275FKU2	9/1/2037	5.125%	\$ 33,280,000.00	Aa1	AA+	#N/A N/A	
2006D	88275FKV0	9/1/2021	4.800%	\$ 1,275,000.00	Aa1	AA+	#N/A N/A	
	88275FKW8	3/1/2028	4.400%	\$ 2,170,000.00	Aa1	AA+	#N/A N/A	
	88275FKX6	9/1/2028	4.950%	\$ 4,240,000.00	Aa1	AA+	#N/A N/A	
				\$ 7,685,000.00				
2006E	88275FLF4	9/1/2014	4.150%	\$ 1,605,000.00	Aa1	AA+	#N/A N/A	
	88275FLG2	9/1/2015	4.250%	\$ 1,675,000.00	Aa1	AA+	#N/A N/A	
	88275FLH0	9/1/2016	4.300%	\$ 1,755,000.00	Aa1	AA+	#N/A N/A	
	88275FLJ6	9/1/2017	4.400%	\$ 1,830,000.00	Aa1	AA+	#N/A N/A	
				\$ 6,865,000.00				
2006F	88275FLL1	9/1/2022	4.650%	\$ 485,000.00	Aa1	AA+	#N/A N/A	
	88275FLM9	9/1/2027	4.800%	\$ 920,000.00	Aa1	AA+	#N/A N/A	
	88275FLN7	9/1/2032	4.850%	\$ 1,230,000.00	Aa1	AA+	#N/A N/A	
	88275FLP2	3/1/2037	5.750%	\$ 425,000.00	Aa1	AA+	#N/A N/A	
	88275FLQ0	3/1/2038	4.900%	\$ 2,040,000.00	Aa1	AA+	#N/A N/A	
				\$ 5,100,000.00				
2006G	88275FMB2	9/1/2014	4.300%	\$ 90,000.00	Aa1	AA+	#N/A N/A	
	88275FMC0	9/1/2015	4.375%	\$ 190,000.00	Aa1	AA+	#N/A N/A	
	88275FMD8	9/1/2016	4.400%	\$ 110,000.00	Aa1	AA+	#N/A N/A	
	88275FME6	9/1/2019	4.600%	\$ 315,000.00	Aa1	AA+	#N/A N/A	
				\$ 705,000.00				
2006H	88275FLK3	9/1/2037	VAR	\$ 36,000,000.00	Aa1/VMIG1	AA+/A-1+	#N/A N/A	
2007A	88275FMF3	9/1/2038	VAR	\$ 60,900,000.00	Aa1/VMIG1	AA+/A-1+	#N/A N/A	
2007B	88275FMM8	9/1/2014	4.350%	\$ 700,000.00	Aa1	AA+	#N/A N/A	
	88275FMN6	9/1/2015	4.550%	\$ 725,000.00	Aa1	AA+	#N/A N/A	
	88275FMP1	9/1/2016	4.600%	\$ 755,000.00	Aa1	AA+	#N/A N/A	
	88275FMQ9	9/1/2017	4.700%	\$ 790,000.00	Aa1	AA+	#N/A N/A	
	88275FMR7	9/1/2022	5.050%	\$ 4,605,000.00	Aa1	AA+	#N/A N/A	
	88275FMS5	9/1/2027	5.150%	\$ 5,975,000.00	Aa1	AA+	#N/A N/A	
	88275FMT3	9/1/2032	5.250%	\$ 7,780,000.00	Aa1	AA+	#N/A N/A	
	88275FMU0	3/1/2039	5.625%	\$ 6,865,000.00	Aa1	AA+	#N/A N/A	
	88275FMW6	9/1/2039	5.150%	\$ 25,000,000.00	Aa1	AA+	#N/A N/A	
	88275FMV8	9/1/2039	5.300%	\$ 6,555,000.00	Aa1	AA+	#N/A N/A	

EXHIBIT C

Single Family Indenture				Rating Agencies				
Series	CUSIP	Maturity Date	Interest Rate	8/31/2014	Moody's	Standard & Poor's	Fitch	
				Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch	
				\$ 59,750,000.00				
2013A	88275FNT2	3/1/2036	2.800%	\$ 34,425,000.00	Aa1	AA+	#N/A N/A	
Total Bonds Outstanding				\$ 429,890,000.00				
Bonds Rated in the Highest Category (Aaa OR AAA)				\$ -				
Bonds NOT Rated in the Highest Category (Aaa OR AAA)				\$ 429,890,000.00				

EXHIBIT C

RMRB Indenture				Rating Agencies			
Series	CUSIP	Maturity Date	Interest Rate	8/31/2014	Moody's	Standard & Poor's	Fitch
				Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch
2009A	882750JX1	1/1/2015	3.050%	\$ 180,000.00	Aaa	AA+	#N/A N/A
	882750JY9	7/1/2015	3.100%	\$ 180,000.00	Aaa	AA+	#N/A N/A
	882750JZ6	1/1/2016	3.375%	\$ 180,000.00	Aaa	AA+	#N/A N/A
	882750KA9	7/1/2016	3.450%	\$ 180,000.00	Aaa	AA+	#N/A N/A
	882750KB7	1/1/2017	3.800%	\$ 180,000.00	Aaa	AA+	#N/A N/A
	882750KC5	7/1/2017	3.800%	\$ 175,000.00	Aaa	AA+	#N/A N/A
	882750KD3	1/1/2018	3.900%	\$ 175,000.00	Aaa	AA+	#N/A N/A
	882750KE1	7/1/2018	3.900%	\$ 175,000.00	Aaa	AA+	#N/A N/A
	882750KF8	1/1/2019	4.000%	\$ 175,000.00	Aaa	AA+	#N/A N/A
	882750KG6	7/1/2019	4.000%	\$ 175,000.00	Aaa	AA+	#N/A N/A
	882750KH4	7/1/2024	4.850%	\$ 2,200,000.00	Aaa	AA+	#N/A N/A
	882750JN3	7/1/2029	5.100%	\$ 6,790,000.00	Aaa	AA+	#N/A N/A
	882750JP8	7/1/2034	5.300%	\$ 6,220,000.00	Aaa	AA+	#N/A N/A
	882750KJ0	1/1/2039	5.375%	\$ 6,320,000.00	Aaa	AA+	#N/A N/A
	882750KK7	7/1/2039	5.450%	\$ 10,970,000.00	Aaa	AA+	#N/A N/A
				\$ 34,275,000.00			
2009B	882750KT8	7/1/2016	4.250%	\$ 285,000.00	Aaa	AA+	#N/A N/A
	882750KU5	7/1/2017	4.550%	\$ 20,000.00	Aaa	AA+	#N/A N/A
	882750KV3	1/1/2018	4.700%	\$ 200,000.00	Aaa	AA+	#N/A N/A
	882750KW1	7/1/2018	4.700%	\$ 195,000.00	Aaa	AA+	#N/A N/A
	882750KY7	7/1/2019	4.800%	\$ 4,805,000.00	Aaa	AA+	#N/A N/A
	882750KX9	7/1/2022	5.250%	\$ 5,075,000.00	Aaa	AA+	#N/A N/A
				\$ 10,580,000.00			
2009C-1	882750MA7	7/1/2041	3.570%	\$ 62,375,000.00	Aaa	AA+	#N/A N/A
2011A	882750LG5	1/1/2015	2.350%	\$ 885,000.00	Aaa	AA+	#N/A N/A
	882750LH3	7/1/2015	2.450%	\$ 885,000.00	Aaa	AA+	#N/A N/A
	882750LJ9	1/1/2016	2.800%	\$ 895,000.00	Aaa	AA+	#N/A N/A
	882750LK6	7/1/2016	2.900%	\$ 915,000.00	Aaa	AA+	#N/A N/A
	882750LL4	1/1/2017	3.100%	\$ 940,000.00	Aaa	AA+	#N/A N/A
	882750LM2	7/1/2017	3.200%	\$ 965,000.00	Aaa	AA+	#N/A N/A
	882750LN0	1/1/2008	3.500%	\$ 975,000.00	Aaa	AA+	#N/A N/A
	882750LP5	7/1/2018	3.600%	\$ 1,010,000.00	Aaa	AA+	#N/A N/A
	882750LQ3	1/1/2019	3.875%	\$ 1,030,000.00	Aaa	AA+	#N/A N/A
	882750LR1	7/1/2019	3.950%	\$ 1,055,000.00	Aaa	AA+	#N/A N/A
	882750LS9	1/1/2020	4.125%	\$ 1,090,000.00	Aaa	AA+	#N/A N/A
	882750LT7	7/1/2020	4.125%	\$ 1,120,000.00	Aaa	AA+	#N/A N/A
	882750LU4	1/1/2021	4.375%	\$ 1,150,000.00	Aaa	AA+	#N/A N/A
	882750LV2	7/1/2021	4.375%	\$ 1,180,000.00	Aaa	AA+	#N/A N/A
	882750LW0	1/1/2022	4.550%	\$ 1,210,000.00	Aaa	AA+	#N/A N/A
	882750LX8	7/1/2022	4.550%	\$ 1,240,000.00	Aaa	AA+	#N/A N/A
	882750LY6	7/1/2026	5.050%	\$ 10,600,000.00	Aaa	AA+	#N/A N/A
	882750LZ3	7/1/2029	5.000%	\$ 9,830,000.00	Aaa	AA+	#N/A N/A
				\$ 36,975,000.00			
2009C-2	882750NB4	7/1/2041	2.480%	\$ 49,520,000.00	Aaa	AA+	#N/A N/A
2011B	882750MG4	1/1/2015	1.300%	\$ 1,245,000.00	Aaa	AA+	#N/A N/A
	882750MH2	7/1/2015	1.350%	\$ 1,245,000.00	Aaa	AA+	#N/A N/A
	882750MJ8	1/1/2016	1.800%	\$ 1,255,000.00	Aaa	AA+	#N/A N/A
	882750MK5	7/1/2016	1.900%	\$ 1,270,000.00	Aaa	AA+	#N/A N/A
	882750ML3	1/1/2017	2.150%	\$ 1,290,000.00	Aaa	AA+	#N/A N/A
	882750MM1	7/1/2017	2.250%	\$ 1,305,000.00	Aaa	AA+	#N/A N/A
	882750MN9	1/1/2018	2.550%	\$ 1,310,000.00	Aaa	AA+	#N/A N/A
	882750MP4	7/1/2018	2.600%	\$ 1,330,000.00	Aaa	AA+	#N/A N/A
	882750MQ2	1/1/2019	2.850%	\$ 1,350,000.00	Aaa	AA+	#N/A N/A
	882750MR0	7/1/2019	2.900%	\$ 1,375,000.00	Aaa	AA+	#N/A N/A

EXHIBIT C

RMRB Indenture				Rating Agencies			
				8/31/2014	Moody's	Standard & Poor's	Fitch
Series	CUSIP	Maturity Date	Interest Rate	Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch
	882750MS8	1/1/2020	3.100%	\$ 1,400,000.00	Aaa	AA+	#N/A N/A
	882750MT6	7/1/2020	3.100%	\$ 1,425,000.00	Aaa	AA+	#N/A N/A
	882750MU3	1/1/2021	3.300%	\$ 1,455,000.00	Aaa	AA+	#N/A N/A
	882750MV1	7/1/2021	3.300%	\$ 1,480,000.00	Aaa	AA+	#N/A N/A
	882750MW9	1/1/2022	3.500%	\$ 1,515,000.00	Aaa	AA+	#N/A N/A
	882750MX7	7/1/2022	3.500%	\$ 1,550,000.00	Aaa	AA+	#N/A N/A
	882750MY5	1/1/2026	4.050%	\$ 13,780,000.00	Aaa	AA+	#N/A N/A
	882750MZ2	1/1/2030	4.450%	\$ 12,845,000.00	Aaa	AA+	#N/A N/A
	882750NA6	1/1/2034	4.250%	\$ 18,625,000.00	Aaa	AA+	#N/A N/A
				\$ 67,050,000.00			

Total Bonds Outstanding \$ 260,775,000.00

Bonds Rated in the Highest Category (Aaa OR AAA) \$ 260,775,000.00

Bonds NOT Rated in the Highest Category (Aaa OR AAA) \$ -

EXHIBIT C

CHMRB				Rating Agencies			
Series	CUSIP	Maturity	Coupon	8/31/2014	Moody's	Standard & Poor's	Fitch
				Ending Bonds Outstanding	rtg moody	rtg sp	rtg fitch
1992 C-1 & 1992 C-2 (Linked)	882749BM5	7/2/2024	6.9	\$ 1,600,000.00	#N/A N/A	AA+	#N/A N/A
1992 C-1 (SAVRS)	882749BP8	7/2/2024	0.081	\$ 1,050,000.00	#N/A N/A	AA+	#N/A N/A
1992 C-2 (RIBS)	882749BN3	7/2/2024	13.433	\$ 1,050,000.00	#N/A N/A	AA+	#N/A N/A
1992 C-2 (Special Linked)	882749BQ6	7/2/2024	6.758		#N/A N/A	AA+	#N/A N/A
1992 C-2 (Special SAVRS)	882749BR6	7/2/2024	#N/A N/A		#N/A N/A	AA+	#N/A N/A

Total Bonds \$ 3,700,000.00

Bonds Rated in the Highest Category (Aaa OR AAA)

Bonds NOT \$ 3,700,000.00

EXHIBIT C

Multifamily				8/31/2014	Rating Agencies		
MF Bond Issue	CUSIP	MF Program#	Private or Public	Ending Bonds Outstanding	Moody's	Standard & Poor's	Fitch
					rtg moody	rtg sp	rtg fitch
1996 A MF Refunding (Brighton's Mark Development)	88275BBK3	0065	Private Place	\$ 8,075,000.00	#NAME?	NR	#N/A N/A
1998 MF (Pebble Brook Apartments Project)	88275BC55	0089	Public Offer	\$ -	#N/A N/A	AA	#N/A N/A
1998 A MF (Residence at the Oaks Project)	88275BD43	0090	Private Place	\$ 3,911,000.00	#N/A N/A	NR	#N/A N/A
1998 B MF (Residence at the Oaks Project)	88275BDB1	0090	Private Place	\$ 2,088,000.00	#N/A N/A	NR	#N/A N/A
1998 C MF (Residence at the Oaks Project)	88275BD81	0090	Private Place	\$ 71,000.00	#N/A N/A	NR	#N/A N/A
1998 A MF (Greens of Hickory Trail Apartments)	88275BDD7	0092	Public Offer	\$ -	Aaa	AA+	WD
1999 A MF (Mayfield Apartments)	88275BDG0	0093	Private Place	\$ 6,366,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
1999 B MF (Mayfield Apartments)	88275BDH8	0093	Private Place	\$ 2,291,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2000 MF (Timber Point Apartments)	88275BDS4	0095	Public Offer	\$ 6,670,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2000 A MF (Oaks at Hampton Apartments)	None	0096	Private Place	\$ 9,077,562.00	Charter Mac Equity Issuer Trust		
2000 MF (Deerwood Pines Apartments)	88275BEQ7	0097	Public Offer	\$ 5,285,000.00	#N/A N/A	AA-	#N/A N/A
2000 MF (Creek Point Apartments)	88275BER5	0098	Public Offer	\$ 5,660,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2000 A MF (Parks at Westmoreland Apartments)	None	0099	Private Place	\$ 9,045,841.00	Charter Mac Equity Issuer Trust		
2000 A MF (Highland Meadow Village Apartments)	88275BEW4	0101	Private Place	\$ 7,515,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2000 A MF (Greenbridge at Buckingham Apartments)	88275BFH6	0102	Private Place	\$ 19,474,075.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2000 A MF (Collingham Park Apartments)	88275BEZ7	0103	Private Place	\$ 9,184,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2000 B MF (Collingham Park Apartments)	88275BFA1	0103	Private Place	\$ 2,071,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2000 A MF (Williams Run Apartments)	88275BGK8	0104	Private Place	\$ 11,644,381.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2001 MF (Bluffview Apartments)	88275BGU1	0106	Private Place	\$ 9,961,594.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2001 MF (Knollwood Apartments)	88275BGE2	0107	Private Place	\$ 12,801,114.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2001 A MF (Skyway Villas Apartments)	88275BFN3	0108	Public Offer	\$ 5,270,000.00	WR	NR	WD
2001 B MF (Skyway Villas Apartments)	88275BFQ6	0108	Private Place	\$ 1,330,000.00	WR	#N/A N/A	#N/A N/A
2001 A-1 MF (Meridian Apartments)	88275ACG3	0111	Public Offer	\$ 7,685,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2001 B MF (Meridian Apartments)	88275ACH1	0111	Private Place	\$ 391,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2001 A-1 MF (Wildwood Apartments)	88275ACI7	0112	Public Offer	\$ 6,241,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2001 A MF (Fallbrook Apartments)	88275BGB8	0113	Private Place	\$ 11,118,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2001 B MF (Fallbrook Apartments)	88275BGC6	0113	Private Place	\$ 1,358,000.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2001 MF (Oak Hollow Apartments)	88275BGV4	0114	Private Place	\$ 6,032,910.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2001 A MF (Hillside Apartments)	88275BGX0	0115	Private Place	\$ 12,209,753.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2002 MF (Park Meadows Apartments)	88275BGW2	0119	Private Place	\$ 3,805,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2002 MF (Clarkridge Villas Apartments)	None	0120	Private Place	\$ 13,084,402.00	Charter Mac Equity Issuer Trust		
2002 MF (Hickory Trace Apartments)	None	0121	Private Place	\$ 10,821,029.00	Charter Mac Equity Issuer Trust		
2002 MF (Green Crest Apartments)	88275BHS0	0122	Public Offer	\$ 10,775,925.00	#N/A N/A	#N/A N/A	#N/A N/A
2002 A MF (Ironwood Crossing)	None	0123	Private Place	\$ 15,000,000.00	Charter Mac Equity Issuer Trust		
2002 B MF (Ironwood Crossing)	None	0123	Private Place	\$ 1,179,043.00	Charter Mac Equity Issuer Trust		
2003 A MF Refunding (Reading Road)	88275BJJ8	0125	Public Offer	\$ 8,950,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2003 B MF Refunding (Reading Road)	88275BKJ5	0125	Private Place	\$ 1,740,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2003 A MF (North Vista)	88275BH15	0126	Public Offer	\$ 9,050,000.00	WR	NR	WD
2003 A MF (North Vista)	88275BHM3	0126	Public Offer	\$ 2,260,000.00	WR	NR	WD
2003 A MF (West Virginia Apartments)	88275BHT8	0127	Public Offer	\$ 6,530,000.00	WR	NR	WD
2003 A MF (West Virginia Apartments)	88275BHU5	0127	Public Offer	\$ 1,635,000.00	WR	NR	WD
2003 A MF (Primrose Houston School Apartments)	88275BJB5	0129	Private Place	\$ 15,000,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2003 B MF (Primrose Houston School Apartments)	88275BJC3	0129	Private Place	\$ 838,717.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2003 A MF (Timber Oaks Apartments)	None	0130	Private Place	\$ 10,900,000.00	Charter Mac Equity Issuer Trust		
2003 B MF (Timber Oaks Apartments)	None	0130	Private Place	\$ 1,673,925.00	Charter Mac Equity Issuer Trust		
2003 A MF (Ash Creek Apartments)	88275BJS8	0131	Private Place	\$ 15,000,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2003 B MF (Ash Creek Apartments)	88275BJT6	0131	Private Place	\$ 558,998.00	#N/A N/A	#N/A N/A	#N/A N/A
2003 A MF (Peninsula Apartments)	88275BJU3	0132	Public Offer	\$ 10,775,000.00	#N/A N/A	AA+	#N/A N/A
2003 A MF (Arlington Villas Apartments)	88275BJX7	0134	Public Offer	\$ 15,000,000.00	WR	#N/A N/A	#N/A N/A
2003 B MF (Arlington Villas Apartments)	88275BJY5	0134	Public Offer	\$ 1,383,623.00	WR	#N/A N/A	#N/A N/A
2003 A MF (Parkview Townhomes Apartments)	None	0135	Private Place	\$ 13,292,941.00	Charter Mac Equity Issuer Trust		
2003 MF (NHP Foundation - Asmara Project)	88275BHGG6	0136	Public Offer	\$ 18,200,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2004 A MF (Timber Ridge II Apartments)	88275BJZ2	0137	Private Place	\$ 6,370,425.00	#N/A N/A	#N/A N/A	#N/A N/A
2004 A MF (Century Park Townhomes)	88275BKD9	0138	Public Offer	\$ 9,010,000.00	WR	NR	WD
2004 B MF (Century Park Townhomes)	88275BK1	0138	Private Place	\$ 2,260,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2004 A MF (Providence at Veterans Memorial Townhomes)	None	0140	Private Place	\$ 6,753,716.00	Charter Mac Equity Issuer Trust		
2004 MF (Providence at Rush Creek II)	88275BKH0	0141	Private Place	\$ 8,398,068.00	#N/A N/A	NR	#N/A N/A
2004 MF (Humble Parkway Townhomes)	88275BKJ6	0142	Public Offer	\$ 10,760,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2004 MF (Chisholm Trail Apartments)	88275BKR8	0143	Public Offer	\$ 10,800,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2004 MF (Evergreen at Plano Parkway)	88275BKX5	0144	Private Place	\$ 14,053,219.00	#N/A N/A	#N/A N/A	#N/A N/A
2004 MF (Montgomery Pines Apartments)	88275BKU1	0145	Public Offer	\$ 11,300,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2004 MF (Bristol Apartments)	88275BKT4	0146	Public Offer	\$ 11,600,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2004 MF (Pinnacle Apartments)	88275BKV9	0147	Public Offer	\$ 13,465,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2004 MF (Tranquillity Bay Apartments)	88275BKY3	0148	Private Place	\$ -	#N/A N/A	#N/A N/A	#N/A N/A
2004 MF (Churchill at Pinnacle Park)	88275BKZ0	0150	Private Place	\$ 9,518,053.00	#N/A N/A	#N/A N/A	#N/A N/A
2004 MF (Providence at Village Fair)	None	0152	Private Place	\$ 13,366,179.00	Charter Mac Equity Issuer Trust		
2005 MF (Homes at Pecan Grove)	88275BLW6	0153	Public Offer	\$ 13,116,977.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2005 MF (Providence at Prairie Oaks)	None	0154	Private Place	\$ 10,490,697.00	Charter Mac Equity Issuer Trust		
2005 MF (Port Royal Homes)	None	0155	Private Place	\$ 11,582,486.00	Charter Mac Equity Issuer Trust		
2005 MF (Mission Del Rio Homes)	88275BLK2	0156	Private Place	\$ 8,932,753.00	#N/A Invalid Security	#N/A Invalid Security	#N/A Invalid Security
2005 MF (Atascocita Pines Apartments)	88275BLV8	0157	Public Offer	\$ 11,090,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2005 MF (Tower Ridge Apartments)	88275BLX4	0158	Public Offer	\$ 15,000,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2005 MF (Prairie Ranch Apartments)	88275BMC9	0161	Public Offer	\$ 11,260,000.00	A1	#N/A N/A	#N/A N/A
2005 MF (St. Augustine Estate Apartments)	88275BME5	0162	Public Offer	\$ 6,080,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2005 MF (Park Manor Senior Community)	88275BMD7	0163	Private Place	\$ 10,400,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2005 MF (Providence Mockingbird Apartments)	None	0164	Private Place	\$ 10,841,488.00	Charter Mac Equity Issuer Trust		
2005 MF (Plaza at Chase Oaks Apartments)	None	0165	Private Place	\$ 12,564,124.00	Washington Mutual Bank		
2005 MF (Coral Hills Apartments)	88275BMP0	0167	Public Offer	\$ 4,575,000.00	#N/A N/A	AA+	#N/A N/A
2006 MF (Harris Branch Apartments)	88275BMZ8	0168	Public Offer	\$ 13,790,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2006 MF (Bella Vista Apartments)	88275BNB0	0169	Private Place	\$ 6,490,000.00	#N/A N/A	#N/A N/A	#N/A N/A

EXHIBIT C

Multifamily				8/31/2014	Rating Agencies		
MF Bond Issue	CUSIP	MF Program#	Private or Public	Ending Bonds Outstanding	Moody's rtg moody	Standard & Poor's rtg sp	Fitch rtg fitch
2006 MF (Village Park Apartments)	88275BNC8	0170	Public Offer	\$ 9,765,000.00	#N/A N/A	AA+	#N/A N/A
2006 MF (Oakmoor Apartments)	88275BNA2	0171	Private Place	\$ 13,886,767.00	#N/A N/A	#N/A N/A	#N/A N/A
2006 MF (The Residences at Sunset Pointe)	88275AAA8	0172	Public Offer	\$ 15,000,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2006 MF (Hillcrest Apartments)	88275AAE0	0173	Public Offer	\$ 10,360,000.00	#N/A N/A	NR	#N/A N/A
2006 MF (Pleasant Village)	None	0174	Private Place	\$ 5,343,923.00	US Bank		
2006 Multi-Family (Grove Village)	None	0175	Private Place	\$ 5,463,525.00	US Bank		
2006 MF (Red Hills Villas) Refunding	88275AAK6	0176	Public Offer	\$ 4,715,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2006 MF (Champions Crossing Apartments)	88275AAJ9	0177	Public Offer	\$ 4,575,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2006 MF (Stonehaven Apartments)	None	0178	Private Place	\$ -	Washington Mutual Bank		
2006 MF (Meadowlands Apartments)	88275AAH3	0180	Private Place	\$ 11,966,822.00	#N/A N/A	#N/A N/A	#N/A N/A
2006 MF (East Tex Pines)	88275AAP5	0181	Private Place	\$ 13,110,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2006 MF (Villas at Henderson)	88275AAV2	0182	Public Offer	\$ 6,720,000.00	#N/A N/A	A/A-1	#N/A N/A
2006 MF (Aspen Park)	88275AAR1	0183	Public Place	\$ 9,235,000.00	#N/A N/A	AA+	#N/A N/A
2006 MF (Idlewild)	88275AAY6	0184	Public Offer	\$ 13,490,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2007 MF (Lancaster)	88275ABA79	0185	Public Offer	\$ 13,480,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2007 MF (Park Place at Loyola)	88275ABB5	0186	Private Place	\$ 13,968,012.00	#N/A N/A	#N/A N/A	#N/A N/A
2007 MF (Terraces at Cibolo)	88275ABC3	0187	Public Place	\$ 4,900,000.00	#N/A N/A	A/A-1	#N/A N/A
2007 MF (Santora Villas)	88275ABD1	0188	Private Place	\$ 11,858,570.00	#N/A N/A	#N/A N/A	#N/A N/A
2007 MF (Villas @ Mesquite)	88275ABH2	0189	Public Offer	\$ 15,970,000.00	Aa1	#N/A N/A	#N/A N/A
2007 MF (Summit Point)	88275ABJB	0190	Public Offer	\$ 9,070,000.00	#N/A N/A	AA+	#N/A N/A
2007 MF (Costa Rialto)	None	0191	Private Place	\$ 10,386,102.00	Centerline Equity Issuer Trust		
2007 MF (Windshire)	88275ABN9	0192	Public Offer	\$ 13,500,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2007 MF (Residences @ Onion Creek)	88275ABX7	0193	Public Offer	\$ 15,000,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2008 MF (West Oaks Apartments)	88275ABY5	0194	Public Offer	\$ 12,325,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2008 MF (Costa Ibiza Apartments)	88275ACD0	0195	Public Offer	\$ 13,220,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2008 MF (Addison Park Apartments)	88275ACE8	0196	Public Offer	\$ 13,005,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2008 MF (Alta Cullen Refunding)	88275ACF5	0197	Public Offer	\$ 12,200,000.00	#N/A N/A	AA+/A-1+	#N/A N/A
2009 MF (Costa Mariposa)	88275ACK4	0198	Public Offer	\$ 13,470,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2009 MF (Woodmont)	88275ACL2	0199	Public Offer	\$ 14,665,000.00	Aaa/VMIG1	#N/A N/A	#N/A N/A
2013 MF (Waters at Willow Run)	88275ACM0	0200	Public Offer	\$ 14,500,000.00	#N/A N/A	A-1+	#N/A N/A
2014 MF (Decatur Angle)	88275ACN8	0201	Private Place	\$ 23,000,000.00	#N/A N/A	#N/A N/A	#N/A N/A
2014 MF (Northcrest)	88275ACS7	0202	Public Offer	\$ 2,900,000.00	#N/A N/A	A-1+	#N/A N/A
2014 MF (Pine Haven)	88275ACR9	0203	Public Offer	\$ 2,700,000.00	#N/A N/A	A-1+	#N/A N/A

\$ 997,897,739.00

Bonds Rated in the Highest Category (Aaa OR AAA) \$ 184,605,000.00

Bonds NOT Rated in the Highest Category (Aaa OR AAA) \$ 813,292,739.00

ACTION ITEMS

2a

Item 2a

3-day Posting

2b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding the Sufficiency of a Letter Submitted to meet a Condition of a Housing Tax Credit Award for Application #14130, Tays, El Paso

BACKGROUND

A 2014 Competitive Housing Tax Credit application was submitted for Tays, located in El Paso, Urban Region 13. Pursuant to §10.101(a)(4) of the Rules, the application included a request for pre-clearance which indicated that the proposed development is located in the Chamizal Neighborhood, described as primarily residential with some commercial business, namely grocery stores, restaurants, repair shops, and retail. The request also included information regarding proximity to heavy industrial and some instances of blight and crime as well as to an active railway. On May 13, 2014, staff granted pre-clearance for the site.

Subsequent to that action, staff's review of a challenge to the Tays application prompted a site visit on May 30, 2014. The challenge contended that the site should be found ineligible pursuant to §10.101(a)(4) of the Rules (among other specific challenges to the application), and the applicant's response to the challenge only provided limited information with respect to crime issues. Staff visited the site, and ultimately deemed the site ineligible. The application was terminated on June 12, 2014, and was then appealed by the Applicant. On July 31, 2014, the Board reinstated the Application and conditioned its award on upon the Applicant obtaining a letter from the appropriate officials at HUD with authority to speak for Fair Housing and Equal Opportunity stating that this specific proposed transaction complies fully with the Fair Housing Act. This condition was to be met by Carryover on November 3, 2014. At the November board meeting, the Board extended that deadline to December 10, 2015. The Applicant submitted the attached by the December 10 deadline, and staff is presenting it for acceptance or rejection by the Board.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-5000

OFFICE OF THE ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

Mr. Gerald Cichon
Chief Executive Officer
Housing Authority of the City of El Paso
5300 East Paisano
El Paso, TX 79905

December 9, 2014

Dear Mr. Cichon:

The Department of Housing and Urban Development (HUD) has conducted a site and neighborhood standard review pursuant to 24 CFR Section 905.602(d) for a proposed partial redevelopment of the Tays Apartments in El Paso, TX, owned by the Housing Authority of City of El Paso (HACEP). Enclosed is a memorandum from the Office of Fair Housing and Equal Opportunity (FHEO) in the HUD Fort Worth Office that provides the analysis and approval of the site and neighborhood for the redevelopment of Tays Apartments.

You submitted a Mixed-Finance Proposal to HUD for the redevelopment of the Tays Apartment site on November 12, 2014. You have also informed OPHI that HACEP received a conditional approval of an allocation of 9 percent Low Income Housing Tax Credits (LIHTC) from the Texas Department of Housing and Community Affairs (TDHCA) for a new 198-unit development on a portion of the Tays site. TDHCA has requested that you provide it with a letter from HUD stating that the Tays site affirmatively furthers fair housing. Please be aware that the attached FHEO approval of site and neighborhood standards pursuant to 24 CFR Section 905.602(d) is all that is necessary from FHEO and will allow HUD's Office of Public Housing Investment (OPHI) to continue to work with HACEP in order to complete its final approval of this important Mixed-Finance project.

The redevelopment of the Tays Apartment site is an important project that HUD supports. Please contact me at 202-402-4500 if you need additional information.

Sincerely,

Susan A. Wilson
Director, Office of Urban Revitalization
Office of Public Housing Investments

Enclosure

cc: Victoria Main, Interim Regional Public Housing Director, 4HPH
Regenia Hawkins, Director, Office of Public Housing, Fort Worth, TX 6APHI



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Fort Worth Regional Office, Region VI
Office of Fair Housing & Equal Opportunity
801 Cherry Street, Unit 45, Suite 2500
Fort Worth, TX 76102
Phone 1-888-560-8913 - Fax (817) 978-5876
www.hud.gov

December 9, 2014

Memorandum for: Susan Wilson, Office of Public and Indian Housing

From: Garry L. Sweeney, Director, Fort Worth Regional Office of Fair Housing and Equal Opportunity, Region VI

Subject: FHEO Site and Neighborhood Standards Review Pursuant to 24 CFR 905.602 (d) – Proposed Tays Redevelopment

The Housing Authority of the City of El Paso (HACEP) is proposing to demolish 81 units of Low Income Public Housing (LIPH) located at its Tays Property, 2114 Magoffin Avenue, and construct 50 units of LIPH and 148 units of Low Income Housing Tax Credit affordable units. The EPHA has plans to eventually demolish and replace the remaining 278 units with an unspecified number of LIPH as funding becomes available.

I have reviewed available information pertaining to the Tays Proposed Redevelopment and have concluded that the proposal satisfactorily meets the subject site and neighborhood standards as provided below.

24 CFR 905.602 (d) (2)

“ The site and neighborhood shall be suitable to facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations under these Statutes”

The Tays Project is located within the Chamizal area of El Paso. The Tays project, constructed in 1941, is the oldest of the EPHA properties. It was rehabilitated in 2003. All but 7 of the 81 units proposed for demolition are reportedly occupied.

The Chamizal area is 96% Hispanic as compared to the 76% Hispanic population for the City of El Paso. 51% of Chamizal area residents have incomes below the poverty level as compared to 22.2 % for the city of El Paso. The median income of Chamizal residents is \$11, 989.00 as compared to \$32, 124.00 for the City of El Paso. The majority of the land in the Chamizal area is occupied by residential single family dwellings of which the majority are rental properties.

The City of El Paso designated the Chamizal area as a Revitalization area and by Resolution dated February 25, 2014, the City affirmed that the HACEP Tays redevelopment proposal will contribute to the concerted efforts outlined the Chamizal Neighborhood Revitalization Strategy. Between 2008-2013, the City of El Paso has directed \$23,141.451 in funds to the Chamizal area to

improve housing, health and safety and infrastructure. The City has identified the Chamizal area as being one of two CDBG designated areas in its current Consolidated Plan. By Resolution of January 7, 2014, the City has committed \$100,000 in CDBG HOME Funds to Tays redevelopment.

Hispanics represent the majority of persons participating in HACEP LIPH and Housing Choice Voucher (HCV) programs. The HACEP currently has a waiting list of 9,343 applicants for the LIPH program and 5,445 for the HCV program. The majority (90% plus) of the applicants waiting for housing assistance are Hispanic.

In August, 2014, the HACEP opened the Eastside Crossing, a mixed income development at 2015 N. Zaragosa Rd. This development is composed of 188 units of which 64 were LIPH, 79 affordable rents and 45 market rents. This development is located in an ethnically and economically diverse area as compared to the Chamizal area.

There does not appear to be any indication that the proposed redevelopment of the Tays Property poses a violation of Title VI, Title VIII or E.O. 11063. The redevelopment appears to be consistent with the City's overall strategy to improve the quality of living conditions in its most economically disadvantage area of the city. Additionally, the proposed development will contribute to the economic diversity of the area by providing more affordable rent units. Also, as evidenced by the Eastside Crossing development, the HACEP has attempted to provide assisted housing opportunities in areas of greater ethnic and economic diversity.

24 CFR 905.602 (d) (5) (i) (ii) (iii)

“Notwithstanding the foregoing, after demolition of public housing units, a PHA may construct public housing units on the original public housing site or in the same neighborhood if the number of replacement public housing unit is significantly fewer than the number of public housing units demolished. One of the following criteria must be satisfied:

(i) The number of public housing units being constructed is not more than 50 percent of the number of public housing units in the original development; or

(ii) In the case of replacing an occupied development, the number of public housing units being constructed is the number needed to house current residents who want to remain on the site, so long as the number of public housing units being constructed is significantly fewer than the number being demolished; or

(iii) The public housing units being constructed constitute no more than 25 units.”

The proposed Tays Development provides for the demolishing of 81 of the current 359 LIPH units on the site and replacing the 81 with 50 units of LIPH. The HACEP proposes to demolish the remaining 278 LIPH units in the future and replace them with an unspecified number of LIPH. The 50 units of new LIPH represent 14% of the 359 units composing the Tays Development. **24 CFR 905.602 (d) (5) (i) appears to be met.**

The HACEP proposal does not stipulate how many of the current residents desire to return to the Tays Development following the completion of the 50 units. It can be speculated that, based upon the very large number of persons on both the LIPH and HCV waiting lists, that there will be a significant number of current tenants who would desire to return to the development. Additionally, the proposed 50 LIPH units represent a 32 percent reduction from the current 81 units. **It would appear that 24 CFR 905.602 (d) (5) (ii) could be met if the HACEP surveys the current tenants and they express the desire to return to the property.**

The proposed 50 LIPH units exceed the 25 unit threshold, therefore, 24 CFR 905.602 (d) (5)(iii) is not met.

Please let me know if you have any further questions regarding this review.

3

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
DECEMBER 18, 2014

Presentation, Discussion, and Possible Action regarding Waiver of §11.8(a)(2) of the Qualified Allocation Plan related to Pre-Application Requirements (Competitive HTC Only) in order to comply with statutory requirements.

RECOMMENDED ACTION

WHEREAS, §11.8(a)(2) of the Qualified Allocation Plan (“QAP”), related to Pre-Application Requirements (Competitive HTC Only), states “the pre-application shall consist of one (1) CD-R containing a PDF copy and Excel copy submitted to the Department in the form of single files as required in the Multifamily Programs Procedures Manual”;

WHEREAS, Texas Government Code (“Statute”) §2306.67041(c), related to On-Line Application System, states “in the application cycle following the date any on-line application system becomes operational, the department shall require use of the system for submission of pre-applications and applications under this subchapter”;

WHEREAS, the online pre-application for Competitive Housing Tax Credits is now operational as of December 1, 2014, and therefore Statute requires its use for the 2015 Cycle; and

WHEREAS, §11.8(a)(2) of the QAP conflicts with the requirements of Statute; and

NOW, therefore, it is hereby

RESOLVED, that §11.8(a)(2) of the QAP, requiring that the pre-application be submitted in the form of one CD-R containing a PDF copy and Excel copy of the pre-application is waived, allowing for online pre-application submission for the 2015 Competitive Cycle.

BACKGROUND

In 2001, the Texas Legislature amended the Texas Government Code §2306.67041, requiring the Department “to evaluate the feasibility of an on-line application system for the Low Income Housing Tax Credit program.” Over the last 12 years, the Department has made continual improvements in the online application materials and electronic processes.

During the 2014 cycle, staff evaluated multiple options for accepting on-line pre-applications for the 2015 competitive cycle. These options included creating an add-on module to the Department's existing database and the use of a myriad of existing third party services. After extensive evaluation of all available options, staff ultimately chose to use a third-party on-line form service called JotForm due to its ease of use and low cost. Staff then set about creating the online pre-application and testing its functionality. Once it was complete, the Department conducted an agency-wide stress test of the pre-application in order to simulate the volume of traffic anticipated on January 8, 2015, the Pre-Application Final Delivery Date. The system preformed exactly as anticipated and staff deemed the online pre-application "operational."

The Development community has been supportive of this effort and has been trained on the new system at the Application workshops recently held in Austin, Dallas, and Houston. The Multifamily Programs Procedures Manual has been updated with this new system and posted to the Department's website.

Although staff anticipated having the online pre-application operational in time for use during the 2015 cycle, out of an abundance of caution, staff elected not to remove §11.8(a)(2) of the QAP that was recently out for public comment, which requires Applicant's to submit one CD-R containing a PDF copy and Excel copy of the pre-application.

Staff recommends a blanket waiver of §11.8(a)(2) of the 2015 QAP, removing the requirement of submitting one CD-R containing a PDF copy and Excel copy of the pre-application, to allow for online pre-application submission.

This tab includes printed materials submitted in connection with requests to make public comment

From: [Michael Lyttle](#)
To: [BBB](#)
Subject: FW: Materials for TDHCA Board meeting
Date: Thursday, December 11, 2014 2:32:49 PM
Attachments: [ESCT Mental Health and Housing Report FINAL.pdf](#)

Please include the attached item in the Board Book with regards to Agenda Item 1(i).

From: Tanya Lavelle [<mailto:tlavelle@eastersealstx.org>]
Sent: Thursday, December 11, 2014 9:03 AM
To: Michael Lyttle
Subject: Materials for TDHCA Board meeting

Good morning,
Please find attached a PDF of the report I will be presenting at next week's board meeting.
Thank you for all of your help!
Best,
Tanya

Tanya Lavelle, MPAff
*Senior Manager of Advocacy
Community and Housing Services
Easter Seals Central Texas*
512-615-6884

Like our new Easter Seals Texas Adovcacy page:
<https://www.facebook.com/EasterSealsTXAdvocates>

Consider making a year-end donation to help us provide needed services to children and adults with a disabilities to live, learn and work in their community.



Make a tax-deductible end of year gift to Easter Seals Central Texas here:
<http://bit.ly/DonateAGift>

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MENTAL HEALTH AND HOUSING:

How Texas Can Help Its Citizens Achieve Recovery Through Investment and Innovation in Supportive Housing

The Invest Necessary Time and Energy for General Revenue Appropriations for Everyone's Housing! (INTEGRATE Housing!) Project



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Primary Author

Tanya Lavelle, MPAff, is the Senior Manager of Advocacy at Easter Seals Central Texas. She began her work with Easter Seals as a Hogg Foundation Mental Health Policy Fellow, and continues her work advocating for individuals with disabilities including individuals experiencing mental illness. She specializes in health care and housing issues, and is working to advocate for systems changes at the state level to ensure that individuals experiencing mental illness have access to affordable, supportive housing.

Easter Seals Central Texas Mission

The mission of Easter Seals Central Texas is to promote independence and create opportunities for people with disabilities to pursue their hopes and dreams.

Acknowledgments

We are grateful to the **Hogg Foundation for Mental Health** for generously funding this in-depth examination of current housing systems and resulting challenges facing Texans experiencing mental illness. This report reflects input from hundreds of people experiencing mental illness across Texas, as well as input from other stakeholder organizations and agencies.

Easter Seals Central Texas would like to acknowledge the hard work of **Penny Seay, Ph.D.** and **Elaine Eisenbaum, MSW**, from the **Texas Center For Disability Studies**. Their partnership and expertise on this project was instrumental to its success. We would also like to thank **Jolene Sanders** from Easter Seals Central Texas for her important contributions to this report.

Executive Summary

The housing climate in Texas is highly competitive and increasingly unaffordable. Texas is home to seven of the 15 fastest growing cities in the nation and the state's housing stock is struggling to meet the demands of that rapid growth. This trend is greatly impacting individuals experiencing mental illness who already commonly face additional barriers to housing like long waiting lists for assistance, discrimination, trouble clearing background checks and poor credit histories. **Housing is an essential component to achieving recovery.** Without access to a more diverse range of affordable, supportive housing options, housing paired with support services, Texans experiencing mental illness risk homelessness and increased risk of incarceration.

Gaining a better understanding of the unique housing challenges facing people experiencing mental illness is important to facilitate progressive, cost effective solutions in Texas. This was the goal of the Invest Necessary Time and Energy for General Revenue Appropriations for Everyone's Housing! (INTEGRATE Housing!) Project. The project was completed in three phases:

- Texas Housing Survey
- Conducting in-person interviews
- Data-driven policy recommendations

The following recommendations aim to improve state housing and mental health services, reduce the painful and costly cycle of homelessness and criminal justice involvement for individuals experiencing mental illness, and promote recovery:

- **Invest time, energy and resources into developing a Texas-based supportive housing program** with general revenue-funded permanent supportive housing vouchers.
- **Improve existing housing programs that serve individuals experiencing mental illness** by expanding the Department of State Health Services (DSHS) rental assistance program and serve more people by making systemic improvements to the HOME Persons with Disabilities (PWD) set aside programs.
- **Ensure the availability of community-based services and supports** through the use of the 1915(i) Home and Community Based Services-Adult Mental Health (HCBS-AMH) program.

In this report you will learn more about the barriers to housing facing individuals experiencing mental illness through analysis of the Texas Housing Survey, and meet some of the study participants to see the impact of this problem through their eyes. We solicited stakeholder input throughout the process, and further input will be necessary as we move forward with these policy recommendations with the goal of improving outcomes for Texans experiencing mental illness.



INTEGRATE Housing! Project

The Invest Necessary Time and Energy for General Revenue Appropriations for Everyone's Housing! (INTEGRATE Housing! Project) is a partnership between Easter Seals Central Texas and the Texas Center for Disability Studies. The project was undertaken to understand the true needs and barriers to housing and support services facing Texans experiencing mental illness. Funded by the Hogg Foundation for Mental Health, this project uses survey research, analysis and in-person interviews to gather a holistic set of data measuring a variety of factors that contribute to a person's housing satisfaction. The research component was twofold: an initial online survey that was distributed statewide through multiple channels, and in-person interviews with survey participants who volunteered to share their stories with project supervisors. After analyzing the survey and interview responses, a set of policy recommendations was crafted to help Texas alleviate the challenges individuals experiencing mental illness face when attempting to secure housing and support services.

Phase One: Texas Housing Survey

Phase one of the INTEGRATE Housing! Project was the online survey entitled the Texas Housing Survey. The survey was 36 questions long and designed specifically for adults who self-identify as having a mental illness. Self-advocates were consulted during the question design process to ensure that the survey was consumer-friendly and reflective of the challenges individuals experiencing mental illness face when trying to secure housing. Questions measured a variety of demographic data and housing-related information, including past and current housing arrangements, affordability, and barriers to housing. There were also questions included to measure respondent satisfaction with case management services. The majority of the survey was multiple choice, but open-ended questions were added to solicit more in-depth information from respondents about their own housing experiences. To reach the widest audience, the survey was done online and kept anonymous. There was excellent stakeholder buy-in with this project and dozens of non-profits, Local Mental Health Authorities (LMHAs) and peers helped distribute the survey widely. Over 320 individuals completed the survey yielding 191 completed, valid responses.

Phase Two: In-Person Interviews

The Texas Housing Survey gave researchers a broad picture of the major housing-related challenges facing people experiencing mental illness; but, surveys do not tell the entire story. Phase two of the INTEGRATE Housing! Project was conducting in-depth, in-person interviews. Upon completion of the online survey, respondents were given the option to volunteer to participate in in-person interviews to share their stories in more detail. A demographically and geographically diverse group of 70 people volunteered to be interviewed. Of the 70 volunteers, ten were chosen to participate in one-hour, in-person interviews with project supervisors. Project supervisors visited interviewees in their hometowns and met with them at local nonprofits to discuss their experiences with housing. All ten stories are included in full at the end of this report.

Phase Three: Policy Recommendations

Currently, Texas invests very few of its own resources in affordable, supportive housing for individuals experiencing mental illness. After analyzing the survey data and in-person interviews, it is clear that there is a huge unmet need for these services. To better meet the need, Texas needs to take action by creating new and innovative housing programs, bolstering the programs that already exist and doing more to ensure that appropriate support services are made available to those who need them.

Housing and Mental Health in Texas

Housing

Texas is experiencing vibrant population growth, outpacing the U.S. rate since 2009.¹ In fact, seven of the 15 fastest growing cities in the nation are located right here in Texas.² This growth is projected to continue; therefore it is important to anticipate the impact it will have on our cities and the lives of Texans.³

As the population swells, the demand for housing also increases, however the supply of housing in Texas is struggling to keep up with that demand. The Texas Department of Housing & Community Affairs (TDHCA) reports that the state currently only has a 3.3 month supply of real estate inventory.⁴ Housing is particularly limited in urban core areas where occupancy rates reach 95 percent.⁵ Developers have responded to the housing need with increased new construction, but housing availability remains inadequate.⁶

This competitive housing climate in Texas has subsequently impacted housing affordability. As more and more Texans compete for housing, home prices and rent costs are rising, making it increasingly difficult for individuals and families to obtain and maintain housing. In fact, Texas has seen a decrease in the percentage of its population who are able to afford housing, paying more than 30 percent of their income for housing.⁷ Even more alarming is the concurrent increase in the number of households that are spending half or more of their income on housing alone.⁸ These households are considered cost burdened, and may experience significant challenges affording basic things like food, clothing, utilities, health care, and transportation.⁹ Experts caution that this shift could lead to market dysfunction, overcrowding, and social problems.¹⁰

“Nearly 833,000 adults in Texas are living with a serious mental illness (SMI) and yet the state public mental health system provides services to only 21 percent of those adults.”

Mental Health

Nearly 833,000 adults in Texas are living with a serious mental illness (SMI) and yet the state public mental health system provides services to only 21 percent of those adults.¹¹ Texans experiencing SMI are not receiving the services they need, in part because Texas is not funding those services. In fact, Texas currently ranks 50th in the nation in funding for mental health services, spending only \$38.99 per capita compared to the national average of \$120.56.¹² This chronic underfunding was noted by the National Alliance on Mental Illness (NAMI) as a factor in assigning Texas a grade of “D” on its state report card. Also cited was Texas’ lack of commitment to permanent supportive housing, a key component of independent living.¹³

¹ Valencia, Lila. Statement to the Texas House of Representatives, Committee on Urban Affairs. *Examine the Population Growth, Its Impact, and Texas’ Ability to Ensure Stability*, Hearing, October 15, 2014. Available at: http://tchouse.granicus.com/MediaPlayer.php?view_id=28&clip_id=9256; Accessed: 10/15/2014.

² Peralta, Katherine. “Everything’s Bigger, and Still Getting Bigger, in Texas.” *US News*. U.S. News & World Report, 22 May 2014. Web. 30 Nov. 2014. <<http://www.usnews.com/news/articles/2014/05/22/texas-cities-among-nations-fastest-growing-us-census-bureau-says>>.

³ “Texas Population, 2020 (Projections).” *Texas Department of State Health Services*. DSHS Center for Health Statistics, 27 Mar. 2014. Web. 5 Nov. 2014. <<https://www.dshs.state.tx.us/chs/popdat/st2020.shtm>>.

⁴ Irvine, Tim. Statement to the Texas House of Representatives, Committee on Urban Affairs. *Examine the Population Growth, Its Impact, and Texas’ Ability to Ensure Stability*, Hearing, October 15, 2014. Available at: http://tchouse.granicus.com/MediaPlayer.php?view_id=28&clip_id=9256; Accessed: 10/15/2014.

⁵ Valencia, loc. cit.

⁶ Mintz, David. Statement to the Texas House of Representatives, Committee on Urban Affairs. *Examine the Population Growth, Its Impact, and Texas’ Ability to Ensure Stability*, Hearing, October 15, 2014. Available at: http://tchouse.granicus.com/MediaPlayer.php?view_id=28&clip_id=9256; Accessed: 10/15/2014.

⁷ “Affordable Housing.” HUD.gov. US Department of Housing and Urban Development Web. 01 Dec. 2014. <http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/>.

⁸ Henneberger, John. Statement to the Texas House of Representatives, Committee on Urban Affairs. *Examine the Population Growth, Its Impact, and Texas’ Ability to Ensure Stability*, Hearing, October 15, 2014. Available at: http://tchouse.granicus.com/MediaPlayer.php?view_id=28&clip_id=9256; Accessed: 10/15/2014.

⁹ HUD, loc. cit.

¹⁰ Henneberger, loc. cit.

¹¹ *NAMI State Advocacy 2010 State Statistics: Texas*. Fact Sheet. National Alliance on Mental Illness, 2010. Web. 29 Oct. 2014. <http://www.nami.org/Content/NavigationMenu/State_Advocacy/Tools_for_Leaders/Texas_State_Statistics.pdf>.

¹² “State Mental Health Agency (SMHA), Per Capita Mental Health Services Expenditures.” *State Health Facts*. The Henry J. Kaiser Family Foundation, 2012. Web. 29 Oct. 2014. <<http://kff.org/other/state-indicator/smha-expenditures-per-capita/#>>.

¹³ Aron, Laudan, M.D., and Ron Honberg, J.D. *Grading the States 2009: A Report on America’s Health Care System for Adults with Serious Mental Illness*. Rep. National Alliance on Mental Illness, 2009. Web. 02 Dec. 2014. <http://www.nami.org/gtsTemplate09.cfm?Section=Texas_Grades09&template=/contentmanagement/contentdisplay.cfm&contentID=74732>.



It is crucial to examine the intersection of housing and mental health in Texas and consider the urgent need that exists here. The current housing trends in Texas will have a disparate impact on individuals and households living on fixed incomes like Supplemental Security Income (SSI). Individuals experiencing mental illness are at an even greater disadvantage: 90 percent of individuals living with serious mental illness are unemployed and many must rely solely on SSI as their source of income.¹⁴ Without assistance, it is unrealistic that they could afford housing on their own, given that the average rent for just a studio apartment in Texas is 92 percent of the average SSI payment.¹⁵ This creates significant barriers to obtaining and maintaining housing and can lead

to homelessness. In fact, approximately 1 in 4 people experiencing homelessness are living with a mental illness¹⁶ and over 60 percent of people who are considered chronically homeless live with a lifelong mental health issue.¹⁷ Additionally, Texas' largest mental health services provider is the Harris County Jail, which often treats more individuals experiencing mental illness in a day than all of Texas' 10 public mental health hospitals combined.¹⁸

Expanding affordable housing is a cost effective alternative to homelessness, incarceration, or placement in institutional settings for individuals experiencing mental illness. However, Texas is not investing in affordable housing. In fact, only \$3 to \$5 million per year is appropriated for the entire state toward affordable housing.¹⁹ The cost of treating individuals with mental illness outside of the community is high: the average daily cost for placement in an institutional setting is \$401, and the daily cost to incarcerate and treat an inmate with mental illness in Texas is \$137 per day.²⁰ At the Harris County Jail alone, the combined cost of incarcerating and treating inmates with mental illness is \$87 million annually.²¹ However, it only costs approximately \$50 per day to provide community-based supportive housing.²² Providing affordable, supportive housing for individuals experiencing mental illness is crucial to promoting recovery, preventing homelessness and diverting individuals away from costly placements in the criminal justice system and institutional settings.

“In fact, approximately 1 in 4 people experiencing homelessness are living with a mental illness and over 60 percent of people who are considered chronically homeless live with a lifelong mental health issue.”



¹⁴ “Meadows Foundation Strategic Plan for Mental Health 2011-2020.” The Meadows Foundation, 2011. Web. 30 Oct. 2014. <<http://www.mfi.org/grants/files/2011-2020MentalHealthPlanPublic.pdf>>.

¹⁵ NAMI State Advocacy 2010 State Statistics: Texas, loc. cit.

¹⁶ Duckworth, Ken, M.D., comp. *Mental Illness Facts and Numbers*. Fact Sheet. National Alliance on Mental Illness, Mar. 2013. Web. 9 Nov. 2014. <http://www.nami.org/factsheets/mentalillness_factsheet.pdf>.

¹⁷ Caton, Carol L.M., PhD, Carol Wilkins, MPP, and Jacquelyn Anderson, MPP. “People Who Experience Long-Term Homelessness: Characteristics and Interventions.” *2007 National Symposium on Homelessness Research*. Sept. 2007. Web. 12 Nov. 2014

¹⁸ DePrang, Emily. “Want Treatment for Mental Illness in Houston? Go to Jail.” *The Texas Observer*, 13 Jan. 2014. Web. 02 Dec. 2014.

¹⁹ Henneberger, loc. cit.

²⁰ Health Management Associates (March 2011). *Impact of Proposed Budget Cuts to Community-Based Mental Health Services*. Retrieved November 12, 2014 from HMA at <http://www.tbh.org/Documents/BudgetCutsCommunity.pdf>.

²¹ Torrey, E. Fuller, M.D., Aaron D. Kennard, MPA, Don Eslinger, Richard Lamb, and James Pavle. *More Mentally Ill Persons Are in Jails and Prisons Than Hospitals: A Survey of the States*. Issue brief. Treatment Advocacy Center and National Sheriff's Association, May 2010. Web. 10 Nov. 2014

²² The Lewin Group (November 19, 2004). *Costs of Serving Homeless Individuals in Nine Cities*. Retrieved from the Corporation for Supportive Housing at http://documents.csh.org/documents/ke/csh_lewin2004.PDF.

Housing Assistance in Texas: Current Programs, Future Goals

Housing Assistance in Texas

Some housing assistance programs, both at the state and local levels, are available to Texans experiencing mental illness. The state of Texas works with the federal government and local entities to house individuals with disabilities, including mental illness, using a variety of programs that provide community-based housing assistance. These programs are largely administered by the Texas Department of Housing & Community Affairs (TDHCA) and include:²³

- **Section 811 Project Rental Assistance:** Provides permanent rental assistance to low-income individuals with disabilities that is unit-specific, also known as project-based. Residents pay 30% of their total income toward rent, and program funds cover the remainder.
- **Tenant-Based Rental Assistance (TBRA):** Provides rental assistance to low-income individuals, with or without disabilities, to locate their own apartment. Rental assistance is available for up to 24 months with the potential to extend for an additional 12 months.
- **Homebuyer Assistance (HBA):** Provides mortgage down payment assistance to homebuyers with or without disabilities with incomes up to 80% of area median family income (AMFI).²⁴
- **Rental Assistance for Individuals Experiencing Mental Illness:** Provides short-term (three month) and longer-term (12 month) rental assistance to individuals experiencing mental illness currently receiving services through a state Local Mental Health Authority (LMHA). This program is administered by the Department of State Health Services (DSHS).

At the local level, programs can be administered by local housing authorities or local nonprofits, and are funded using federal, state, or local dollars. The most commonly recognized rental assistance program is the *Housing Choice Voucher Program*, also known as Section 8. Section 8 provides housing vouchers to individuals with disabilities, elderly adults, and families earning less than 50% AMFI.²⁵ For individuals with co-occurring substance use disorder and mental illness, local transitional housing programs provide housing to people exiting rehab programs. Other innovative, locally operated housing assistance programs exist, and are often a way for localities to provide supportive housing to vulnerable populations.

While many programs exist, there are often tremendous waiting lists due to a lack of general revenue invested by the state of Texas into housing. State programs like Section 811 can have waiting lists topping seven years, and local programs are facing similar constraints. Homelessness or group homes, formal or informal group living settings that are uniformly monitored by the state, often become a last resort.

²³ TDHCA Programs Overview. Texas Department of Housing and Community Affairs. Web. 2 Dec. 2014. <<http://www.tdhca.state.tx.us/overview.htm>>.

²⁴ Homebuyer Assistance Program. Texas Department of Housing & Community Affairs. Web. 02 Dec. 2014. <<http://www.tdhca.state.tx.us/home-division/hba.htm>>

²⁵ "Housing Choice Vouchers Fact Sheet." *Housing Choice Voucher Program Section 8. US Department of Housing and Urban Development.* Web. 02 Dec. 2014.

²⁶ Technical Assistance Collaborative. "State of Texas Comprehensive Analysis of Service - Enriched Housing Practices Final Report." 2013. Web. 2 Dec. 2014. <<http://www.tdhca.state.tx.us/hhscc/docs/ServiceEnrichedHousingFinanceReport.pdf>>.

North Carolina, a Housing Best Practices Model

Though little progress has been made to bolster supportive housing services for individuals experiencing mental illness, Texas took a step in the right direction by contracting with the Technical Assistance Collaborative (TAC) to produce a report on state best practices in supportive housing.²⁶ This report took an in-depth look at six states identified as having national best practices models for providing supportive housing to people experiencing mental illness. Of the six states identified in the report, North Carolina stood out as a replicable model for Texas.

In the past, North Carolina faced similar challenges to those Texas is currently grappling with when trying to house people experiencing mental illness, including over-institutionalization, poor service coordination, and a lack of low income housing units. However, unlike Texas, North Carolina was forced to address its housing shortages after the US Department of Justice (DOJ) became involved.²⁷ North Carolina had to completely redesign its programs and processes for housing individuals experiencing mental illness to increase community living and bolster crisis services.

Thus far, North Carolina has been successful in executing its agreement with the DOJ. Service coordination has improved through interagency memorandums of understanding (MOUs) and third party contracts, ensuring that each component of the program, from housing placement to tenant supports, is handled by those most qualified to do so. Even before the DOJ agreement, North Carolina began aggressively leveraging its Low Income Housing Tax Credit (LIHTC) program in 2004 to create more affordable units, requiring all LIHTC developers to set aside 10% of their units for people with disabilities, including those experiencing mental illness.²⁸ This change helped North Carolina increase the number of units available to individuals experiencing mental illness, and ultimately improved the state's ability to comply with the DOJ. But, what is arguably the most impactful change is increased state buy-in: there are new general revenue-funded line items for supportive housing in the annual budget. Now, North Carolina is on its way to providing an estimated 3,000 individuals experiencing mental illness with supportive housing by 2020.²⁹

The successes in North Carolina could provide Texas with a basis for creating a winning model for supportive housing for people experiencing mental illness.

²⁷ United States Department of Justice. Office of Public Affairs. *Justice Department Obtains Comprehensive Agreement Regarding North Carolina Mental Health System.* United States Department of Justice. Web. 02 Dec. 2014. <<http://www.justice.gov/opa/pr/justice-department-obtains-comprehensive-agreement-regarding-north-carolina-mental-health>>.

²⁸ Targeting Plan and Key Program Operating Assistance: Basic Procedures and Requirements." Rental Developers & Managers. North Carolina Housing Finance Agency, 26 Mar. 2009. Web. 2 Dec. 2014.

²⁹ United States Department of Justice, loc. cit.

Texas Housing Survey

The Texas Housing Survey was distributed to adults across Texas who self-identified as having a mental illness. The survey collected demographic information, as well as quantitative and qualitative data to measure satisfaction with housing and support services, affordability, and barriers to obtaining housing.

Participants

Data was analyzed for 191 primarily Caucasian participants who completed the survey. Respondents ranged in age from 21 to 74 years old with the greatest representation (41.4%) in the 46-55 year age group. Males and females were equally represented. All respondents self-identified as having a mental illness.

Results

Preliminary analyses were conducted to compare income and household size, determine housing affordability, identify satisfaction with housing and services, and assess common barriers across housing types. Further analysis compared level of satisfaction across all areas (housing type, condition of home, landlord, mental health/case management services, and proximity to transportation) with variables such as housing type, convenience to services, and monthly cost of housing. Analysis also included coding and interpreting responses for three open-ended survey questions and examining a subset of 40 respondents who reported they had experienced discrimination in the last five years.

“68% of all survey respondents across income ranges are living at or below the federal poverty level”

Affordability

The majority of participants (66.5%) reported annual household incomes of less than \$16,000. Further analysis comparing income to household size determined that approximately 68% of all survey respondents across income ranges are living at or below the federal poverty level, which is not surprising as 73% also reported being unemployed.

Housing affordability was determined by comparing respondents' current housing costs to the national affordability threshold of 30% of annual income, the point at which The Department of Housing and Urban Development (HUD) considers a person “cost burdened.” Regardless of whether respondents were receiving any type of assistance, housing remained unaffordable for 40% of all households. Respondents commented that they wished their housing was “more affordable” and that “my rent is too high for my other bills”. This cost burden was reflected in survey responses to the question of whether the cost of housing impacted their ability to afford other necessities. Food (39%), clothing (39%), transportation (36%), and utilities (32%) were the most commonly cited items that were compromised.

Of those receiving some type of local, state or federal assistance money in the last five years, 74.6% reported still being unable to save for future housing costs, which is important to consider in conjunction with the reported barriers to obtaining housing.

It is contextually relevant to also consider that the majority of respondents (51%) are financially supporting only themselves, and an additional 22.5% reported being financially supported by someone else.

Housing and Satisfaction

Housing type was diverse and well represented, ranging in level of support and permanence, from homeless to homeowner. Housing categories included transitional housing, public housing, Section 8, renter-no assistance, group home, Section 811, living with family, homeowner, and homeless. The majority of respondents (58.6%) reported living alone and feeling safer in their neighborhoods during the day than at night. They also reported that their housing was convenient to a grocery store (80.7%), pharmacy (72.3%) and medical care (63.9%), while convenience to employment (25.3%) was low. In fact, of the eight common community needs and services listed, convenience to employment ranked 6th, suggesting a potential challenge for half of the respondents who are employed or actively looking for work. One respondent specifically commented “I wish there were more employment opportunities closer to my home”.

Overall, satisfaction with housing and related services was fairly high, with the highest satisfaction rate across all variables in mental health/case management services. Participants were overwhelmingly pleased with case management. Almost 83% reported being somewhat to very satisfied with their services, with 43% reporting being very satisfied.

“Of those receiving some type of local, state or federal assistance money in the last 5 years, 74.6% reported still being unable to save for future housing costs”

Further analysis indicated some variation in satisfaction by housing type. Data analysis distinguished two groups with increased reports of dissatisfaction: renters without assistance and those living with family. Nearly 41% of renters without assistance and 44% of those living with family members reported being somewhat to very dissatisfied with their current living situation, compared to 25% of all respondents within that same satisfaction range. Narrative responses to qualitative items also supported some dissatisfaction among individuals living with family. Responses included things like “I would like to live apart from my parents and be more self-sufficient” and “I would like to be living alone and not with family”. Both groups also had higher rates of dissatisfaction with the physical condition of their home and dissatisfaction with their landlord.

Additional details about satisfaction emerged in the responses to two open-ended questions: “What do you like about your current living situation?” and “What would you like to be different about your current living situation?” In terms of what participants liked, the most common themes were independence and privacy, followed by convenience and location. Interestingly, similar themes were identified as things people would like to be different about their current housing, illustrating just how important living independently is to this population.

Barriers

Respondents were asked about barriers experienced in obtaining their current housing and potential barriers in obtaining their ideal type of housing. Many respondents experienced multiple barriers. For instance, one respondent commented “I have been homeless and in and out of hospitals. When I apply to rent, I am denied because of instability and bad credit”. The most common barriers experienced to current housing were security deposit (31.1%), cost of monthly rent or mortgage (28.3%), and credit history (23.3%). Long waiting lists and background checks were also frequently reported. It is worth noting that the barriers experienced to current housing varied by housing type. For instance, long waiting lists was the most common barrier reported by those in transitional housing (29%), while security deposit was the most common barrier for Section 8 (23.6%) and renters without assistance (27.9%), and qualifying for a mortgage was the primary barrier for homeowners (22%). When looking at barriers to ideal housing, monthly cost was most frequently reported (44.2%). Other barriers to ideal housing included security deposit (35.9%) and credit history (37%).

“The majority of participants (53.7%) identified home ownership as their ideal housing type, while 65.5% reported their ideal living situation as “living alone”, reflecting the desire for independence and privacy in a home of one’s own”

Discrimination

Of the 191 survey respondents, 40 reported experiencing some form of discrimination in the last five years. Follow-up qualitative responses were coded, revealing several categories of discrimination. The most commonly reported types of discrimination were attributed to 1) background checks, 2) disability, and 3) credit history.

Noted within this subset were higher rates of current and previous homelessness, larger average household size, and greater dissatisfaction with current living situation and physical condition of home. Additionally, a greater percentage of this subset reported having difficulty paying for other necessities like food (55%), utilities (52.5%), transportation (50%) and clothing (50%) when compared to the entire group. This group reported that monthly cost (42.5%) and credit history (42.5%) were barriers to current housing. Monthly cost (69.2%) and credit history (66.7%) were also cited as top barriers to ideal housing.

Ideal Housing

The majority of participants (53.7%) identified home ownership as their ideal housing type, while 65.5% reported their ideal living situation as “living alone,” reflecting the desire for independence and privacy in a home of one’s own. Many responses to the survey item “What would you like to be different about your current living situation?” described ideal housing. Common narrative responses about ideal housing type included things like “I would like a place to call my own for me and my son” and “I would like to eventually own my own home”. Narratives also supported the quantitative data about ideal living situation with responses like “I’m ready to live by myself” and “I’d like to be on my own”.

Conclusion

Results indicate that housing remains largely unaffordable for individuals experiencing mental illness, even for those who are receiving some kind of financial assistance. A lack of affordability means that people are unable to save for future housing costs, a considerable barrier to stable, independent living. Additionally, the cost of housing is impacting people’s ability to afford critical items like food, clothing, transportation, and utilities. Frequently reported barriers to housing include monthly cost, security deposits, credit history, long waiting lists, and background checks.

Although a great deal of individuals report satisfaction with housing and related services, the subsets of renters not receiving assistance and those living with family were less satisfied with their housing. This is not surprising considering that these individuals tend to have less income, but a great desire to live independently. In fact, across all respondents, living independently was reported as both what people liked most, and what people desired most, indicating it is a key component in housing satisfaction.

Unique differences were also identified in the subset of participants who had experienced discrimination. This is presumably a high risk group, as these respondents were more likely to be supporting others and had higher rates of past and current homelessness as compared to the group as a whole. They also reported greater difficulty paying for other basic necessities, and expressed more dissatisfaction with their housing. Although generalization is limited by the sample size, these findings and information from subsequent interviews warrant further consideration.

Housing stability is an ongoing concern for individuals experiencing mental illness. The qualitative responses and survey data indicate that many are, or have experienced, homelessness, incarceration, or placement in institutional settings in lieu of available supportive housing options in the community. The majority of survey respondents want to own a home and live independently, but they reported multiple, substantial barriers to both current and ideal housing. The primary barrier reported was monthly cost, indicating that affordability would be a barrier in planning for future housing, and that concerns exist about maintaining housing.



Policy Recommendations

The results of the INTEGRATE Housing! Project clearly indicate that there is not enough affordable housing in Texas for individuals experiencing mental illness. When housing assistance is not available, individuals experiencing mental illness often end up in institutional settings, homeless or incarcerated, outcomes that are terrible for people and financially irresponsible for the state. Many changes need to be made to the way Texas delivers housing and support services to ensure that individuals experiencing mental illness can achieve recovery and become vibrant members of their communities. The following are policy recommendations that Texas can implement to begin fixing the state's housing system to better serve its most vulnerable citizens.

Create New and Innovative Housing Solutions

Texas invests very few state resources in supportive housing, resulting in years-long waiting lists for housing assistance. While Texas works with the federal government to provide assistance through different avenues, it's plain to see that it simply is not enough to meet demand. As is evidenced by the Technical Assistance Collaborative (TAC) state best practices report, Texas' needs are not unique and have been successfully addressed by other states. The states that have been most successful, including North Carolina, have improved their supportive housing outcomes by creating state-based housing assistance and support programs that will operate in tandem with the federal programs already in existence. The most direct way to immediately alleviate Texas' current supportive housing shortage is to create a Texas-based supportive housing program reflective of the specific needs of the state.

Invest time, energy and resources into developing a Texas-based supportive housing program.

Creating a Texas-based supportive housing program will allow the state to monopolize upon its strengths, address its weaknesses and tailor housing to help individuals experiencing mental illness in the most meaningful way. This program should be piloted for individuals experiencing mental illness as they are at a heightened risk for homelessness. Once the program is working well, it should be expanded to all extremely low income individuals with disabilities who could benefit from supportive housing. Any program created should include the following elements:

- **General revenue-funded permanent housing vouchers:**

The cornerstone to any new supportive housing program in Texas is general revenue-funded permanent housing vouchers. According to INTEGRATE Housing! Project data, one of the biggest barriers to housing is affordability. Without rental assistance, individuals experiencing mental illness have extremely limited options when it comes to housing and often end up homeless or in other more costly systems like prison and institution-based settings. Assistance should be in the form of permanent housing vouchers: recovery is a process and losing housing can be devastating.

- **Incentives for developers to participate:**

North Carolina got buy-in from housing developers by incentivizing program participation through its Low Income Housing Tax Credit (LIHTC) program. Points were added to the Qualified Allocation Plan (QAP), a federally-mandated document justifying a state's distribution of tax credits, for developers who set aside a percentage of new development specifically serving individuals with disabilities, including mental illness.³⁰ This change fostered such broad interest that all developers opted in, and the state eventually made it a LIHTC application requirement. In 2014 the Texas Department of Housing & Community Affairs (TDHCA) Board of Directors added points to its QAP for developers who agree to set aside new or existing units for the 811 Project Rental Assistance program.³¹ While this is a step in the right direction, affordable housing units are so scarce that developers must be required to set aside units for all housing programs providing rental assistance to individuals experiencing mental illness, including this new Texas-based supportive housing program.

- **Effectively managed community-based services and supports:**

Supportive housing brings together housing and health services, two very different things that must work in harmony. Successful coordination of services is one of the most critical components of the thriving North Carolina supportive housing model. Allowing state mental health providers to manage medical services, housing agencies to manage housing placements and a third party contractor to manage tenant supports has resulted in landlord buy-in to the program, and eliminated any conflict of interest that can arise when someone's health services are linked with their housing. Requiring cooperation between TDHCA, Local Mental Health Authorities (LMHAs) and other service providers is vital to coordinating services within this new program.

Improve Existing Housing Programs Serving Individuals Experiencing Mental Illness

While this new Texas-based supportive housing program is in development, steps must be taken to address the immediate housing needs of individuals experiencing mental illness. The simplest way to do this is to improve and better support existing housing programs that are already serving this population.

Expand the Department of State Health Services (DSHS) rental assistance program and remove the one-year limit on assistance.

The DSHS rental assistance program, the first housing program operated by the state catering specifically to individuals experiencing mental illness, has exceeded expectations since it began in 2012. The program has surpassed its year one goals for number of individuals assisted, and the majority of LMHAs that received funding have spent it.³² The program was initially created as a bridge program, preventing people from becoming homeless while waiting for more permanent vouchers like Sec-

³⁰ Gustafson, Jeremy, and Christopher Walker. "Analysis of State Qualified Allocation Plans for the Low-Income Housing Tax Credit Program." *HUD.gov*. US Department of Housing and Urban Development, 1 May 2002. Web. 02 Dec. 2014.

³¹ *Section 811 Project Rental Assistance Program*. Texas Department of Housing & Com-

munity Affairs. Web. 02 Dec. 2014. <<https://www.tdhca.state.tx.us/section-811-pra/index.htm>>.

³² Lacefield-Lewis, Lauren. Statement to 2014 Behavioral Health Institute. 16 July 2014.

tion 8. However, the shortage of Section 8 vouchers means few people can secure a slot during the relatively short time they can currently receive assistance through the DSHS program. To better address the need for permanent supportive housing, Texas should remove the one-year limit on assistance, allowing LMHAs to serve individuals for longer than that if necessary. Texas should also recognize the success of this program, and invest more funding to help more individuals experiencing mental illness gain housing.

Improve the effectiveness of the HOME Persons with Disabilities (PWD) set aside through equalizing the funding allocation system and bettering the sustainability of the Homebuyer Assistance Program (HBA).

The HOME Investment Partnership (HOME) funds are federal housing dollars that can be used for a variety of housing activities serving low income individuals and families. Within HOME is a small pot of money set aside specifically for housing activities serving individuals with disabilities, including people experiencing mental illness, called the PWD set aside. Eligible activities include: Tenant-Based Rental Assistance (TBRA), Homeowner Rehabilitation Assistance (HRA), and Homebuyer Assistance (HBA).³³ HOME Funds, including the PWD set aside, are released sporadically by TDHCA and are secured by contracting entities through a reservation system. Currently, programs within the PWD set aside are unfairly pitted against each other, and individuals experiencing mental illness are suffering because of the way that money is being allocated. Additionally, the only homeownership program for this population, HBA, has an application process that actively discourages people from applying. To ensure that the most people possible are served by these programs, TDHCA should:

- ***Make the Homebuyer Assistance (HBA) program sustainable by allowing for project pre-approval.***

When asked about their ideal housing situation, survey respondents and interviewees overwhelmingly answered that homeownership was their dream. However, homeownership is out of reach for many of them largely because of the upfront costs associated with purchasing a home. HBA provides low income families with mortgage down payment assistance to help them buy a home.³⁴ After qualifying for a home loan from a bank, TDHCA determines the amount of assistance a household is eligible for, and the applicant begins to shop for a house. However, TDHCA will not distribute the funds until after the applicant has gone through the entire process of shopping for a home and has a contract in-hand, a barrier that does not exist for the other two PWD programs. TBRA can be pre-approved, protecting applicants from possible denials due to a lack of HOME funds. As the application process is now, HBA administrators are spending months helping people through the entire home buying process, only to deny their applications because the down payment assistance they were promised is not available. Since there is no pre-approval for HBA projects, individuals with disabilities are wasting their time and thousands of dollars in fees chasing the dream of homeownership. By allowing HBA applicants to be pre-approved for down payment assistance after securing a home loan from a bank, individuals with disabilities and HBA administrators can avoid the wasted time and dollars that result from a lack of available funds. Additionally, making this change will allow HBA applications to be pre-loaded into the reservation system like TBRA and HRA, giving applicants a more equitable shot at securing funding when the reservation system opens once funds become available.

- ***Divide the PWD set aside into three distinct pots of money for each program based on need, ensuring that all eligible projects have an equal opportunity to be funded:*** Currently all three PWD programs compete against each other for the same pot of money. However, the three programs are very different, each with different application processes and funding requirements. To ensure that all programs have an equal chance of being funded, TDHCA should subdivide the PWD set aside pot into three smaller, program-specific pots based on need. This will better serve individuals experiencing mental illness by ensuring that all three programs are funded in a way that reflects the current demand, likely reducing waiting lists for TBRA and allowing more people to realize their dream of owning a home through HBA.

Ensure the Availability of Community-Based Services and Supports

Both the survey data and in-person interviews stressed the importance of community-based services and supports in recovery. Kendrick, an interviewee from Houston, spent time in an institutional setting and the justice system before finding success in the community through housing assistance paired with specialized support services. Maintaining strong community-based services and supports will ensure that individuals experiencing mental illness can avoid institutional settings and live successfully in their communities. To achieve this goal, Texas should:

- ***Make effective use of the 1915(i) Home and Community Based Services-Adult Mental Health (HCBS-AMH) program by pairing the services with the DSHS rental assistance program.***

The purpose of the 1915(i) HCBS-AMH program is to provide home and community-based services to help adults with extended stays in institutional settings transition into community living.³⁵ While not explicitly spending time in institutional settings, adults receiving housing assistance through the DSHS rental assistance program, including interviewees David and Donald, share similar characteristics to the current 1915(i) HCBS-AMH target population, including co-occurring physical health issues and a history of homelessness. Making 1915(i) HCBS-AMH services available to all individuals receiving assistance through the DSHS rental assistance program will ensure that this vulnerable population has a full array of supports available to them as they transition to more stable housing situations.



³³ HOME Division. Texas Department of Housing & Community Affairs. Web. 02 Dec. 2014. <<http://www.tdhca.state.tx.us/home-division/index.htm>>.

³⁴ Ibid.

³⁵ 1915(i) Home and Community Based Services. Texas Department of Housing & Community Affairs. Web. 02 Dec. 2014. <<http://www.dshs.state.tx.us/layouts/contentpage.aspx?pageid=8589991381&id=8589984912&terms=1915+i>>.

Integrate Housing! Project In-person Interviews

Meet Marc



Marc lives in a one bedroom apartment outside of Harlingen, TX, a small urban area of about 65,000 people close to South Padre Island. He is able to afford his apartment with a HUD Section 8 voucher that he received from the county housing authority. After losing his job Marc's life turned on a dime, and he was hopeless until getting connected with housing through his Local Mental Health Authority (LMHA).

As a restaurant worker, Marc was self-sufficient for 38 years; but all at once, he lost his job and his sight, rendering him unemployed and homeless. "I went from boss to bum in two weeks," Marc said. He was living on the streets with undiagnosed chronic illnesses, and he had a lot of trouble finding services. "It's hard getting off of the pavement," Marc said. "You have to lose everything first." Tropical of Texas, the LMHA serving the Rio Grande Valley, found Marc at a homeless shelter in Harlingen and set him up with six months of rent and utility assistance. He applied for Section 8 around the same time and was fortunate enough to secure a voucher. "I lucked into it," Marc said. "Section 8 came through and [they]

told me find yourself a place quick...because tomorrow we may not have a voucher for you."

Marc gets his Section 8 voucher from the county, which has a rule that Section 8 units must be located in rural areas. "It's so safe and clean and quiet," Marc says, "we don't even bother to lock our doors." While he likes his apartment, he does feel like it is too far away from many of the things he needs. Marc does not have a car and there is no public transportation where he lives. His only method of transportation is Medicaid transport, which requires two days notice. If Marc needs to go the grocery store or see his psychiatrist, he must plan ahead to get there.

Marc began suffering from depression and substance abuse disorder when he became homeless. "I was very depressed, as you'd imagine I would be with the health problems and homelessness and hunger," Marc said. However, his life improved greatly once he was linked up with a case manager at the LMHA. His case manager connected him with the LMHA's drop-in center where Marc receives psychiatric services; but it's so much more than that to him. "[The drop-in center] has some really intensive group therapy, and it's really improved my mental health," Marc said. "I've learned a lot of really good coping skills, and it's been wonderful socializing, making friends." Marc is even thinking about becoming a peer support specialist so he can help others who come into the drop-in center.

Reflecting on his own challenges finding help after becoming homeless, Marc stressed the need for better services. "It's like you have to crawl on your belly naked through 40 miles of broken glass to get any help," Marc said. "You have to fight for every scrap." But in the end, the most important thing for his recovery is having a decent place to live.

"It makes all the difference in the world if you have a home to go to," Marc said. "If you have a place to hang your hat and be secure in the knowledge that you're not going to be sleeping in the alley under a tarp and have to go hungry, you can get yourself together from that point."

Meet Cedric



Cedric received a Section 8 housing voucher after spending five years on a waiting list. Cedric likes his new San Antonio apartment. He says that although there are a lot of people drifting around his neighborhood at night, the police are very diligent, and he feels safe in his new home. His apartment has a clean shower with nice carpet and new appliances. “Everything in it is nice and clean,” Cedric says. “I’m loving it.” Cedric was able to obtain temporary housing for a year and a half while he was on the Section 8 waiting list. In between temporary and permanent housing, Cedric was homeless for six months during which he stayed with friends, spent time at an outdoor shelter, and slept on the streets. “Six months was starting to mount up,” Cedric explains. “People let you stay, but they don’t let you stay for more than a day or two, so I was pretty much on the street.”

Cedric lost his part time job while he was homeless because he could not maintain clean clothes and could not always find reliable transportation given he was moving from place to place. Cedric is currently looking for a job in order to pay a portion of his rent and utilities as well as his medications. Fortunately, CareLink, a San Antonio-based healthcare services financial assistance program, covers the majority of the cost of his medications and Cedric is responsible for paying \$5 per medicine for each of his six prescriptions. As Cedric says, “when I’m not working, that’s pretty expensive.” Currently

Cedric has no income, and though he has multiple disabilities, including physical disabilities and mental illness, Cedric’s application for SSDI was denied three years ago. He is in the process of appealing that decision with the support of his case manager.

Cedric emphasizes that his case managers have gone above and beyond by helping him get off the housing voucher waiting list, access mental health and medical services, and move into his new apartment. Cedric hopes that the funding for case managers and programs that support people with mental illness is not cut. He feels the support he has received has been invaluable and that this support needs to be available to others. “Help me get back on my feet,” he says. “Then one day I won’t need the services anymore.”

Meet Sandra



Sandra lives in Lubbock with her husband in a two bedroom apartment with a Section 811 housing voucher. The couple lives in an apartment complex that is made up solely of Section 811 units. They like their neighbors and love their apartment, which is the first stable place Sandra has ever lived.

In the past Sandra lived in a string of dumpy apartments and trailer homes. “Run down shacks, that’s what I call ‘em,” Sandra said. Oftentimes she stayed on her sister’s couch when her living situation became unstable. Sandra has faced discrimination in the past because of her mental illness. “There’re some places [that] turn us down,” said Sandra. “Why? Because we’re ‘sick people.’”

For much of her life Sandra lived with undiagnosed cases of bipolar disorder and schizophrenia. Her symptoms started when she was in elementary school, but she was scared to tell anybody and held it in. One of her biggest challenges to recovery was getting connected to services. It took her moving to Bay City to get her disability designation because she was denied twice in Lubbock after years of trying. She was finally able to access case management services, and medication, at a Local Mental Health Authority (LMHA) in Bay City.

Even with their SSI checks and housing voucher, Sandra and her husband have trouble affording the things they need to live. They receive food stamps but often run out of their allotment before the end of the month, forcing them to go to their local church for food assistance. “We get social security but it goes to rent, to phones, to clothing,” Sandra said, “you know how it goes.”

When asked about her ideal living situation, Sandra said she and her husband would like to own their own trailer home where they can have animals. “We want our own place where we can have cats and dogs,” Sandra said. But for now, their 811 apartment is all they can afford, which is fine by Sandra. “We’re upstairs in [a] beautiful apartment,” Sandra said. “We both love it.”

Meet Donald



After eight years of homelessness, Donald recently moved into an apartment after receiving a short-term DSHS rental assistance voucher, followed by a Section 8 housing voucher. “It’s an ideal location for me because it’s located near the bus line, and doctors, and groceries,” Donald says of his apartment in San Antonio. “It’s just perfect.”

After falling ill with tuberculosis eight years ago, Donald lost his job, which then caused him to lose his home. Donald’s mental health was declining while homeless because he was not able to obtain the mental health and medical services he needed. Conditions at the shelter where Donald stayed were crowded and claustrophobic, negatively affecting his mental health. Donald also felt unsafe at shelters, so he instead spent most of his time while homeless sleeping on the streets.

Eventually, Donald began searching for resources to find housing. “It was getting too dangerous out on the streets,” Donald said, “so I decided I needed to do something.” Volunteers at the shelter where he was staying told him about the Project for Assistance in Transition from Homelessness (PATH) program at the Texas Department of State Health Services. Donald contacted PATH and his assigned case manager helped him access medical and mental health services and apply for Section 8 housing.

Donald is looking for part-time work in order to pay his utility bills. Currently, his only income is a small amount of cash from collecting cans. Donald has applied for SSDI but has been denied twice despite having diagnoses of bipolar and PTSD, as well as multiple physical disabilities. Donald is now working with an advocate from the Center for Health Care Services, a local nonprofit that assists persons with disabilities, on the appeals process and is obtaining the medical documentation that he needs.

Meet Mari



Mari lives with her mom, her brother, her two sons, and her granddaughter in her mother’s home in Dilley, TX, a small town of less than 4,000 residents. She doesn’t like how cramped the house is, but needs to stay close so that she can help her mother care for her brother with disabilities, and provide childcare for her granddaughter.

Mari has been a full-time Certified Nursing Assistant at the same nursing home for the past 17 years. She does not have health insurance and when changes were made at her health clinic, Mari was no longer able to afford her medications for diabetes, back pain, arthritis, and depression. After she stopped taking her medications, Mari began to experience panic attacks. “I never had panic attacks before, but then I had three in a row,” Mari says. “I had to leave my job. I’ve been there 17 years and I love my job and the people there. When I left, I cried. I like working.” Mari is eager to return to her full-time job at the nursing home. “They told me that once I’m ready they’ll take me back,” she says. “Once I get back [on] my medications I can get back to my routine. I want to go back to work. I like it.”

Mari continues to work part-time as an in-home care provider, but her paycheck is not enough to make ends meet and she still cannot afford her medications. “Sometimes I feel like I want to cry,” Mari explains. “My medications would help me, especially for my pain. Now, I’m just tired all the time. I want to do more and I can’t.”

Mari reached out to the Local Mental Health Authority (LMHA) in the nearest town and was assigned a case manager. With the support of her case manager, she applied for Medicaid, food stamps, and housing assistance earlier this year.

Mari would like to move into a two-bedroom apartment with her 17-year-old son. She wants to find a place of her own near her mom so she can continue to help care for her extended family. “I want my own house for me and for my son,” Mari says. “I think I need to do this for him. I would like for these next two years while he’s in high school for him to have a home where he can feel good.”

Meet Terri



Terri lives in Austin in a one-bedroom apartment at a property owned by Green Doors, a nonprofit organization that provides affordable, supportive housing to people at risk of homelessness. He has lived in his apartment for over three years, and is only able to afford to stay because of a HUD housing voucher. Terri is on SSI and the market rent of his current apartment would eat up all but about \$25 of his monthly income.

Terri has had a lot of trouble with finding and maintaining housing. He was able to secure housing in the past, but things like background checks and income-based discrimination often left him with few options. “I’ve been homeless,” Terri said, “and the first two apartments I had...neither of them lasted a year.” When asked why, he said “it was due to not enough help with dealing with substance abuse.”

Terri has struggled with substance abuse disorder, and after being evicted from his third apartment, he decided that he needed to take charge of his sobriety. “My biggest enemy was myself,” Terri said, so he got connected with Front Steps, another Austin-based nonprofit that works with individuals facing homelessness. Front Steps helped him go through the process of securing a housing voucher, and referred him to a case manager at Austin Travis County Integral Care, Austin’s Local Mental Health Authority (LMHA), to address his substance abuse disorder. “On November 11th [2014] I will pick up my 18 month [sobriety] chip,” Terri said. “I was only able to get it because of these agencies...that made these services available to me.”

Now that Terri is in recovery and in a stable housing environment, he likes to spend his time helping others. Terri said it’s important to understand that “everybody don’t need to be evicted, a lot of them just need some help to get well.” He serves as a resource to his friends and neighbors who need help accessing the services that were so critical to his success. “I just want to help,” said Terri. “In my recovery, that’s what I want to do.”

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Meet Kendrick



Kendrick is a college student at Lone Star College in Houston, studying to become a Petroleum Field Services Technician. Over the past 15 years Kendrick has cycled in and out of jails, mental health institutions, and homelessness, and has struggled with a drug addiction.

As a child Kendrick was in special education classes for learning disabilities. When he was 16 or 17 he fell in with the wrong crowd and got into trouble using and selling drugs. A few years later, Kendrick's nephews were killed and he was the first person on the scene, a traumatic event that led to a crisis-induced, one year hospitalization. He was later diagnosed with PTSD, depression, and paranoid schizophrenia.

Kendrick became homeless after his release from prison in 2013, at which point he “finally decided to change [his] life.” Kendrick moved to Texas after finding out about a drug addiction program, but realized the program didn't have the mental health services he needed. After two months, and much prayer, he packed his bags and made his way to Houston where he once again found himself homeless. He reached out to his mental health counselor at the Local Mental Health Authority (LMHA), a connection he had established during his time in the drug addiction program, and began counseling. After several months of homelessness he learned about Houston Area Community Services (HACS), an agency that could help him find housing, and within a few weeks he received a housing voucher and an apartment.

“What I did next was that I tried to build a structure for the problems that I've had over the last 15 years. My case manager is a pillar in my life. I meet with her every week. After I got a mental health structure in place I started to seek a structure for my narcotic recovery.” Kendrick participates in a church recovery program every Wednesday and attends Narcotics Anonymous meetings almost every night. He also meets with a drug counselor through his LMHA every week. “With all of this new structure my life just continues to improve.”

Kendrick hopes to see homeless people treated with more respect. “Homeless people are some of the strongest people I know.” He believes that he received his services and supports because he was in the right place at the right time, but explains that many people are unaware of the agencies and resources available. Kendrick feels that people experiencing homelessness need better education about resources, and he advocates for better funding for agencies that have a track record of getting people off of the streets.

Kendrick has now been sober for 8 months, his longest period of sobriety in 15 years. Kendrick loves his new 1-bedroom apartment, especially because of the safety and security it affords him.

When asked if he would change anything about his current living situation Kendrick said, “I wouldn't change anything. How can you change a blessing?”

Meet Tannika



Earlier this year, Tannika received permanent housing assistance through Project New Start, and secured her own apartment after experiencing years of homelessness. She loves her new apartment in Fort Worth. “It’s just perfect,” she says of her new home.

Tannika’s housing assistance currently covers the total cost of her rent and will continue to subsidize 80% of her rent after she finds employment. Through Project New Start, a permanent supportive housing program for chronically homeless men and women with disabilities, Tannika also receives monthly home visits. Home visits are very important to Tannika, especially when she is really depressed and avoids leaving her apartment.

Prior to receiving housing assistance, Tannika was homeless for several years and was on a waiting list for housing assistance for over a year. She diligently called every 60 days to check her status on the list in the hope of receiving housing assistance.

Several years ago when she was homeless, Tannika lost custody of her children due to her substance abuse. Tannika knew that, to regain custody of her kids, she needed to create a stable environment for them. She has been working to accomplish her goal over the past several years, pursuing permanent housing, attending group therapy, and quitting alcohol cold turkey. “My kids are the most important thing,” she says. “Instead of walking to the liquor store I walked to church and prayed.”

When she was homeless, Tannika “didn’t even know what services were out there.” She discovered many life-changing services through word of mouth, including Recovery Resource, which helped her find housing through Project New Start. She cautions that others who are homeless need more information about available services, supports, and guidance. “I made it out so strong because I knew what I wanted. I knew there was something better out there and I was going to get it. Some people don’t know there’s something better out there. They don’t have family. They don’t have anybody. They need some kind of support system.”

Meet David



David lives in San Antonio. After several years of homelessness, and with the support of his case manager from Haven for Hope, David moved into a one-bedroom apartment using a Section 8 housing voucher.

Seven years ago, David lost his eyesight which had a snowball effect on his life. He lost his job. His mental health deteriorated. His relationship with his wife became strained because she had trouble coping with his blindness, and David eventually moved out of their apartment, leaving him homeless for several years.

David applied for and received Social Security Disability Insurance (SSDI) when he lost his employment. His case manager at Haven for Hope, a local nonprofit that helps people who are struggling with homelessness, helped him apply for Social Security Income (SSI) as well. In the past David worked a variety of jobs at a thrift store, a parking lot, and SeaWorld, among others. Now he depends on SSI and SSDI as his only sources of income. David has difficulty making ends meet, but when he can, he helps his wife if she needs support paying for her expenses. “I don’t have to worry about groceries [since] I’ve got food stamps,” he says. “But sometimes it’s kind of hard. You’re stretching your money to buy toiletries. But I make it.”

David’s new neighborhood has access to the bus system, which he uses to visit the Center for Health Care Services where he receives medical and psychiatric services. His neighborhood also has talking stoplights to safely direct him as he crosses the streets. He’s even gotten to know some of his neighbors in his new apartment building.

Meet Melody



Melody lives in Sweetwater, a small town of around 10,000 people 40 miles outside of Abilene. She shares her two bedroom apartment with her grandson who has a disability. Melody is a Section 8 voucher holder, but is ready to move to a nicer apartment in a safer area of town where she can feel at home.

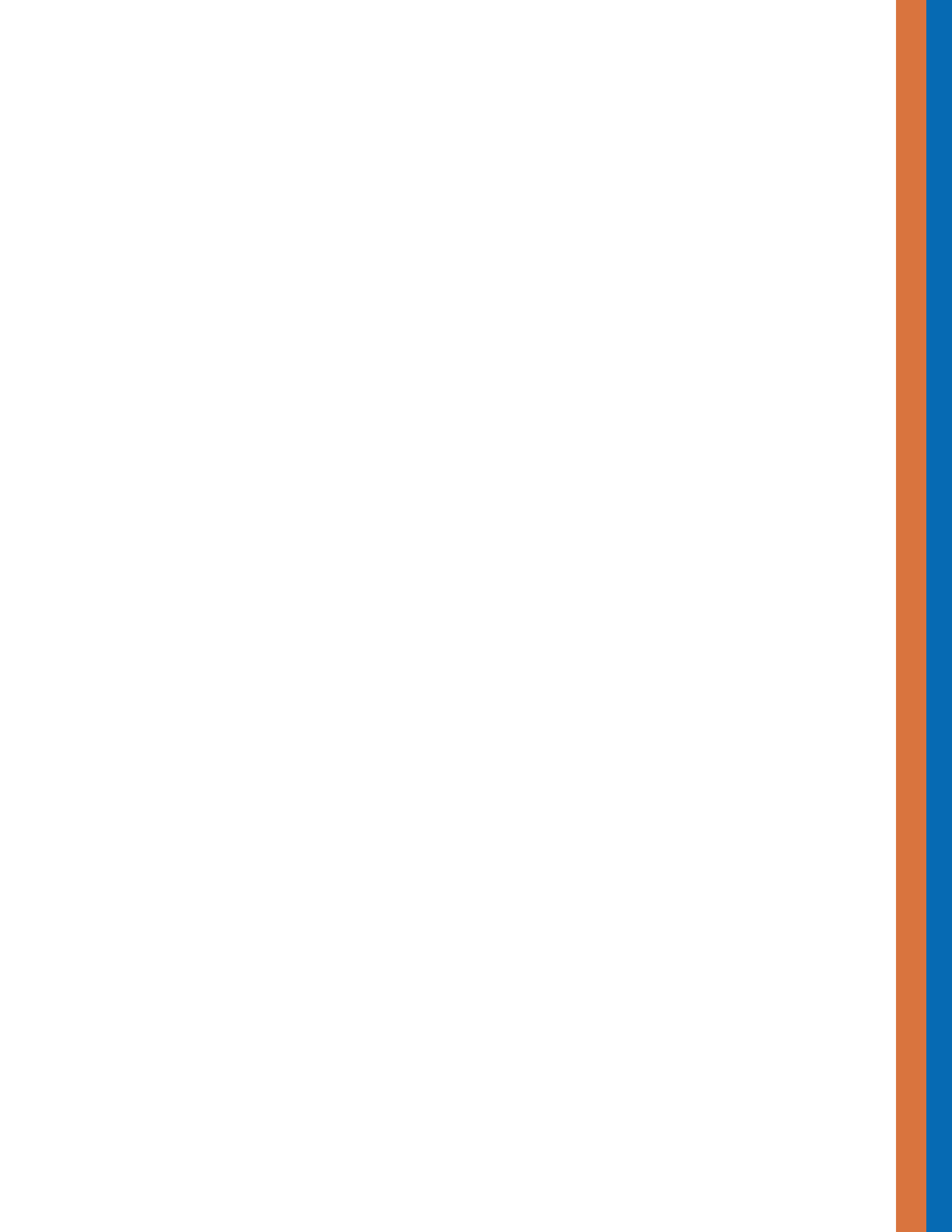
Melody has cared for her grandson for seven years. She knows she cannot afford an apartment without her Section 8 voucher, but the one she has does not meet her needs. Structural problems have led to pests getting in: tarantulas and scorpions are native to her rural area. Her neighborhood also isn't safe for her and her grandson. "Last summer my doors were shut and I hear this noise that sounded like a baseball hitting metal," Melody said. "But what it was is a guy across the street shot another guy." Despite all of that she does worry about keeping her housing because of barriers like rent fluctuations and utility costs.

Melody works 10 hours a week at her grandson's school helping out in the cafeteria, the only job she can get since she can't find daycare for him. "I want him to be in a loving and caring environment," Melody says, "and that's what I provide." Even though she has a job, she is only employed eight months out of the year, which often forces her to turn to her grandson's SSI to make ends-meet. "During the summer, I have to use his money to pay the bills because I don't have any money coming in," said Melody. "It's stressful wondering how you're going to get it."

Since her husband died Melody has struggled with severe depression. "The main reason I'm living right now is because I'm raising a child," Melody said. Fortunately, Melody receives case management services through her Local Mental Health Authority (LMHA), services that have made a real difference for her. Melody can call her case manager when she needs help, and receives home visits every two weeks. "[My case manager] has been helping me deal with a lot of the transitions I'm going through," said Melody. "She's kind of a sounding board for me."

It's no surprise that Melody said that she wants to be a homeowner.

"I'm tired of living here," says Melody. "I'd like to be off all [assistance] programs...and I'd like to have a house of my own with a yard for my grandson and my other grandchildren."





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