

# SUPPLEMENTAL BOARD BOOK OF MARCH 31, 2016



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8b

**BOARD ACTION ITEM**  
**MULTIFAMILY FINANCE DIVISION**

**March 31, 2016**

Presentation, Discussion and Possible Action regarding the Financing Structure of a Multifamily Direct Loan Award

**RECOMMENDED ACTION**

**WHEREAS**, an award in the amount of \$4,000,000 for HOME Community Housing Development Organization ("CHDO") Application 15502, Westridge Villas, was approved at the July 30, 2015 Board meeting; and

**WHEREAS**, subsequent to the award, a concern has arisen regarding the ownership structure for the development; and

**WHEREAS**, the Department must assure that HOME funds are used in a fully-compliant manner in order to decrease potential liability for repayment to HUD;

**NOW, therefore, it is hereby**

**RESOLVED**, the Board hereby authorizes the Executive Director or his assignee to take such action and execute such documents and instruments as he or they may deem necessary or advisable to provide fully compliant financing to the transaction.

**BACKGROUND**

On July 30, 2015, the Board approved a HOME award to Center for Housing Resources, Inc. as a Community Housing Development Organization ("CHDO") for the development of Westridge Villas. It has been noted that the relationships in the ownership and development structure including the participation of Terri Anderson, who is involved on the developer side, and is also included in the oversight side of the CHDO. Counsel assisting the structuring of this transaction has to staff that the structure was developed in response to the requirements of the FHA arm of HUD. The rules governing CHDO eligibility are rules under Community Planning and Development ("CPD") side of HUD. In order to ensure that the final structure comports with all applicable requirements, we are asking that the board approve:

- 1) The Applicant's counsel will seek from HUD CPD either their concurrence in the acceptability of the structure or approval of a waiver.
- 2) If the concurrence or waiver cannot be obtained in time by April 8, 2016, staff requests approval to structure this as a \$3 million non-CHDO HOME award and utilize TCAP loan repayment, previously designated for workout activity, in the amount of up to \$1 million. This will enable the Department to stay on track for its HOME commitment deadline.

8c

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**MARCH 31, 2016**

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit application for George W. Baines Apartments, sponsored by the Housing Authority of the City of El Paso, was submitted to the Department on January 14, 2016;

**WHEREAS**, the Certification of Reservation from the Texas Bond Review Board (“BRB”) was issued on March 28, 2016, and will expire on August 25, 2016;

**WHEREAS**, the proposed issuer of the bonds is the Alamito Public Facilities Corporation;

**WHEREAS**, pursuant to 10 TAC §10.101(a)(4) of the Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics, applicants are required to disclose to the Department the existence of certain undesirable characteristics of a proposed development site;

**WHEREAS**, the applicant has disclosed the presence of an undesirable neighborhood characteristic, specifically that the development site is within the American Society for Testing and Materials (“ASTM”) Standard search distance of a Resource Conservation and Recovery Act (“RCRA”) generator of hazardous waste as further noted in the Environmental Site Assessment (“ESA”);

**WHEREAS**, staff has conducted a further review of the proposed development site and surrounding neighborhood and recommends the proposed site be found eligible under 10 TAC §10.101(a)(4) of the Uniform Multifamily Rules; and

**WHEREAS**, the underwriting analysis was completed and resulted in a credit amount of \$211,973 in 4% Housing Tax Credits, subject to underwriting conditions as applicable and noted therein;

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an Extra Large Portfolio Category 4; and

**WHEREAS**, information provided to the Executive Award and Review Advisory Committee (“EARAC”) by the applicant in response to the previous participation review raised additional questions and did not appear to be conditions they recommended to be placed on the Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice in the amount of \$211,973 is hereby denied.

### **BACKGROUND**

The applicant has provided the attached (Exhibit A) as a response to compliance issues identified in the Previous Participation Review. These were received in the afternoon of Monday, March 28, the date by which three-day postings are required to be done. These certainly raise additional questions but do not appear to be applicant recommended conditions to be placed on the Determination Notice. Therefore, EARAC is unable to provide approval of the Previous Participation Review. The lack of previous participation review clearance by EARAC, is the primary reason staff is unable to recommend approval.

*General Information:* George W. Baines Apartments is located at 10661 Vista Del Sol Drive, El Paso, El Paso County and consists of 58 units, all of which will be rent and income restricted at 60% AMFI. The units are currently occupied and operating as public housing and are owned and managed by the Housing Authority of the City of El Paso. The subject property, as well as a sister property also on the agenda for consideration today, the Charles R. Morehead Apartments, will be converted through HUD's Rental Assistance Demonstration program. While these properties will be structured under a common financing plan, each will have a separate Housing Tax Credit Land Use Restriction Agreement. The development will serve an elderly preference population and conforms to current zoning. Fifty of the 58 units were constructed in 1982 and the remaining eight units for the additional two duplexes were added to the property in 2006. The census tract (0043.12) has a median household income of \$33,633, is in the third quartile and has a poverty rate of 21%.

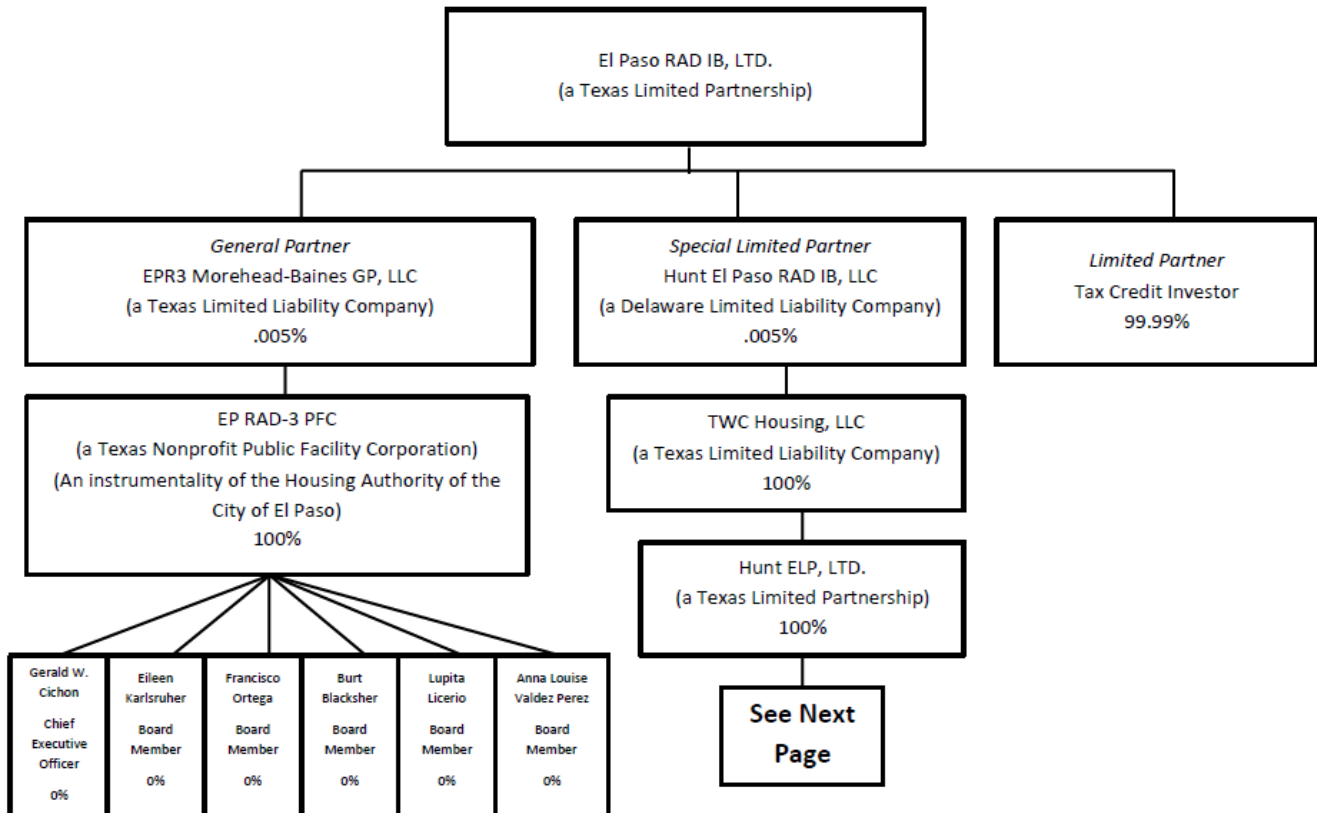
*Site Analysis:* The applicant disclosed the presence of an undesirable site characteristic under §10.101(a)(4)(B)(v) of the Uniform Multifamily Rules which requires additional site analysis; specifically, the ESA for the development site indicates an RCRA facility listing within the ASTM-required search distances from the approximate boundaries the site.

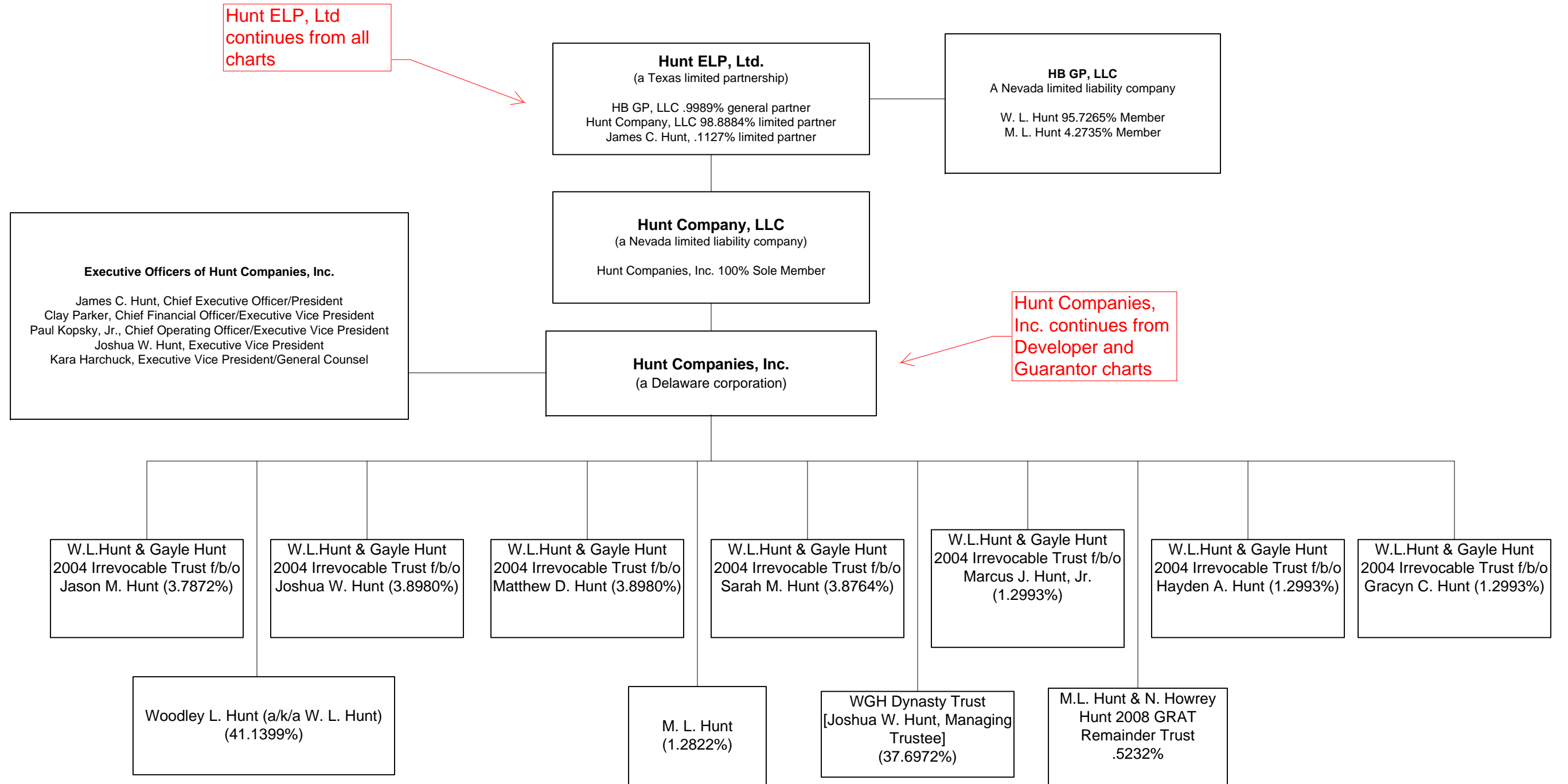
The ESA indicated the RCRA generator of hazardous waste facility is not located on the development site or adjacent to the site, but is within a 0.25 mile radius of the proposed development. The entity of record for the ASTM search distance is a Wal-Mart and is coded as RCRA-CESQG which stands for Conditionally Exempt Small Quantity Generator and indicates the facility generates no more than 220 lbs of hazardous waste per month. This designation requires compliance with several basic waste management requirements to remain exempt from the full hazardous waste regulations that apply to generators of large quantities of waste. The ESA noted that the vicinity of the RCRA generator is topographically cross-gradient of the proposed development, and in their professional opinion is not of environmental concern to the development. The ESA provider did not recommend additional assessments or diligence that would need to be performed due to the RCRA generator and as such staff does not believe the disclosure relative to the RCRA facility requires additional review and recommends the site be found eligible. Moreover, §10.101(a)(4) allows consideration for acceptable mitigation regarding this characteristic based on the preservation of existing occupied affordable housing units that are subject to existing federal rent or income restrictions. Currently, 100% of the units at George Baines are public housing units under Section 9. It is also worth noting that the scope of work planned for this development involves approximately \$45,000 per unit in rehabilitation costs which far exceeds the minimum threshold in the rule of \$25,000 per unit.

*Organizational Structure:* The Borrower is El Paso RAD 1B, LTD. and includes the entities and principals as indicated in the organization chart below. The EARAC met on March 28, 2016, and considered the previous participation review documentation associated with the application. In accordance with 10 TAC §1.301(d)(1), the compliance history was designated as an Extra Large Portfolio Category 4, which reads as follows in the rule:

“(4) Category 4. Applications will be notified of their status and if they wish to pursue the award should be prepared to propose terms and conditions specific to their compliance history, along with identifying specific dates to correct uncorrected events. EARAC may accept, modify or reject the applicant's proposal. If the proposal is modified or rejected, the applicant may appeal in accordance with §1.304 of this subchapter.”

*Public Comment:* There have been no letters of support or opposition received by the Department.





Hunt ELP, Ltd continues from all charts

Hunt Companies, Inc. continues from Developer and Guarantor charts



## Exhibit A

### Response to Previous Participation Issues:

- 1) Hunt Development Group will be exiting the partnership upon stabilization, and will not be involved in the long term management or ownership of the properties. We believe that the compliance issues surrounding Hunt are related to management. We believe that With HACEP being responsible for the long term management, that Hunt's issues will not impact the developments. Hunt is currently working on a response, outlining ways to prevent future compliance violations.
  
- 2) HACEP Properties:
  - a. HUB Participation – Neither of these applications involve a HUB partner. Previous experience related to acquisitions of properties with HUB interests led to formal procedures to ensure that compliance with HUB requirements are met. These include identification of HUB in the General Partnership and proof that the HUB has been materially participating in the development. Additionally, if the HUB is not meeting their obligation that they will be replaced with another qualifying HUB to be approved by TDHCA and the syndicator.
  - b. Fair Housing Disclosure Notice – HACEP takes all Fair Housing issues very seriously. We believe that the incident was an anomalous event and has made sure that its disclosure policies take into account temporary placement, as well as permanent placement of residents.
  - c. Final Construction Deficiencies – again we believe this was an anomalous event with contradicting rules between TDHCA, HUD, and the City of El Paso. To ensure that it doesn't happen again, we will make sure that in the future that the Third Party Construction Monitor/Inspector is give all of the accessibility requirements for all governmental entities so that the architect, developer, and inspector together will ensure compliance.

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**MARCH 31, 2016**

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit application for Charles R. Morehead Apartments was submitted to the Department on January 14, 2016;

**WHEREAS**, the Certification of Reservation from the Texas Bond Review Board (“BRB”) was issued on March 28, 2016, and will expire on August 25, 2016;

**WHEREAS**, the proposed issuer of the bonds is the Alamito Public Facilities Corporation;

**WHEREAS**, pursuant to 10 TAC §10.101(a)(4) of the Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics, applicants are required to disclose to the Department the existence of certain undesirable characteristics of a proposed development site;

**WHEREAS**, the applicant has disclosed the presence of such undesirable neighborhood characteristics, specifically those relating to the poverty rate, school attendance zones and facility listings within the American Society for Testing and Materials (“ASTM”) required search distances from the boundaries of the site(s);

**WHEREAS**, staff has conducted a further review of the proposed development sites and surrounding neighborhood and recommends the proposed sites be found eligible under 10 TAC §10.101(a)(4) of the Uniform Multifamily Rules;

**WHEREAS**, the underwriting analysis was completed and resulted in a credit amount of \$336,831 in 4% Housing Tax Credits, subject to underwriting conditions as applicable and noted therein;

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an Extra Large Portfolio Category 4; and

**WHEREAS**, information provided to the Executive Award and Review Advisory Committee (“EARAC”) by the applicant in response to the previous participation review raised additional questions and did not appear to be conditions they recommended to be placed on the Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice in the amount of \$336,831 is hereby denied.

### **BACKGROUND**

The applicant has provided the attached (Exhibit A) as a response to compliance issues identified in the Previous Participation Review. These were received in the afternoon of Monday, March 28, the date by which three-day postings are required to be done. These certainly raise additional questions but do not appear to be applicant recommended conditions to be placed on the Determination Notice. Therefore, EARAC is unable to provide approval of the Previous Participation Review. The lack of previous participation review clearance by EARAC, is the primary reason staff is unable to recommend approval.

*General Information:* Charles R. Morehead Apartments consists of twelve multiple sites located near 6<sup>th</sup> and Park, specifically 701, 707, 709, 711, 721 and 801 Park, 1206 E. Father Rahm, 1007 and 1009 St. Vrain, 801 Hills, 620 Kansas, and 615 S. Campbell, El Paso, El Paso County, and comprises 62 units, all of which will be rent and income restricted at 60% AMFI. The units are currently occupied and operating as public housing and are owned and managed by the Housing Authority of the City of El Paso. The subject property, as well as a sister property also on the agenda for consideration today, the George W. Baines Apartments, will be converted through HUD's Rental Assistance Demonstration program. While these properties will be structured under a common financing plan, Charles R. Morehead and George W. Baines Apartments will have separate Housing Tax Credit Land Use Restriction Agreements. The development, originally constructed in 1984, will serve the general population and conforms to current zoning.

During the review process, the location of the common amenities was examined considering the fact that this development includes multiple sites with no community building. The applicant indicated, in response to the concerns raised, that each site in the development was going to include the following amenities in order to meet the four-point threshold: barbecue grills and tables, bicycle racks and green building features. At the time of this posting, the applicant was unable to confirm with the architect that the location of the barbecue grills and tables meets local code, including accessibility standards. It should be noted that one of the sites, Father Rahm, which is across the street from another site in the development, will be sharing the barbecue grill and picnic table with that site.

*Site Analysis:* The proposed development includes multiple sites in the Segundo Barrio neighborhood in El Paso that are located in two different census tracts. The applicant disclosed the presence of several undesirable neighborhood characteristics under §10.101(a)(4)(B) of the Uniform Multifamily Rules that require additional site analyses. Those undesirable characteristics include the following: the two census tracts (0019.00 and 0020.00) that contain the proposed developments have poverty rates of 67.6% and 56.3%, respectively; a middle school for the attendance zone does not have a Met Standard rating according to the 2015 TEA Accountability Ratings, and the Environmental Site Assessment ("ESA") for the development site(s) indicates a Resource Conservation and Recovery Act ("RCRA") and Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLIS") facility listing within the ASTM-required search distances from the approximate boundaries of the site(s).

As it relates to the poverty rate, disclosure is required for poverty rates that exceed 55% for developments in regions 11 and 13. Staff analysis for the census tracts in question revealed a median household income for census tract (0019.00) of \$10,853 and \$14,489 for census tract (0020.00), with an average annual change in per capita income of 13% associated with both tracts. Concerning census tract (0019.00) there was a 9% decrease in those earning less than \$10,000, and a 6% increase in those households earning over \$40,000

(the median household income for the El Paso MSA is \$40,699), with a corresponding population decrease of approximately 123 households. Concerning census tract (0020.00), there was a 5% increase in the households earning between \$60,000 - \$75,000 and a 2% increase in those households between \$75,000 - \$100,000, with a corresponding population increase of approximately 217 households over the most recent 5-year period. The composition of the neighborhood (inclusive of both census tracts) involves 65% apartments/townhomes and 28% is single family residential, with the median home value of approximately \$56,000, according to Neighborhoodscout. Staff notes the poverty rate in census tract (0020.00) reflects a decrease of 7.6% over the prior year while the poverty rate in census tract (0019.00) has remained the same.

As it relates to the school attendance zone, Guillen Middle School did not achieve a Met Standard rating, based on the 2015 TEA Accountability ratings; however, the Met Standard rating was achieved in 2014. An article titled "Seven El Paso Schools Fail to Meet Standard" from the *El Paso Times* dated August 11, 2015, indicated that Guillen Middle School received three distinctions last year in science, closing performance gaps and post-secondary readiness. The El Paso ISD ("EPISD") deputy superintendent stated "Guillen's improvement required rating was a huge drop" and that they are "still reviewing data to identify where Guillen struggled..." and "...new principals, new programs and struggling English Language Learners and special education students seem to have played a role." Moreover, the article stated that according to state data, more than 40% of students at Guillen are classified as English Language Learners. The EPISD deputy superintendent also stated EPISD officials are working to implement a new curriculum aligned to more challenging state standards to better support teachers intervening to help struggling students." The article further stated "...Guillen will have new principals this year..." and the deputy superintendent feels "very strongly the school will be making gains next year." A campus improvement plan was submitted and reflected formative reviews were scheduled for October, 2015, January, 2016, March, 2016 and June, 2016. As of the January update, there was continued progress, some even with considerable progress made on several of the goals and performance objectives identified in the improvement plan. Among those with considerable progress was to hire and retain highly qualified teachers and parent training in using technology to communicate with teachers via email and use of the online parent portal system. Moreover, they have several meetings each month with parents to keep them informed of school activities and issues concerning students.

Lastly, regarding the environmental undesirable neighborhood characteristic, the proposed scattered site development is located within the ASTM-search distances of two CERCLIS sites, which include the El Paso Gas Electric Light and the El Paso Drum Site. These sites are within a 0.50 mile radius of the proposed development. Moreover, there is an RCRA Generator/Handler of Hazardous Waste within 0.25 mile radius of the proposed development. The entity of record for this facility is a Family Dollar and is coded as RCRA-CESQG which stands for Conditionally Exempt Small Quantity Generator and indicates the facility generates no more than 220 lbs of hazardous waste per month. This designation requires compliance with several basic waste management requirements to remain exempt from the full hazardous waste regulations that apply to generators of large quantities of waste. According to the ESA provider, these facilities are topographically cross-gradient from the proposed development, and based on the listed distances, topographic relationship, and/or current regulatory status, they are not suspected to present environmental concerns. The ESA provider did not recommend additional assessments or diligence that would need to be performed and staff does not believe the disclosure requires further review.

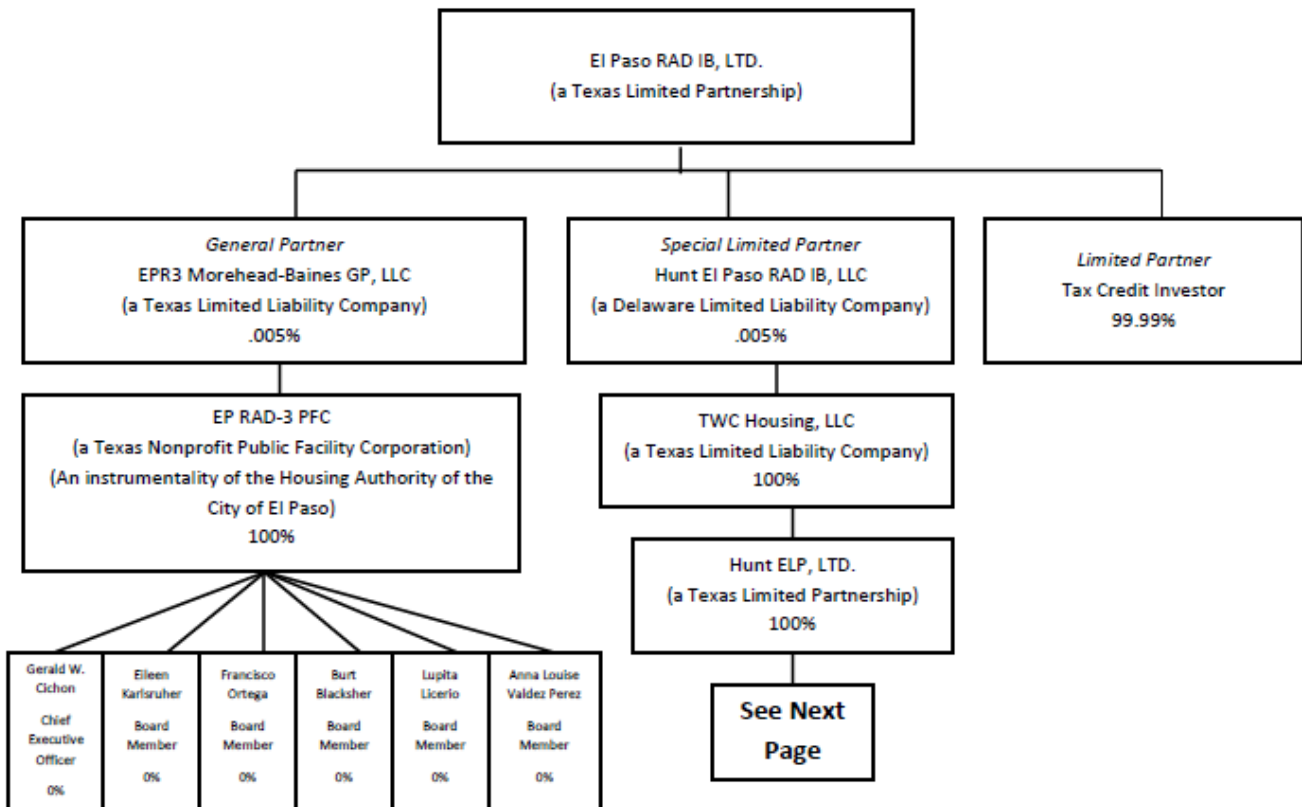
Under §10.101(a)(4) of the Uniform Multifamily Rules, there is a consideration for acceptable mitigation regarding the undesirable neighborhood characteristics on the basis that the development includes the preservation of existing occupied affordable housing units that are subject to existing federal rent or income restrictions. Currently, 100% of the units at Charles R. Morehead are public housing units under Section 9.

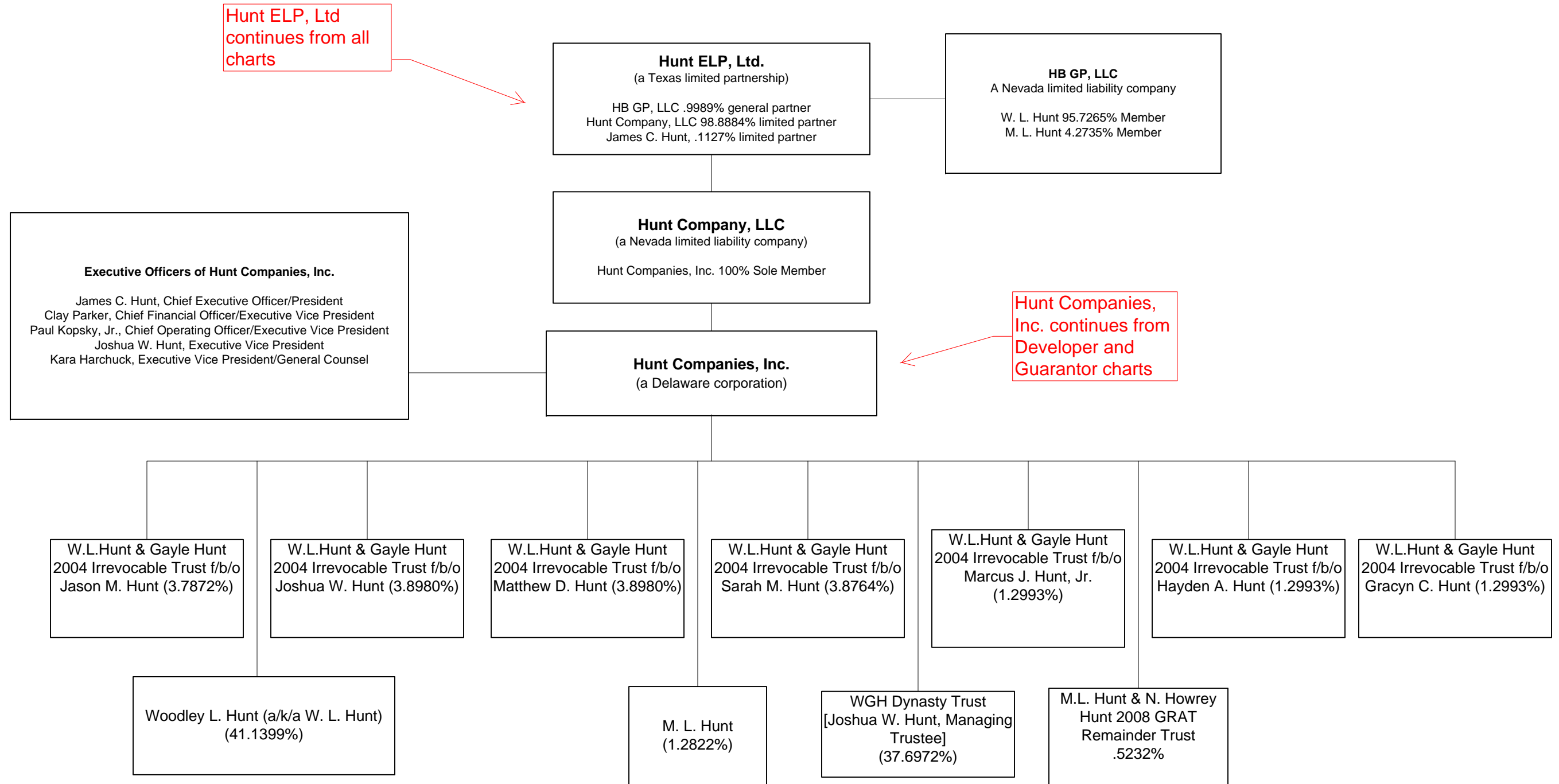
After reviewing all of the aforementioned facts relative to the components of poverty, school standards and ESA issues disclosed, staff recommends the proposed development site(s) be considered eligible. It is also worth noting that the scope of work planned for this development involves approximately \$47,000/unit in rehabilitation costs which far exceeds the minimum threshold in the rule of \$25,000/unit.

*Organizational Structure:* The Borrower is El Paso RAD 1B, LTD. and includes the entities and principals as indicated in the organization chart below. The EARAC met on March 28, 2016, and considered the previous participation review documentation associated with the application. In accordance with 10 TAC §1.301(d)(1), the compliance history was designated as an Extra Large Portfolio Category 4, which reads as follows in the rule:

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*Public Comment:* There have been no letters of support or opposition received by the Department.





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continues from all  
charts

Hunt Companies,  
Inc. continues from  
Developer and  
Guarantor charts

## Exhibit A

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