

BOARD BOOK OF MARCH 23, 2017



J. Paul Ozer, Chair
Leslie Bingham Escareño, Vice-Chair
Juan Muñoz, Member
T. Tolbert Chisum, Member
Tom H. Gann, Member
J. B. Goodwin, Member

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

**A G E N D A
9:00 AM
March 23, 2017**

**Dewitt C. Greer State Highway Building
Ric Williamson Hearing Room
125 E 11th Street
Austin, Texas**

CALL TO ORDER

ROLL CALL

Leslie Bingham-Escareño, Vice Chair

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.

Resolution recognizing April as *Fair Housing Month*

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. Action may be taken on any item on this agenda, regardless of how designated.

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

LEGAL

- a) Presentation, Discussion, and Possible Action regarding the adoption of Agreed Final Order concerning Royal Palm (HTC 91017 / CMTS 947)

Jeff Pender
Deputy General Counsel

ASSET MANAGEMENT

- b) Presentation, Discussion and Possible Action regarding Material Amendments to the Housing Tax Credit Land Use Restriction Agreement ("LURA")
99201 Sea Mist Townhomes Rockport
01130 Port Arthur Townhomes Port Arthur
- c) Presentation, Discussion and Possible Action regarding Placed in Service Deadline Extensions
14087 Cypress Creek at Joshua Station Joshua
14292 Cypress Creek at Parker Boulevard Royse
- d) Presentation, Discussion and Possible Action regarding Ownership Transfer Prior to IRS 8609 Issuance or Construction Completion
12413 Sienna Pointe San Marcos

Raquel Morales
Director

BOND FINANCE

- e) Presentation, Discussion, and Possible Action regarding Resolution No. 17-013 approving an underwriting team and containing other provisions relating to the subject

Monica Galuski
Director

HOME AND HOMELESS PROGRAM

- f) Presentation, Discussion, and Possible Action Regarding Additional Authority to Reallocate Recaptured Program Year 2015 Emergency Solutions Grants Program Funding

Jennifer Molinari
Director

HOUSING RESOURCE CENTER

- g) Presentation, Discussion, and Possible Action on the re-release of a draft 2017 State of Texas Consolidated Plan: One-Year Action Plan

Elizabeth Yevich
Director

MULTIFAMILY FINANCE

- h) Presentation, Discussion, and Possible Action on the Issuance of a Determination Notice for Housing Tax Credits with another Issuer
17400 Casa Del Rio/Villa Hermosa Del Rio
- i) Presentation, Discussion, and Possible Action on Inducement Resolution No. 17-014 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2017 Waiting List for Emli at Liberty Crossing Apartments

Marni Holloway
Director

TEXAS HOMEOWNERSHIP

- j) Presentation, Discussion and Possible Action regarding publication of a Request for Proposal (“RFP”) for a Program Administrator for the Texas First Time Homebuyer Program, the My First Texas Home Program, the Texas Mortgage Credit Certificate (MCC) Program, and other first-time homebuyer programs that may be implemented by the Department

Cathy Gutierrez
Director

RULES

- k) Presentation, Discussion, and Possible Action on an order proposing actions to 10 TAC Chapter 6 Community Affairs Programs, including the 1) proposed amendments in Subchapter A, General Provisions, of §6.2 Definitions, §6.4 Income Determination, and §6.5 Documentation and Frequency of Determining Customer Eligibility; and 2) proposed amendments in Subchapter C, Comprehensive Energy Assistance Program (“CEAP”), of §6.308 Allowable Subrecipient Administrative, Program Services Costs, and Assurance 16, and §6.310 Household Crisis Component; and directing that they be published for public comment in the *Texas Register*

Michael DeYoung
Director, Community Affairs

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, February-March 2017
- b) Quarterly Report on Texas Homeownership Division Activity
- c) Report on Department’s Fair Housing Activities

Michael Lyttle
Chief, External Affairs
Cathy Gutierrez
Director, Texas Homeownership
Suzanne Hemphill
Fair Housing Project Mgr

ACTION ITEMS

ITEM 3: EXECUTIVE

- a) Presentation, Discussion, and Possible Action to adopt additional clarifying guidance on Resolution 02-056 separating the policy-making functions of the Board and the management responsibilities of staff
- b) Presentation, Discussion, and Possible Actions to address syndication issues on 2016 9% awards

Timothy K. Irvine
Executive Director

ITEM 4: REPORTS

Report on 2018 Qualified Allocation Plan (“QAP”) Project

Marni Holloway
Director, MF Finance

ITEM 5: MULTIFAMILY FINANCE

Presentation, Discussion, and Possible Action on Timely Filed Appeals of Application Termination under the Department’s Multifamily Program Rules

17029 Cibolo Senior Gardens	Boerne
17043 Maplewood Gardens	Caldwell
17045 Rock Prairie Village	College Station
17049 Oak Creek Senior Village	New Braunfels

Marni Holloway
Director

17060	Artisan at Old Tezel Road	San Antonio
17087	Artisan at Potranco	San Antonio
17038	Columbia Renaissance Sq II	Fort Worth
17084	Country Place Apartments	Atlanta
17144	Derbyshire Court Villas	Lindale
17351	The Heritage Apartments	Houston
17069	Arlinda Gardens	Bryan
17742	Las Villas del Rio Hondo	Rio Hondo

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 Tex. Gov't Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;
2. Pursuant to Tex. Gov't Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;
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; including seeking legal advice in connection with a 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.

Leslie Bingham-Escareño
Vice Chair

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.

If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

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.

NOTICE AS TO HANDGUN PROHIBITION DURING THE OPEN MEETING OF A GOVERNMENTAL ENTITY IN THIS ROOM ON THIS DATE:

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una

pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista.

NONE OF THESE RESTRICTIONS EXTEND BEYOND THIS ROOM ON THIS DATE AND DURING THE MEETING OF THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Texas Department of Housing and Community Affairs
RESOLUTION

WHEREAS, April 2017 is Fair Housing Month and marks the 49th anniversary of the passage of the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968), signed by U.S. President Lyndon Baines Johnson on April 11, 1968;

WHEREAS, the Fair Housing Act provides that no person shall be subjected to discrimination because of race, color, national origin, religion, sex, disability, or familial status in the sale, rental, financing, or advertising of housing and charges the Secretary of the U.S. Department of Housing and Urban Development (“HUD”) with administering HUD programs in a manner that meets the requirements of the law and affirmatively furthers the purposes of the Fair Housing Act;

WHEREAS, the Texas Department of Housing and Community Affairs administers HUD and other housing programs that promote the development and supply of safe, decent, affordable housing for qualifying Texans;

WHEREAS, it is the policy of the Texas Department of Housing and Community Affairs to support equal housing opportunity in the administration of all of its programs and services, including encouraging equitable lending practices for its homebuyer programs and ensuring compliance with Fair Housing rules and guidelines for its multifamily developments;

WHEREAS, the Texas Department of Housing and Community Affairs, through its programs, workshops, trainings, and materials seeks continually to educate property managers, consultants, program administrators, architects, contractors, developers, engineers, lenders, real estate professionals, and others about the importance of their commitment and adherence to the requirements of the Fair Housing Act;

WHEREAS, the Texas Department of Housing and Community Affairs encourages the development of educational fair housing programs in local communities throughout the State and is seeking to build new opportunities for fair housing education and training; and

WHEREAS, the Texas Department of Housing and Community Affairs and the State of Texas support equal housing opportunity and housing choice in accordance with the Fair Housing Act not only during Fair Housing Month in April, but throughout the entire year;

NOW, therefore, it is hereby

RESOLVED, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate April 2017 as Fair Housing Month in Texas, and encourages all Texas individuals and organizations, public and private, to join and work together in this observance for free and equal housing treatment and opportunity for all.

Signed this twenty-third day of March 2017.



Leslie Bingham Escareño, Vice Chair

Dr. Juan Muñoz, Member

Tom H. Gann, Member

J. B. Goodwin, Member

Timothy K. Irvine, Executive Director

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BOARD ACTION REQUEST

LEGAL DIVISION

MARCH 23, 2017

Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Royal Palm (HTC 91017 / CMTS 947)

RECOMMENDED ACTION

WHEREAS, Royal Palm, owned by Altman Family Trust (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on February 28, 2017, Owner’s representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$1,000, to be fully forgiven if all violations are resolved as specified in the Agreed Final Order and if training courses are attended on or before June 21, 2017;

WHEREAS, unresolved compliance findings include an Affirmative Marketing Plan violation, a violation for failure to have acceptable written tenant selection criteria, four Household Income Above Limit Upon Initial Occupancy violations, two lease violations relating to required lease notices, a violation for failure to execute required lease language for one unit, and one annual reporting violation; 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 an Agreed Final Order assessing an administrative penalty of \$1,000, subject to forgiveness as outlined above for noncompliance at Royal Palm, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Altman Family Trust ("Owner") is the owner of Royal Palm ("Property"), a low income apartment complex composed of 23 units, located in Dallas County. The organization is a trust and, as such, is not registered with the Texas Secretary of State. CMTS lists John Altman as the primary contact for Owner and the affiliated management company, Alden Short Management. April West is listed as the onsite manager. Sam Matalone is the Chief Operating Officer of the management company.

The Property is subject to a Land Use Restriction Agreement signed by a Owner in 1991 in consideration for an annual housing tax credit allocation in the amount of \$72,150 to rehabilitate and operate the Property.

Owner was previously referred for an administrative penalty for file monitoring violations and Uniform Physical Condition Standards violations, but those referrals were closed informally when full corrections were received. Owner has been referred again and submitted corrections in response to the informal conference notice sent by the Enforcement Committee, however, those corrections highlighted a lack of program knowledge and the need for training regarding how to complete an acceptable tenant file. An informal conference was held, and the Committee learned that the problems in recent years were largely attributable to the illness and death of the long-term property manager. Owner representatives expressed interest in training for staff and are implementing changes to prevent future problems.

The following compliance violations identified during 2016 were referred for an administrative penalty and have been resolved:

1. Fair Housing Disclosure Notice violation for unit 205;
2. Noncompliance with lease requirements for units 201, 205, 211, and 212.

The following compliance violations identified during 2016 were referred for an administrative penalty and are unresolved:

1. Failure to maintain an Affirmative Marketing Plan and evidence of associated marketing efforts.
2. Failure to maintain compliant tenant selection criteria;
3. Household income violations for units 105, 201, 205, and 211;
4. Lease violations relating to failure to provide and execute required notices, including:
 - a. Failure to post the Tenant Rights and Resources Guide in a common area in the office;
 - b. Failure to execute the Tenant Rights and Resources Guide Acknowledgment for unit 105;
5. Lease violation relating to failure to execute required no lock-out and good cause eviction language in the lease for unit 105;
6. Violation relating to an answer in the 2015 Annual Owner's Compliance Report, indicating that all units in the complex are rented on a month-to-month basis, which is a potential violation under TDHCA rules and represents a current violation for failure to accurately certify in the Report that the property complies with all applicable program requirements.

Owner participated in an informal conference with the Enforcement Committee on February 28, 2017, and agreed to sign an Agreed Final Order with the following terms:

1. A \$1,000 administrative penalty, subject to partial forgiveness as indicated below;
2. Owner must correct the file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before June 21, 2017;
3. Owner must attend First Thursday Income Eligibility Training and HTC Compliance Training, then provide copies of completion certificates to TDHCA, on or before June 21, 2017.
4. If Owner complies with all requirements and addresses all violations as required, the full administrative penalty in the amount of \$1,000 will be forgiven; and
5. If Owner violates any provision of the Agreed Final Order, the full administrative penalty will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, fully forgivable administrative penalty in the amount of \$1,000 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
ALTMAN FAMILY TRUST WITH
RESPECT TO ROYAL PALM (LIHTC
FILE # 91017 / CMTS # 947)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 23rd day of March, 2017, 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 **ALTMAN FAMILY TRUST** ("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 Enforcement 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. During 1991, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$72,150 to rehabilitate and operate Royal Palm ("Property") (HTC file No. 91017 / CMTS No. 947 / LDLD No. 135).
2. Respondent signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective October 8, 1991, and filed of record at Volume 91199, Page 0386 of the Official Public Records of Real Property of Dallas County, Texas ("Records").
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. An on-site monitoring review was conducted on January 17, 2016, 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 July 11, 2016, corrective action deadline was set, however, the following violations were not corrected before that deadline:
 - a. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements 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. A plan was received on January 17, 2017, but did not comply with minimum rule requirements. The violation is uncorrected;
 - b. Respondent failed to maintain written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements. Criteria were submitted on January 17, 2017, but did not meet minimum rule requirements. The violation is uncorrected;
 - c. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 105, 201, 205, and 211, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. Documentation was received on January 17, 2017, but did not meet minimum requirements to prove eligibility. The violations are uncorrected;
 - d. Respondent failed to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office. No corrective documentation was received. This violation is uncorrected;
 - e. Respondent failed to provide a Tenant Rights and Resources Guide and get a signed Acknowledgment for units 105, 201, 211, and 212, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. The violations for units 201, 211, and 212 were corrected on January 17, 2017, 190 days after the corrective action deadline,

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC §§ 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.

after intervention by the Enforcement Committee. The violation for unit 105 is uncorrected;

- f. Respondent failed to provide the Fair Housing Disclosure Notice for unit 205, a violation of 10 TAC §10.612 (Lease Requirements), which, at the time of move-in for the household, required all developments to provide prospective households with a fair housing disclosure notice within a certain time period. This rule has since changed and the form has been combined with the Notice of Amenities and Services into a replacement document called a "Tenant Rights and Resources Guide". The violation was corrected on January 17, 2017, 190 days after the corrective action deadline, after intervention by the Enforcement Committee; and
 - g. Respondent failed to execute required lease provisions or exclude prohibited lease language for units 105, 201, 211, or 212, a violation of 10 TAC §10.613 (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. The violations for units 201, 211, and 212 were corrected on January 17, 2017, 190 days after the corrective action deadline, after intervention by the Enforcement Committee. The violation for unit 105 is uncorrected.
5. On September 16, 2016, TDHCA sent a notice requiring Respondent to respond and clarify an answer on Part A of the 2015 Annual Owner's Compliance Report, which had indicated that all units in the complex are rented on a month-to-month basis, which is a potential violation under the LURA and TDHCA rules. Respondent failed to reply to the query regarding the annual report, a violation of 10 TAC §10.607 (Reporting Requirements), which requires Respondents to certify that the property complies with all applicable program requirements. This violation remains uncorrected.
6. The following violations remain outstanding at the time of this order:
- a. Affirmative marketing violation described in FOF #4.a;
 - b. Written policies and procedures violation described in FOF #4.b;
 - c. Household income violations described in FOF #4.c;
 - d. Tenant Rights and Resources Guide posting violation described in FOF #4.d;
 - e. Tenant Rights and Resources Guide Acknowledgment violation described in FOF #4.e;
 - f. Lease language violation described in FOF #4.g; and
 - g. Annual reporting violation described in FOF #5.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC §2.
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 TAC §10.617 in 2016, by failing to provide a complete affirmative marketing plan.
5. Respondent violated 10 TAC §10.610 in 2016, by not maintaining written tenant selection criteria meeting TDHCA requirements;
6. Respondent violated 10 TAC §10.611 and Section 4 of the LURA in 2016, by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 105, 201, 2015, and 211.
7. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office.
8. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to provide a Tenant Rights and Resources Guide to units 105, 201, 211, and 212, and have the households sign acknowledgment forms.
9. Respondent violated 10 TAC §10.612 in 2013, by failing to execute the Fair Housing Disclosure Notice for unit 205.
10. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to execute lease addenda for units 105, 201, 211, and 212, that included required lease language.
11. Respondent violated 10 TAC §10.607 in 2016 by failing to certify answers in the Annual Owner's Compliance Report for the year 2015.
12. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
13. 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.
14. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 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.
15. An administrative penalty of \$1,000 is an appropriate penalty in accordance with 10 TAC §2.

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 \$1,000, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Sam Matalone and April West shall attend First Thursday Income Eligibility Training² and HTC Compliance Training³ offered by TDHCA or the Texas Apartment Association, and submit completion certificates on or before June 21, 2017.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the attachments and submit full documentation of the corrections to TDHCA on or before June 21, 2017.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the full administrative penalty in the amount of \$1,000 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

IT IS FURTHER ORDERED that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System ("CMTS") by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the uploads are complete, an email must be sent to Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to inform her that the documentation is complete and ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

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

² Register online at <http://www.tdhca.state.tx.us/pmcomp/COMPtrain.html>

³ Register online at <https://www.taa.org/events/>

IT IS FURTHER ORDERED that Respondent shall follow the requirements of 10 TAC 10.406, a copy of which is included at Attachment 4, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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 March 23, 2017.

By: _____
Name: Leslie Bingham-Escareño
Title: Vice-Chair of the Board of TDHCA

By: _____
Name: James "Beau" Eccles
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 23rd day of March, 2017, personally appeared Leslie Bingham-Escareño, 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 23rd day of March, 2017, personally appeared James "Beau" Eccles, 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

STATE OF TEXAS

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COUNTY OF _____

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

1. "My name is _____, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of _____ for Respondent. I am the authorized representative of Respondent, owner of the Property, 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:

ALTMAN FAMILY TRUST

By: _____
Name: _____
Title: _____

Given under my hand and seal of office this _____ day of _____, 2017.

Signature of Notary Public

Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF _____

My Commission Expires: _____

Attachment 1

File Monitoring Violation Resources and Instructions

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)

2. Refer to the following link for copies of forms that are referenced below:

<http://www.tdhca.state.tx.us/pmcomp/forms.htm>

3. Technical support and training presentations are available at the following links:

Video/Audio Training: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>

Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>

Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>

Online Reporting: <http://www.tdhca.state.tx.us/pmcomp/reports.htm>

FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm>

4. **All corrections must be submitted via CMTS:** See link for steps to upload documents <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.

5. **Important notes -**

- i. Do not backdate any documents.
- ii. A transfer of a qualified household from another unit is not sufficient to correct any findings. If there is a tenant income certification or household income above limit violation, a transfer from another unit will simply cause the finding to transfer to that unit.

6. **Written tenant selection criteria** – Respondent submitted written tenant selection criteria, however, the criteria were incomplete.

Submit updated written policies and procedures addressing all requirements at 10 TAC §10.610, including but not limited to the requirement to state that the Development will comply with state or federal fair housing and anti-discrimination laws. Staff recommends using the rule as a checklist. A webinar presentation is available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. A cheat sheet for further verification is available at <http://www.tdhca.state.tx.us/pmcdocs/15-AOCR-TSC.pdf>, however, please note that the cheat sheet was only published as an aide for annual reporting and, as such, should not be relied upon as a primary resource; you are required to follow all requirements of the rule.

7. **Affirmative marketing plan** – Submit complete Affirmative Marketing Plan along with outreach marketing materials, as indicated below. A webinar presentation is available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>.

Frequent problems observed by TDHCA that cause plans to be rejected: Respondent has not submitted an affirmative marketing plan and this section is intended to help you to avoid frequent errors observed by the Department. Frequent problems include, but are not limited to:

- Not using HUD Form 935.2A;
- Not correctly identifying populations “least likely to apply”. In general, those populations that are least likely to apply *might* include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, families with children, and the disabled. Analysis is required to determine which of these groups are least likely to apply. If a population is not present in the area, that group should not be selected. All properties must market to the disabled population.
- Not correctly identifying organizations that are specifically associated with groups identified as “least likely to apply”. For example, marketing to the Housing Authority or placing ads in Craigslist would be considered general marketing, not affirmative marketing, because both serve all persons living in the area;
- Not including evidence of special outreach efforts, such as marketing letters, to those “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;
- Not including a sentence in English and Spanish in the outreach marketing materials that prospective tenants can access if reasonable accommodations are needed to complete the application process.

To correct:

- a. Identify the appropriate housing market in which outreach efforts will be made;
- b. Determine the groups that are least likely to apply.

The Affirmative Marketing Web Tool referenced at 10 TAC §10.617(d)(5) to determine groups that are least likely to apply is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. If you use this tool, you may rely on the results to be accurate, however, you should first ensure that your quarterly vacancy reports are up-to-date in CMTS since the Tool uses that data in its analysis. If you do not use this tool, you must justify your group selections as indicated in the rule.

Since your property has under 40 units, you must enter its census tract (48113001400) into the right side of the Tool rather than selecting the development name from the drop-down menu on the left side of the tool.

Persons with disabilities must always be selected as a group least likely to apply.

- c. Identify specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups designated as least likely to apply, including organizations that assist persons with disabilities. For example, a local housing authority serves the general public, not a specific racial or ethnic demographic; therefore, marketing to the housing authority is

not affirmative marketing. A Hispanic Chamber of Commerce or Hispanic publication could be an avenue to market to the Hispanic population if that group is identified as one that is least likely to apply. Similarly, local groups that focus on helping the mentally disabled, physically disabled, disabled veteran affairs groups, etc, could be a way to market to the disabled community. Some examples of groups that focus on the disabled: Easter Seals, United Cerebral Palsy, American Council of the Blind, The Blinded Veterans Association.

- d. Complete and execute an affirmative marketing plan using any version of HUD Form 935.2A, including the groups and organizations identified above.
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist.
- f. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Remember that 10 TAC §10.617(f)(5) requires marketing materials to 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. This contact information sentence must include the terms "reasonable accommodation" and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *"Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completar el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX."*
- g. Submit all documentation to the Department via CMTS for review.

6. Tenant Rights and Resources Guide posting violation: Post a laminated copy of the guide in a common area of the leasing office and submit a certification to the Department that this has been completed.

7. Tenant Rights and Resources Guide violation for unit 105:

- a. If correctable: Implement Tenants Rights and Resource Guide as indicated at 10 TAC §10.613(k) and submit signed Tenants Rights and Resource Guide Acknowledgments for unit 105.
- b. If uncorrectable: If the tenant has moved out without signing this form, please submit a letter to TDHCA including the move-out date and acknowledging that the finding cannot be resolved. The violation would be uncorrectable, but will not trigger penalty payment under this Agreed Final Order.

8. Lease language violation for unit 105:

- a. If correctable: If the affected household remains in the unit, have the household execute the required lease addendum and submit to the Department. Ensure that it addresses the requirements of 10 TAC §10.613(a) and 10 TAC §10.613(e).
- b. If uncorrectable: If the tenant has moved out without signing, please submit a letter to TDHCA including the move-out date and acknowledging that the finding cannot be resolved. The violation would be uncorrectable, but will not trigger penalty payment under this Agreed Final Order.

9. Household income violations for units 105, 201, 205, and 211: Some documentation has been received for these units, but was incomplete and did not follow TDHCA instructions. Follow the instructions below and submit documentation:

Circumstance with respect to units listed above	Instruction
If unit is occupied by a qualified household	Follow the instructions that are outlined separately for each unit in Attachment 2. If the household-specific circumstances outlined at Attachment 2 no longer exist, follow the instructions below.
If unit is occupied by a new qualified household	Submit the full tenant file*.
If unit is occupied by a nonqualified household on a month-to-month lease	<p>A. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA.**</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 6/21/2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>
If unit is occupied by a nonqualified household with a non-expired lease	<p>A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.**</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 6/21/2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>
If unit has been vacant <i>more than</i> 30 days	<p>A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 6/21/2017 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>
If unit has been vacant <i>less than</i> 30 days	<p>A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy).</p> <p>C. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 6/21/2017 is acceptable for this circumstance provided that Requirements A and B above are fulfilled.</p>

*Full tenant file must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum, and Tenant Rights and Resources Guide Acknowledgment.

** If a notice of nonrenewal or notice of termination is sent to tenant, ensure that it complies with TDHCA requirements of the rule at 10 TAC 10.610(f) at this link:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&dir=&rlc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=10&rl=610](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&dir=&rlc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=10&rl=610)

Attachment 2

Specific Tenant File Instructions

Unit # 105	BIN # TX9100395	
Finding		Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household
Noncompliance Date	02/25/2015	Current Status Uncorrected Correction Date
Reason		A household occupied this unit on February 25, 2015. The household disclosed income on the rental application; however, no income was verified and no associated documentation of income and assets was present in the file. The Department is unable to verify that the household was income eligible upon initial occupancy.
Corrective Action		Screen all household members for income and assets at the time of initial occupancy. If the household qualified, then submit all necessary income and asset documentation to the Department for review. If the household did not initially qualify, but circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, and the acknowledgement of the Tenants Rights and Resources Guide to the Department for review.

Unit # 201	BIN # TX9100394	
Finding		Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household
Noncompliance Date	10/10/2015	Current Status Uncorrected Correction Date
Reason		A household occupied this unit on October 10, 2015 but was not properly screened for income and assets prior to initial occupancy. Paycheck stubs in the file indicate that the household was not income eligible upon initial occupancy. Additionally, the household did not execute an Income Certification as required.
Corrective Action		If circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review, including a properly executed Income Certification. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, and the acknowledgement of the Tenants Rights and Resources Guide to the Department for review.

Unit # 205	BIN # TX9100395	
Finding		Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household
Noncompliance Date	08/03/2013	Current Status Uncorrected Correction Date
Reason		A household occupied this unit on August 3, 2013 but was not properly screened for income and assets prior to initial occupancy. Paycheck stubs in the file indicate that the household was not income eligible upon initial occupancy. Additionally, the household did not execute an Income Certification as required.
Corrective Action		If circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review, including a properly executed Income Certification. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, and the acknowledgement of the Tenants Rights and Resources Guide to the Department for review.

Unit # 211	BIN # TX9100397	
Finding		Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household
Noncompliance Date	06/13/2015	Current Status Uncorrected Correction Date
Reason		A household occupied this unit on June 13, 2015. No screening documentation was present in the household file at the time of the onsite review. The Department is unable to determine that the household was income eligible upon initial occupancy. Additionally, the household did not execute an Income Certification as required.
Corrective Action		Screen all household members for income and assets at the time of initial occupancy. If the household qualified, then submit all necessary income and asset documentation to the Department for review. If the household did not initially qualify, but circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets, including all screening documentation and a properly executed Income Certification, to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, and the acknowledgement of the Tenants Rights and Resources Guide to the Department for review.

Attachment 3

Tenant File Guidelines

The following technical support does not represent a complete list of all file requirements and is intended only as a guide.

1. **Intake Application:** The Department does not have a required form to screen households, but we make this form available for that purpose. It is required that households be screened for household composition, income and assets. Applicants must complete all blanks on the application and answer all questions. Any lines left intentionally blank should be marked with "none" or "n/a." The application must be signed and dated by all adult household members, using the date that the form is actually completed.
2. **Verify Income:** Each source of income and asset must be documented for every adult household member based upon the information disclosed on the application. There are multiple methods:
 - a. **First hand verifications:** Paystubs or payroll print-outs that show gross income. If you choose this method, ensure that you consistently collect a specified number of consecutive check stubs as defined in your management plan;
 - b. **Employment Verification Form:** Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;
 - c. **Verification of non-employment income:** You must obtain verifications for all other income sources, such as child support, social security, and/or unemployment benefits;
 - d. **Telephone Verifications:** these are acceptable *only* for clarifying discrepancies and cannot be used as primary form of verification. Include your name, the date, the name of the person with whom you spoke, and your signature;
 - e. **Certification of Zero Income:** If an adult household member does not report any sources of income on the application, this form can be used to document thorough screening and to document the source of funds used to pay for rent, utilities, and/or other necessities.

3. **Verify Assets:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:
 - a. **Under \$5000 Asset Certification Form:** If the total cash value of the assets owned by members of the household is less than \$5,000, as reported on the Intake Application, the TDHCA Under \$5,000 Asset Certification form may be used to verify assets. If applicable, follow the instructions to complete one form per household that includes everyone's assets, even minors, and have all adults sign and date using the date that the form is actually completed.
 - b. **First hand verifications** such as bank statements to verify a checking account. Ensure that you use a consistent number of consecutive statements, as identified in your management plan.
 - c. **3rd party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the financial institution. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.
4. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. Be sure to include any income derived from assets. The form must include (and be signed by) each adult household member.
5. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 TAC §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 TAC §10.613(e) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. The Texas Apartment Association has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above.

6. **Tenant Rights and Resources Guide:** As of 1/8/2015, the Fair Housing Disclosure Notice and Tenant Amenities and Services Notice have been replaced by the Tenant Rights and Resources Guide, a copy of which is available online at: <http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureBooklet.doc>.

In accordance with 10 TAC §10.613(k), a laminated copy of this guide must be posted in a common area of the leasing office. Development must also provide a copy of the guide to each household during the application process and upon any subsequent changes to the items described at paragraph b) below. The Tenant Rights and Resources Guide includes:

- a) Information about Fair Housing and tenant choice; and
- b) Information regarding common amenities, unit amenities, and services.

A representative of the household must receive a copy of the Tenant Rights and Resources Guide and sign an acknowledgment of receipt of the brochure prior to, but no more than 120 days prior to, the initial lease execution date.

In the event that there is a prior finding for a Fair Housing Disclosure Notice, Tenant Amenities and Services Notice, the Tenant Rights and Resources Guide was not provided timely, or the household does not certify to receipt of the Tenant Rights and Resources Guide, correction will be achieved by providing the household with the Tenant Rights and Resources Guide and receiving a signed acknowledgment. A copy of the acknowledgment form is available at: <http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureSignaturePage.pdf>.

Attachment 4:

Texas Administrative Code

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 10	UNIFORM MULTIFAMILY RULES
SUBCHAPTER E	POST AWARD AND ASSET MANAGEMENT REQUIREMENTS
RULE §10.406	Ownership Transfers (§2306.6713)

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

(1) the selling HUB is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(4) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least thirty (30) calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired.

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

1b

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
MARCH 23, 2017

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit (“HTC”) Land Use Restriction Agreement (“LURA”) for Sea Mist Townhomes (HTC #99201)

RECOMMENDED ACTION

WHEREAS, Sea Mist Townhomes (the “Development”) received a 9% HTC award in 1999 to construct 76 multifamily units in Rockport, Aransas County;

WHEREAS, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (“ROFR”) to purchase the Development and for having an Historically Underutilized Business (“HUB”), namely SSHA Sea Mist, LLC, participate in the ownership of the Development;

WHEREAS, the LURA for the Development requires a two-year ROFR period and requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall remain the Managing General Partner, and must maintain regular, continuous, and substantial participation in the development, operation and ownership of the Development;

WHEREAS, the Development is within the extended Compliance Period, as defined in the LURA;

WHEREAS, in Spring 2015 the Texas Legislature amended Tex. Gov’t Code §2306.6725 and §2306.6726 to allow, among other things, for a 180-day ROFR period and to permit a Qualified Entity to purchase a property under ROFR, and defined a Qualified Entity to mean an entity described by, or an entity controlled by an entity described by, §42(i)(7)(A), Internal Revenue Code of 1986;

WHEREAS, 10 TAC §10.406(g) allows for a HUB requirement to be removed if the HUB will maintain its ownership interest but is unable to maintain its HUB status, as long as the LURA does not require such continual ownership or a material LURA amendment is approved;

WHEREAS, the Development Owner requests to amend the LURA for the Development to incorporate changes made to Tex. Gov’t Code §2306.6725 and §2306.6726 and to eliminate the HUB requirement; and

WHEREAS, 10 TAC §10.405(b)(2) allows for an owner to request a material LURA amendment, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Sea Mist Townhomes is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Sea Mist Townhomes was approved in 1999 for a 9% HTC award to construct 76 multifamily units in Rockport, Aransas County. In a letter dated December 2, 2016, Sea Mist, Ltd. (the “Development Owner”) through its Managing General Partner (SSHA Sea Mist, LLC – Victoria W. Spicer) requested approval to amend the LURA related to the ROFR provision and to eliminate the requirement for a HUB to remain as the Managing General Partner and to maintain regular, continuous, and substantial participation in the development and operation of the Development in order to facilitate a proposed re-syndication.

The additional use restrictions in the current LURA require, among other things, an extended 25 year Compliance Period, material participation by a HUB throughout the Compliance Period and a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), or to a tenant organization if at any time after the fifteenth year of the Compliance Period the owner decides to sell the property.

The request letter states that the partnership desires to pursue re-syndication and the current HUB has determined that it does not wish to participate in the ownership of the Development following re-syndication. Therefore, the HUB General Partner is requesting approval to remove the HUB requirement and has stated that it is acting of its own volition in making this request, and that the HUB’s participation regarding the Development has been substantive and meaningful and will continue to be until the re-syndication is effectuated.

In 2015, the Texas Legislature passed HB 3576 which amended Tex. Gov’t Code §2306.6726 to allow for a 180-day ROFR period and to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. It is worth noting that while Qualified Entity was newly defined in HB 3576 and incorporated into statute, the set order of priority related to the specific types of nonprofit organizations that would have a right to purchase a property under the ROFR provision was not eliminated or changed. HB 3576 defines Qualified Entity to mean an entity described by, or an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department’s 2016 Post Award and Asset Management Requirements implemented administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner must comply with the amendment and notification requirements under the Department’s rule at Tex. Gov’t Code §2306.6712 and 10 TAC §10.405(b). A public hearing on the matter was held Wednesday, March 1, 2017, at 10:00 am at the Development’s management office/clubhouse. There was no negative public comment being received.

Staff recommends approval of the requested material LURA amendment.

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

December 2, 2016

VIA HAND DELIVERY

Raquel Morales
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 99201 Sea Mist Townhomes (the "**Property**")

Dear Ms. Morales:

The undersigned is the Managing General Partner (herein so called) of Sea Mist, Ltd., a Texas limited partnership (the "**Partnership**") and the current owner of the Property. This letter constitutes a request for a material LURA amendment in order to: (1) modify the right of first refusal (the "**ROFR**") and (2) remove the ongoing requirement for HUB participation.

Background Information

The Property is at the end of its Compliance Period, and the Partnership desires to pursue resyndication. The purpose of this request is to help the Partnership prepare for the proposed resyndication.

Request to Amend the ROFR Period

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period, resyndication, and the sale to qualified entities. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(F) of the Rules allows for a LURA amendment in order to conform a ROFR to the provisions in Section 2306.6726. Therefore the Managing General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period, also permitting resyndication and sale to qualified entities.

Request for HUB Restriction Removal

The LURA for this Property requires ownership participation by a historically underutilized business (a "**HUB**"). The Managing General Partner is a HUB and has been serving in such capacity in replacement of the original HUB partner, Gemini Holdings, Inc. TDHCA previously approved the change in HUB partner.

Section 10.406(f) of the Rules recognizes that a LURA can be amended to remove the ongoing HUB participation requirement. The Managing General Partner asks TDHCA to approve this amendment

TDHCA
Sea Mist, Ltd.
LURA Amendment Request
page 2

to facilitate the resyndication, as the Managing General Partner does not wish to participate in ownership following resyndication. In accordance with the Rules, the Managing General Partner certifies to TDHCA as follows:

- (1) The Managing General Partner is acting of its own volition in making this request.
- (2) The Managing General Partner's participation with regarding to the Property has been substantive and meaningful and will continue to be until the resyndication is effectuated and approved by TDHCA.

LURA Amendment

In accordance with Section 10.405(b) of the Rules, the Managing General Partner, acting on behalf of the Partnership, is delivering a fee in the amount of \$2500. In addition, the Managing General Partner, acting on behalf of the Partnership, commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the Managing General Partner, acting on behalf of the Partnership, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Managing General Partner, acting on behalf of the Partnership, requests staff recommendation, in support of this request, to be considered at the January 26, 2016 TDHCA Board meeting.

Thank you very much for your assistance. Please do not hesitate to contact us if you require any additional information.

Sincerely,

SSHA Sea Mist, LLC

By: 

Name: Victoria W. Spicer
Title: _____

Attachments

cc: Polaris Holdings I, LLC
Rockport Leased Housing Associates I, LLC
[need name of current lender]

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Dear Resident:

The Sea Mist Townhomes (the "**Community**") is owned by Sea Mist, Ltd. (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

The Owner is currently structured to include SSHA Sea Mist, LLC ("**SSHA SM**") as the managing general partner. SSHA SM is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed to facilitate a proposed refinancing. Therefore, Owner is requesting TDHCA approval to remove the ongoing requirement for HUB participation from its contract.

Additionally, a contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on **March 1, 2017 at 10:00 a.m.**

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would not be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form.

We appreciate that Sea Mist Townhomes is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Sea Mist Townhomes as your home.

Sincerely,

Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: Victoria W. Spicer

Title: Manager

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Senator Louis W. Kolkhorst
Texas State Senate District 18
2000 S. Market Street #101
Brenham, Texas 77833

Dear Senator Kolkhorst:

Sea Mist, Ltd. (the "**Owner**") is the owner of the Sea Mist Townhomes (the "**Community**") which is located at 2210 Chaparral Street, Rockport, Texas 78382. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is currently structured to include SSHA Sea Mist, LLC ("**SSHA SM**") as the managing general partner. SSHA SM is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed to facilitate a proposed refinancing. Therefore, Owner is requesting TDHCA approval to remove the ongoing requirement for HUB participation from its contract.

Additionally, a contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, a right of first refusal requires the Owner to offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. Recent changes in Texas law allow for changes to the right of first refusal requirement, including reducing the two-year period to a 180-day period and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. The Owner is asking TDHCA to modify its contract so that these changes permitted by Texas law will apply.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on **March 1, 2017 at 10: 00 a.m.**

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: Victoria W. Spicer

Title: Manager

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Representative Geanie Morrison
Texas State 1908 North Laurent, Suite 500
Victoria, Texas 77901

Dear Representative Morrison:

Sea Mist, Ltd. (the "**Owner**") is the owner of the Sea Mist Townhomes (the "**Community**") which is located at 2210 Chaparral Street, Rockport, Texas 78382. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is currently structured to include SSHA Sea Mist, LLC ("**SSHA SM**") as the managing general partner. SSHA SM is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed to facilitate a proposed refinancing. Therefore, Owner is requesting TDHCA approval to remove the ongoing requirement for HUB participation from its contract.

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We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: VICTORIA W. SPICER

Title: Manager

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Mayor Charles "C.J." Wax
City of Rockport, Texas
622 E. Market Street
Rockport, Texas 78382

Dear Mayor Wax:

Sea Mist, Ltd. (the "**Owner**") is the owner of the Sea Mist Townhomes (the "**Community**") which is located at 2210 Chaparral Street, Rockport, Texas 78382. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on **March 1, 2017 at 10: 00 a.m.**

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: Victoria W. Spitzer

Title: Manager

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Dougherty Mortgage LLC
90 South Seventh Street
Suite 4300
Minneapolis, MN 55402

To Whom It May Concern:

Sea Mist, Ltd. (the "**Owner**") is the owner of the Sea Mist Townhomes (the "**Community**") which is located at 2210 Chaparral Street, Rockport, Texas 78382. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on **March 1, 2017 at 10: 00 a.m.**

We invite you or one of your staff to attend and give your input on this proposal.

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Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: Victoria W. Spitzer

Title: Manager

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Senator Louis W. Kolkhorst
Texas State Senate District 18
2000 S. Market Street #101
Brenham, Texas 77833

Dear Senator Kolkhorst:

Sea Mist, Ltd. (the "**Owner**") is the owner of the Sea Mist Townhomes (the "**Community**") which is located at 2210 Chaparral Street, Rockport, Texas 78382. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: Victoria W. Spicer

Title: Manager

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Representative Geanie Morrison
Texas State 1908 North Laurent, Suite 500
Victoria, Texas 77901

Dear Representative Morrison:

Sea Mist, Ltd. (the "**Owner**") is the owner of the Sea Mist Townhomes (the "**Community**") which is located at 2210 Chaparral Street, Rockport, Texas 78382. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: VICTORIA W. SPICER

Title: Manager

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Mayor Charles "C.J." Wax
City of Rockport, Texas
622 E. Market Street
Rockport, Texas 78382

Dear Mayor Wax:

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In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on **March 1, 2017 at 10: 00 a.m.**

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: Victoria W. Spitzer

Title: Manager

Sea Mist, Ltd.
8303 Southwest Freeway, Suite 725
Houston, Texas 77074

February 24, 2017

Dougherty Mortgage LLC
90 South Seventh Street
Suite 4300
Minneapolis, MN 55402

To Whom It May Concern:

Sea Mist, Ltd. (the "**Owner**") is the owner of the Sea Mist Townhomes (the "**Community**") which is located at 2210 Chaparral Street, Rockport, Texas 78382. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on **March 1, 2017 at 10: 00 a.m.**

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Sea Mist, Ltd.

By: SSHA Sea Mist, LLC,
its general partner

By: 

Name: Victoria W. Spitzer

Title: Manager

LURA Service Event Request Form

All LURA Service Events must be approved prior to being scheduled and held. No third party social service provider can hold an event for LURA services without approval by Judy Rath. This form must be filled out and e-mailed to Judy Rath, judy@hsidevelopment.org.

Date **Community** **HSI Service Staff/Manager**
3/1/2017 Sea Mist Townhomes Freddie Torres

LURA Event	Qualifying Service
Educational Event 10:00PM- TBD	Public Meeting to address LURA changes at Sea Mist Townhomes
Event Presenter	Third Party Service Provider, if applicable
<u>Freddie Torres</u>	<u>N/A</u>

Is there a third party service provider that will host the LURA Event? Yes No

Has third party service provider been approved in the last 12 months? Yes No

If the third party provider has not been approved in the last 12 months please fill in the information below, if the third party service provider has been approved the last 12 months and is on the approved provider list DO NOT fill in the information below.

Organization: _____
Event Coordinator: _____
Address: N/A

Phone: _____
E-mail: _____

Judy will issue an approval of the event within 72 hours of receipt of LURA Service Event Request Form – the event cannot be scheduled prior to the approval of the event.

8-1-17

Colleen Hackman Colleen Hackman
Abelardo Longoria Abelardo Longoria
CJ Wax

www.cityofrockport.com



Administrative Offices
622 E. Market Street
Rockport, TX 78382

C. J. Wax
Mayor

Phone: (361) 729-2213, ext. 222
Fax: (361) 790-5966
Email: mayor@cityofrockport.com

SIGN IN - COMMUNITY EVENT LURA PUBLIC MEETING 3/1/17 (30 mins) 10:00am-10:30

Q: Mayor C.J. Wax - Why the change from 2 year to 180 days on the right of first refusal requirement?

A: We are past our 15 year compliance period. If so if we have a qualified investor we can renegotiate in a shorter period then before

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
MARCH 23, 2017

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit (“HTC”) Land Use Restriction Agreement (“LURA”) for Port Arthur Townhomes (HTC #01130)

RECOMMENDED ACTION

WHEREAS, Port Arthur Townhomes (the “Development”) received a 9% HTC award in 2001 to construct 104 multifamily units in Port Arthur, Jefferson County;

WHEREAS, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (“ROFR”) to purchase the Development and for having an Historically Underutilized Business (“HUB”), namely DMA Community Partners II, LLC, participate in the ownership of the Development;

WHEREAS, the LURA for the Development requires a two-year ROFR period and requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall remain the Managing General Partner, and must maintain regular, continuous, and substantial participation in the development, operation and ownership of the Development;

WHEREAS, the Development is within the extended Compliance Period, as defined in the LURA;

WHEREAS, in Spring 2015 the Texas Legislature amended Tex. Gov’t Code §2306.6725 and §2306.6726 to allow, among other things, for a 180-day ROFR period and to permit a Qualified Entity to purchase a property under ROFR, and defined a Qualified Entity to mean an entity described by, or an entity controlled by an entity described by, §42(i)(7)(A), Internal Revenue Code of 1986;

WHEREAS, 10 TAC §10.406(g) allows for a HUB requirement to be removed if the HUB will maintain its ownership interest but is unable to maintain its HUB status, as long as the LURA does not require such continual ownership or a material LURA amendment is approved;

WHEREAS, the Development Owner requests to amend the LURA for the Development to incorporate changes made to Tex. Gov’t Code §2306.6725 and §2306.6726 and to eliminate the HUB requirement; and

WHEREAS, 10 TAC §10.405(b)(2) allows for an owner to request a material LURA amendment, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Port Arthur Townhomes is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Port Arthur Townhomes was approved in 2001 for a 9% HTC award to construct 104 multifamily units in Port Arthur, Jefferson County. In a letter dated February 10, 2017, Port Arthur Townhomes, Ltd. (the "Development Owner") through its Managing General Partner (DMA PATH, LLC – Diana McIver) requested approval to amend the LURA related to the ROFR provision and to eliminate the requirement for a HUB to remain as the Managing General Partner and to maintain regular, continuous, and substantial participation in the development and operation of the Development in order to facilitate a proposed sale of the property.

The additional use restrictions in the current LURA require, among other things, an extended 25 year Compliance Period, material participation by a HUB throughout the Compliance Period and a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), or to a tenant organization if at any time after the fifteenth year of the Compliance Period the owner decides to sell the property.

The request letter states that the partnership desires to pursue a proposed sale of the property. Therefore, the HUB General Partner is requesting approval to remove the HUB requirement and has stated that it is acting of its own volition in making this request, and that the HUB's participation regarding the Development has been substantive and meaningful and will continue to be until the sale is effectuated. The HUB General Partner intends to remain as General Partner of this Development until the anticipated sale is closed and ownership is transferred to a new owner, subject to the Department's review and approval of said transfer.

In 2015, the Texas Legislature passed HB 3576 which amended Tex. Gov't Code §2306.6726 to allow for a 180-day ROFR period and to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. It is worth noting that while Qualified Entity was newly defined in HB 3576 and incorporated into statute, the set order of priority related to the specific types of nonprofit organizations that would have a right to purchase a property under the ROFR provision was not eliminated or changed. HB 3576 defines Qualified Entity to mean an entity described by, or an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's 2016 Post Award and Asset Management Requirements implemented administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Tex. Gov't Code §2306.6712 and 10 TAC §10.405(b). A public hearing on the matter

was held on Tuesday, February 28, 2017, at 10:00 am at the Development's management office/clubhouse. No negative public comment was received during the hearing.

Staff recommends approval of the requested material LURA amendment as presented herein.

PORT ARTHUR TOWNHOMES, LTD.
4101 Parkstone Heights Drive, Suite 310
Austin, Texas 78746

February 10, 2017

VIA HAND DELIVERY

Mr. Kent Bedell
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 01130; Port Arthur Townhomes (the "**Property**")

Dear Kent:

The undersigned is the General Partner (herein so called) of Port Arthur Townhomes, Ltd., a Texas limited partnership (the "**Partnership**") and the current owner of the Property. This letter constitutes request to amend the Partnership's LURA to (1) remove the ongoing requirement for HUB participation and (2) modify the two-year Right of First Refusal ("**ROFR**") period.

Request for HUB Restriction Removal

The LURA for this Property requires ownership participation by a Historically Underutilized Business (a "**HUB**"). The General Partner was admitted into the Partnership on February 4, 2013 subsequent to the removal of the original general partner, 104 Port Arthur Development, LLC, resulting from its sole member, MSE Engineers, Inc.'s failure to maintain its HUB status, creating a default in the LURA and a violation of the partnership agreement. DMA Community Partners II, LLC ("**DMA**"), a member of the General Partner, is a HUB and has been serving in such capacity since the admission of the General Partner into the Partnership. The General Partner, acting on behalf of the Partnership, is requesting that the HUB restriction be removed from its LURA to facilitate a proposed sale of the Property.

Section 10.406(g) of the Rules recognizes that a LURA can be amended or remove the ongoing HUB participation requirement. The General Partner asks TDHCA to approve this amendment to facilitate a proposed sale of the Property. In accordance with the Rules, the General Partner certifies to TDHCA as follows:

- (1) DMA was not removed from its position and is acting of its own volition in making this request as evidenced in the executed statement of the HUB attached as Exhibit A.
- (2) DMA's participation with regard to the Property is substantive and meaningful, and will continue to be so until the proposed removal of the HUB restriction is effectuated.
- (3) This change will not have any adverse financial effect on the property.
- (4) This change was not foreseeable at the time the application was submitted.

Request to Amend the ROFR Period

In 2015, Texas Government Code Section 2306.6726 was amended to allow for a 180-day ROFR period, resyndication, and sale to qualified entities. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(F) of the Rules allows for a LURA amendment in order to conform a ROFR period to the period described in Section 2306.6726. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period, also permitting resyndication and sale to qualified entities.

LURA Amendment

In accordance with Section 10.405(b) of the Rules, the General Partner, acting on behalf of the Partnership, is delivering a fee in the amount of \$2500. In addition, the General Partner, acting on behalf of the Partnership, commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials as to these proposed amendments. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the General Partner, acting on behalf of the Partnership, will proceed to set a date and time for the public hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the General Partner, acting on behalf of the Partnership, requests staff recommendation, in support of this request, to be considered at the March 23, 2017 TDHCA Board meeting.

Thank you very much for your assistance. Please do not hesitate to contact us if you require any additional information.

Sincerely,

DMA PATH, LLC
a Texas limited liability company

By:



Diana McIver, Manager

PORT ARTHUR TOWNHOMES, LTD.
4101 Parkstone Heights Drive, Suite 310
Austin, Texas 78746

February 24, 2017

Dear Resident:

Port Arthur Townhomes (the "**Community**") is owned by Port Arthur Townhomes, Ltd., (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

The Owner is currently structured to include DMA Path, LLC, a Texas limited liability company ("**General Partner**") as the general partner of the Owner. DMA Community Partners II, LLC, a Texas limited liability company ("**DMA**") is a member of the General Partner. DMA has been included because it is a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed from its contract to facilitate a proposed sale to a qualified entity and, therefore, is requesting the Department's approval to remove the ongoing requirement for HUB participation from its contract.

Additionally, a contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter and we invite you to attend. The public hearing is your opportunity to discuss the amendment request and voice your concerns. The public hearing will take place at the Community's management office/clubhouse on **February 28, 2017 at 10:00 a.m.** Information from this meeting will be submitted for consideration by the Texas Department of Housing and Community Affairs Governing Board at their March 23, 2017 meeting.

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would **not** be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form.

If you are unable to attend the public hearing and would like to submit your concerns in writing to the Department, please send your comments via email to asset.management@tdhca.state.tx.us or you may mail them to:

Texas Department of Housing and Community Affairs
Asset Management Division
221 East 11th Street
Austin, Texas 78701

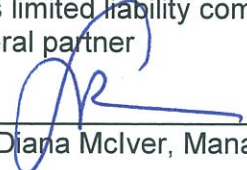
We appreciate that Port Arthur Townhomes is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Port Arthur Townhomes as your home.

Sincerely,

PORT ARTHUR TOWNHOMES, LTD.,
a Texas limited partnership

By; DMA Path, LLC,
a Texas limited liability company,
its general partner

By: 

Diana McIver, Manager

PORT ARTHUR TOWNHOMES, LTD.
4101 Parkstone Heights Drive, Suite 310
Austin, Texas 78746

February 24, 2017

Senator Brandon Creighton
Texas State Senate District 4
350 Pine Street, Suite 1450
Beaumont, Texas 77701

Dear Senator Creighton:

Port Arthur Townhomes, Ltd. (the "**Owner**") is the owner of Port Arthur Townhomes (the "**Community**") which is located at 3500 Turtle Creek Drive, Port Arthur, Texas 77642. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is currently structured to include DMA Path, LLC, a Texas limited liability company ("**General Partner**") as the general partner of the Owner. DMA Community Partners II, LLC, a Texas limited liability company ("**DMA**") is a member of the General Partner. DMA has been included because it is a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed from its contract to facilitate a proposed sale to a qualified entity and, therefore, is requesting the Department's approval to remove the ongoing requirement for HUB participation from its contract.

Additionally, a contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years and permitting the Owner to transfer the Community to certain kinds of entities in the right of first refusal process. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter and we invite you to attend. The public hearing will take place at the Community's management office/clubhouse on **February 28, 2017 at 10:00 a.m** Information from this meeting will be submitted for consideration by the Texas Department of Housing and Community Affairs Governing Board at their March 23, 2017 meeting.

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

PORT ARTHUR TOWNHOMES, LTD.,
a Texas limited partnership

By; DMA Path, LLC,
a Texas limited liability company,
its general partner

By: 
Diana McIver, Manager

PORT ARTHUR TOWNHOMES, LTD.
4101 Parkstone Heights Drive, Suite 310
Austin, Texas 78746

February 24, 2017

Representative Joe D. Deshotel
Texas State House District 22
One Plaza Square, Suite 203
Port Arthur, Texas 77642

Dear Representative Deshotel:

Port Arthur Townhomes, Ltd. (the "**Owner**") is the owner of Port Arthur Townhomes (the "**Community**") which is located at 3500 Turtle Creek Drive, Port Arthur, Texas 77642. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is currently structured to include DMA Path, LLC, a Texas limited liability company ("**General Partner**") as the general partner of the Owner. DMA Community Partners II, LLC, a Texas limited liability company ("**DMA**") is a member of the General Partner. DMA has been included because it is a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed from its contract to facilitate a proposed sale to a qualified entity and, therefore, is requesting the Department's approval to remove the ongoing requirement for HUB participation from its contract.

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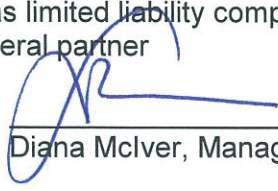
In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter and we invite you to attend. The public hearing will take place at the Community's management office/clubhouse on **February 28, 2017 at 10:00 a.m** Information from this meeting will be submitted for consideration by the Texas Department of Housing and Community Affairs Governing Board at their March 23, 2017 meeting.

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

PORT ARTHUR TOWNHOMES, LTD.,
a Texas limited partnership

By; DMA Path, LLC,
a Texas limited liability company,
its general partner

By: 
Diana McIver, Manager

PORT ARTHUR TOWNHOMES, LTD.
4101 Parkstone Heights Drive, Suite 310
Austin, Texas 78746

February 24, 2017

Mayor Derrick Freeman
City of Port Arthur
444 4th Street
Port Arthur, Texas 77640

Dear Mayor Freeman:

Port Arthur Townhomes, Ltd. (the "**Owner**") is the owner of Port Arthur Townhomes (the "**Community**") which is located at 3500 Turtle Creek Drive, Port Arthur, Texas 77642. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is currently structured to include DMA Path, LLC, a Texas limited liability company ("**General Partner**") as the general partner of the Owner. DMA Community Partners II, LLC, a Texas limited liability company ("**DMA**") is a member of the General Partner. DMA has been included because it is a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed from its contract to facilitate a proposed sale to a qualified entity and, therefore, is requesting the Department's approval to remove the ongoing requirement for HUB participation from its contract.

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In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter and we invite you to attend. The public hearing will take place at the Community's management office/clubhouse on **February 28, 2017 at 10:00 a.m** Information from this meeting will be submitted for consideration by the Texas Department of Housing and Community Affairs Governing Board at their March 23, 2017 meeting.

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

PORT ARTHUR TOWNHOMES, LTD.,
a Texas limited partnership

By; DMA Path, LLC,
a Texas limited liability company,
its general partner

By: 
Diana McIver, Manager

PORT ARTHUR TOWNHOMES, LTD.
4101 Parkstone Heights Drive, Suite 310
Austin, Texas 78746

February 24, 2017

AMTAX 2001-1, LLC
c/o Alden Torch
1225 17th Street, Suite 1400
Denver, CO 80202

Port Arthur Townhomes, Ltd. (the "**Owner**") is the owner of Port Arthur Townhomes (the "**Community**") which is located at 3500 Turtle Creek Drive, Port Arthur, Texas 77642. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is currently structured to include DMA Path, LLC, a Texas limited liability company ("**General Partner**") as the general partner of the Owner. DMA Community Partners II, LLC, a Texas limited liability company ("**DMA**") is a member of the General Partner. DMA has been included because it is a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed from its contract to facilitate a proposed sale to a qualified entity and, therefore, is requesting the Department's approval to remove the ongoing requirement for HUB participation from its contract.

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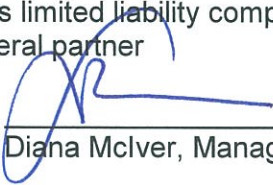
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We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

PORT ARTHUR TOWNHOMES, LTD.,
a Texas limited partnership

By; DMA Path, LLC,
a Texas limited liability company,
its general partner

By: 
Diana McIver, Manager

PORT ARTHUR TOWNHOMES, LTD.
4101 Parkstone Heights Drive, Suite 310
Austin, Texas 78746

February 24, 2017

Greystone Servicing Corporation
152 West 57th Street
60th Floor
New York, NY 10019

Port Arthur Townhomes, Ltd. (the "**Owner**") is the owner of Port Arthur Townhomes (the "**Community**") which is located at 3500 Turtle Creek Drive, Port Arthur, Texas 77642. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is currently structured to include DMA Path, LLC, a Texas limited liability company ("**General Partner**") as the general partner of the Owner. DMA Community Partners II, LLC, a Texas limited liability company ("**DMA**") is a member of the General Partner. DMA has been included because it is a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner desires to have this provision removed from its contract to facilitate a proposed sale to a qualified entity and, therefore, is requesting the Department's approval to remove the ongoing requirement for HUB participation from its contract.

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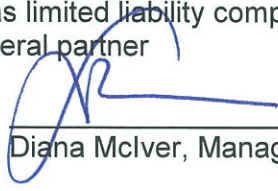
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We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

PORT ARTHUR TOWNHOMES, LTD.,
a Texas limited partnership

By; DMA Path, LLC,
a Texas limited liability company,
its general partner

By: 
Diana McIver, Manager

Port Arthur Townhomes Public Hearing Meeting Minutes

Meeting commenced at 10:00am on 02/28/2017

In attendance:

Sergio Amaya, Executive Vice President for DMA Properties
Christina Durden, Property Manager of Port Arthur Townhomes
Jermel Newman, Resident of Port Arthur Townhomes, Apt. 1106

Discussion:

Ms. Newman was the only resident in attendance and her question was "Will this affect my rent or my occupancy at Port Arthur Townhomes?". Mr. Amaya responded to her question that it would not affect either.

Meeting adjourned at 11:00 am on 02/28/2017.

PA TOWNHOMES PUBLIC HEARING MEETING

February 28, 2017 at 10am

Name	Apartment #
Jermel Newman	1106

1c

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
MARCH 23, 2017

Presentation, Discussion, and Possible Action regarding a Placed in Service deadline extension for a development located in a major disaster area as allowed under Section 6 of IRS Revenue Procedure 2014-49 for Cypress Creek Apartment Homes at Joshua Station (HTC #14087)

RECOMMENDED ACTION

WHEREAS, Cypress Creek Joshua Station, LP (the “Development Owner”) was allocated \$1,500,000 in 9% Housing Tax Credits in 2014 to construct Cypress Creek Apartment Homes at Joshua Station (the “Development”), a development consisting of 181 new multifamily units in Joshua, Johnson County;

WHEREAS, the Development Owner was required by the Carryover Allocation Agreement to place all Units in service no later than December 31, 2016, and required by Internal Revenue Code §42(h)(1) to place each building in service by no later than December 31, 2016;

WHEREAS, the Development Owner has previously requested of the Board an extension to the placed in service deadline from December 31, 2016, to April 15, 2017, to place each building in service as allowed under IRS Revenue Procedure 2014-49 for buildings located in and impacted by a major disaster area, as declared by the President;

WHEREAS, the Board approved the requested placed in service extension for the Development at its meeting of November 10, 2016, based on the documented delays resulting from the disaster;

WHEREAS, the Owner is now requesting further relief under IRS Revenue Procedure 2014-49 in the form of an additional two-month extension, from April 15, 2017, to June 15, 2017, to the Development’s placed in service (“PIS”) deadline;

WHEREAS, aside from delaying the availability of affordable units, the requested changes do not negatively affect the Development or impact the long term viability of the transaction, and the requested relief does not exceed the relief period specified in IRS Revenue Procedure 2014-49; and

WHEREAS, under 10 TAC §10.405(c), staff has determined that the requested extension warrants Board approval due to extenuating circumstances such that the buildings will not be ready to be placed in service by the current deadline of April 15, 2017, and without a further extension the units nearing completion would not qualify for the tax credits previously allocated to this development resulting in the financial collapse of the project;

NOW, therefore, it is hereby

RESOLVED, that the requested second extension of the placed in service deadline for Cypress Creek Apartment Homes at Joshua Station to June 15, 2017, is hereby approved and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Cypress Creek Apartment Homes at Joshua Station was awarded credits in 2014 under the 9% Housing Tax Credit (“HTC”) Program. The Development is a 181-unit, new construction property located in Joshua in Johnson County. The Owner, Cypress Creek Joshua Station, LP, and its General Partner, Cypress Creek Joshua Station General Partner LLC, are ultimately owned and managed by Laura Leshikar and Stuart Shaw.

At the meeting of November 10, 2016, the Department’s board approved a three-and-a-half month extension to the placed in service deadline for the Development, from December 31, 2016, to April 15, 2017. This relief was provided under IRS Revenue Procedure 2014-49, relating to Owners of low-income buildings and housing credit agencies of States in major disaster areas declared by the President. The Owner previously provided support for 57 working days lost as a result of the excessive rain and flooding and the after effects thereof.

The Owner previously submitted evidence that Johnson County is included in the area that is eligible for individual and public assistance. At the time of the first extension request, staff verified that the FEMA Notice of Major Disaster Declaration released on May 29, 2015, (FEMA-4223-DR) and its amendments confirm the President’s issuing of a major disaster declaration due to damage in the State of Texas resulting from severe storms, tornadoes, straight-line winds, and flooding during the period between May 4, 2015, and June 23, 2015. Johnson County was included in the areas designated as a disaster area and therefore meets the requirements of Section 4 of the Revenue Procedure for purposes of determining whether the Owner is eligible to request relief provisions. The Owner previously pointed out that five other major disaster declarations were released for the surrounding counties up until June 11, 2016, and even though Johnson County was not in these subsequent disaster declarations, the after effects of the rain and flooding from the disaster declarations in the region took a toll on the ability of the construction team to perform their work and delayed construction progress. No other major disaster declarations that would impact the Development have been issued by the President since June of 2016.

In a letter dated March 6, 2017, Stuart Shaw requested a second extension of the placed in service deadline for the Development, from April 15, 2017, to June 15, 2017. According to the Owner, the request is due to additional delays created by the weather. The Owner explained that since January to the date of this second extension request, key months for landscaping and irrigation, the Development received 7.19 inches of rain, which has severely hampered the ability to prepare for and perform grading and irrigation work. Temporary Certificates of Occupancy (TCOs) have been obtained for several of the buildings, but Buildings 3 and 4 and the respective grading, landscaping and irrigation around the site are the primary work that remains to be completed. The interior of Building 3 has all sheetrock installed, and the units will get cabinets and final trim in the coming weeks. The interior work for Building 4 is experiencing an issue with delivery of the air conditioning units. The Owner indicated that the manufacturer has had difficulty producing the number of air conditioning units needed to meet market demands and believes this could be in part to contractors across the state requesting materials at the same time after experiencing the weather-related delays last year.

The Owner expects to be able to overcome this material delivery matter in a short time but wanted to point out the issue as it could affect the critical path. According to the Owner, the biggest variable to completing the project relates to weather and the ability to finish grading, irrigation and landscaping. In order to receive a TCO from the City, the construction team needs to be able to complete the grading and irrigation. If the coming weeks remain dry, substantial progress will be made, but if the rain continues, the work may not be completed on time to be able to place the remaining buildings in service by April 15, 2017. The Owner is asking for a 60 day extension, but may only need 30 to 45 days to finish the final buildings if the weather cooperates.

While the initial extension was a result of a presidentially declared disaster, the current extension request is based on weather events that did not result in a major disaster declaration by the President. In other cases, it has been argued that if the delays caused by the previous major disaster declarations had not occurred, construction could have been completed by the original placed in service deadline, and the subsequent delays would have been avoided. It is noted that the Owner has requested more than one extension to the placed in service deadline for two other 2014 developments in Region 3, and of the developments in Region 3 that received a tax credit award in 2014, only the developments affiliated to this Owner have requested extensions to the placed in service deadline.

The latest third-party construction inspection report for the Development, dated March 7, 2017, identifies delays in construction progress related to prior weather events but no delays from recent weather conditions. The report states that rain events in 2015 and 2016 substantially delayed progress and indicates that the project is an estimated four months behind schedule. The report identifies an estimated Temporary Certificate of Occupancy (TCO) date of May 15, 2017, and a 100% completion date of June 1, 2017. The Development was estimated to be 82% complete as of February 27, 2017. The January and February construction inspection reports state that there were no lost days to rain events in January and February and that reasonable progress was made.

In accordance with IRS Revenue Procedure 2014-49, Section 6.03, as an Owner affected by a presidentially declared disaster, the Owner is requesting the Department's approval for the carryover allocation relief. The agency, as directed by the Procedure, may approve such relief only for projects whose Owners cannot reasonably satisfy the deadlines of §42(h)(1)(E) because of an event or series of events that led to a major disaster declaration under the Stafford Act. The agency's determination may be made on an individual project basis or the agency may determine, because of the extent of the damage in a major disaster area, that all Owners or a certain group of Owners in the major disaster area warrant the relief. In accordance with Section 7.02, the agency has the discretion to provide less than the full amount of relief allowed or no relief based on all the facts and circumstances. Should additional delays occur and are found to have precipitated from the original disaster related complications and require a future extension staff will bring such request back to the board for approval. The Department will report any approved relief on the Form 8610 to the IRS.

While the support for the disaster related need for additional time is not conclusive, the need for additional time is clear and permissible under the provision of statute allowing the disaster extension. Moreover, failure by the Department to provide said extension for the units nearing completion would result in those units not qualifying for tax credits, which would likely in turn result in the financial collapse of the entire project.

Extension requests are normally considered under the Uniform Multifamily Rules, Subchapter E, 10 TAC §10.405(c); however, extensions are only considered in this section if the original deadline associated with carryover, the 10 Percent Test, construction status reports, or cost certification requirements will not be

met. The provisions in the Rule do not specifically address extensions to the placed in service deadline, and the Department's Carryover Allocation Agreement states that no extension of the deadline to place in service can be made. The IRS, however, provides for the subject disaster related extension. Staff has the ability, in accordance with provisions in 10 TAC §10.405(c), to bring to the Board material determinations that warrant Board approval due to extraordinary circumstances such as those discussed above.

Staff recommends approval of the extension, from April 15, 2017, to June 15, 2017, as presented herein.

T O : ROSALIO BANUELOS - TDHCA

F R O M : STUART SHAW

R E G A R D I N G : CYPRESS CREEK APARTMENT HOMES AT JOSHUA STATION
TDHCA #14087
PLACED IN SERVICE DATE EXTENSION REQUEST

D A T E : MARCH 6, 2017

Dear Mr. Banuelos,

I would like to thank you and Raquel Morales for spending time discussing this community and the possibility of a needed extension with Casey Bump over the last week. I am sending you the following request on behalf of the owner of Cypress Creek Apartment Homes at Joshua Station (CCJS Joshua), TDHCA #14087, located at 1006 Joshua Station Boulevard, Joshua, Johnson County, TX. CCJS Joshua is located in the federally declared disaster area (FEMA-4223-DR, Texas Disaster Declaration) which allows relief, among many other forms of assistance, to the placed in service (PIS) deadline for affordable housing communities affected by the disaster.

To date, CCJS Joshua has experienced over 84 days of documented rain days (see attached) which translates into over 3.5 months of lost productivity on the job site. CCJS Joshua was granted at PIS extension to April 15, 2017, but it turns out that will not be enough to overcome the delays created by the weather. Since January to the date of this request, key months for landscaping and irrigation, CCJS Joshua received 7.19" of rain which has severely hampered the ability to prepare for and perform grading and irrigation work. We have attached aerials from January to March for your reference.

CCJS Joshua has received Temporary Certificates of Occupancy (TCO) for the clubhouse, building 1, and building 7 (copies attached). The TCO for building 2 has been issued and we are waiting on a copy of the certificate. TCOs for building 5 and building 6 are expected this week. The onsite management team started moving residents into building 7 this last weekend and the other buildings will follow soon.

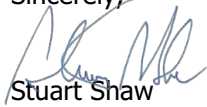
Building 3, Building 4 and the respective grading, landscaping and irrigation around the site are the primary work that remains. The exteriors for Buildings 3 and 4 are very close to substantial completion. The interior of Building 3 has all sheetrock installed and the units will get cabinets and final trim in the coming weeks. The interior Building 4 is experiencing an issue with delivery of the air conditioning units. The installation of the air conditioning units is a manufacturing issue and the construction team is going to see if there are alternatives to use that are readily available. It is our understanding that the manufacturer has had difficulty producing the number of air conditioning units needed to meet market demands which could be in part to contractors across the state requesting materials at the same time after experiencing the weather-related delays last year. We expect to be able to overcome this material delivery matter in a short time, but wanted to make you aware of the matter as it could affect the critical path. The requested extension allows for enough time to resolve any issues that come up with Building 4.

The biggest variable to completing the project relates to weather and the ability to finish grading, irrigation and landscaping. In order to receive a TCO from the City the construction team needs to be able to complete the grading and irrigation. If the coming weeks remain dry CCJS Joshua will make

substantial progress, but if the rain continues we will be at the mercy of mother nature. We are asking for a 60 day extension, but will likely only need 30 to 45 days to finish the final buildings if the weather cooperates.

CCJS Joshua requests an extension to the PIS date to June 15, 2017 (60 days) so that work can be completed, TCOs issued and residents can occupy. Should you have any questions or need additional information please contact Casey Bump at 512-220-8000 x603.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stuart Shaw".

Stuart Shaw
Owner's Representative

Attachments

Aerials and Photos



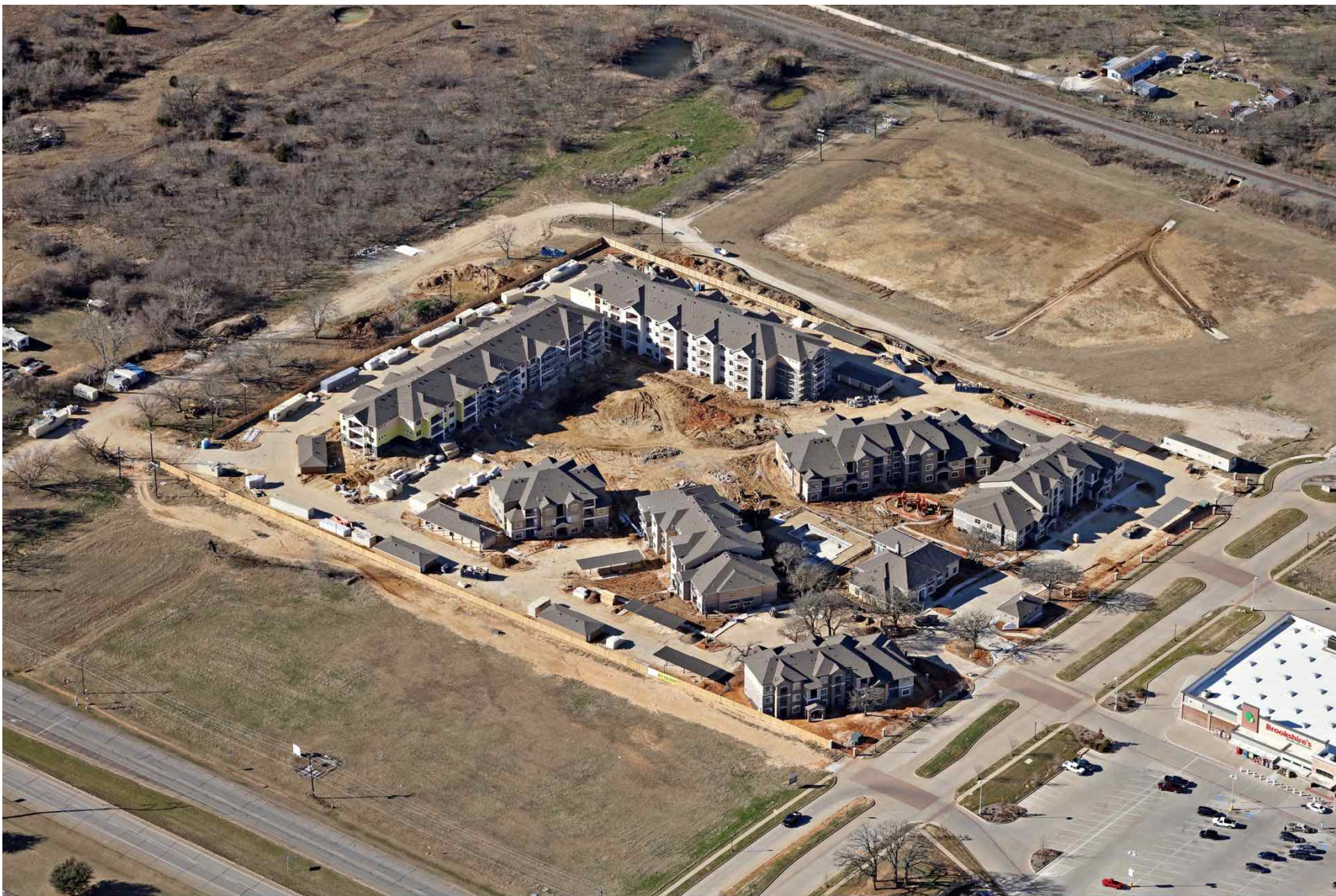


BONNER CARRINGTON

Cypress Creek at Joshua Station

January 4, 2017

www.topflightphoto.com



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Cypress Creek at Joshua Station

January 29, 2017

www.topflightphoto.com



BONNER CARRINGTON

Cypress Creek at Joshua Station

March 2, 2017

www.topflightphoto.com

Rain and Weather Logs



Weather History
Summary Log, Grouped by Date

Date	Temp 1	Temp 2	Temp 3	Precip	Cumul Precip	Wind Velocity	Conditions
12/16/2016	55		71	0.00	64.22		Overcast , Clear in the late afternoon Freezing temps expected through out the week end
12/19/2016	25		36	0.00	64.22		Freezing temps
12/20/2016	34		57	0.00	64.22		Clear AND COLD
12/21/2016	34		57	0.00	64.22		overcast till 5pm
12/22/2016	34		57	0.00	64.22		overcast/clear
12/23/2016	53		57	0.00	64.22		overcast/clear
12/26/2016	53		57	0.00	64.22		overcast/clear
12/27/2016	53		57	0.00	64.22		overcast/clear
12/28/2016	53		57	0.00	64.22		overcast/clear
12/29/2016	53		57	0.00	64.22		overcast/clear
12/30/2016	53		57	0.00	64.22		overcast
1/2/2017	53		71	0.81	65.03		overcast / sunny .81 rain early morning/overnight
1/3/2017	42		57	0.00	65.03		overcast / Cold
1/4/2017	34		40	0.00	65.03		Cold
1/5/2017	34		38	0.00	65.03		Cold freezing temps expected
1/6/2017	24		28	0.00	65.03		Cold freezing temps expected
1/9/2017	53		69	0.00	65.03		, Clear, Windy
1/10/2017	53		69	0.00	65.03		, Clear, Windy
1/11/2017	77		52	0.00	65.03		, Clear, Windy
1/12/2017	77		52	0.00	65.03		, Clear, Windy
1/13/2017	40		48	0.02	65.05		Rain started at 10 am
1/16/2017	40		48	3.75	68.80		Rain over weekend/night Clear today
1/17/2017	45		49	0.00	68.80		, Overcast
1/18/2017	45		49	0.36	69.16		, Overcast, Rain
1/19/2017	45		69	0.02	69.18		Overcast, clear in the afternoon
1/20/2017	49		68	0.00	69.18		Clear
1/23/2017	49		68	0.00	69.18		Clear
1/24/2017	33		54	0.00	69.18		Clear

Jan/Feb Rain Total: 7.21"

Total Lost Days: 84

Lost Days Jan/Feb: 1



PO Box 2217 • Austin, TX 78768 • Phone: (512) 220-8000

Print-date: 3-6-2017

Daily Logs List

2-14-2017

Jobsite: - (Cypress Creek Apartment Homes at Joshua Station)

Added By: Tim Mantle

Files:



Log Notes

Rain overnight 1.5 per rain gage

Bldg 3 MEP inspection failed due to trades not being ready on fire caulking of penetrations

Sent email to all trades at bldg 3 for meeting on completion for inspection

Extra drainage complete at Bldg 3 back

Will install hand rail at Bldg 6 paving per Casey and Paul

Called in electric meters bldg 2

Meter inspection bldg 5 tomorrow

Unlimited sprinkler will have bldg 3 ready on Wed.

Walking bldg 7 and punch list today

Making sidewalk changes for ADA to meet 5% in areas that need it!

Tags: Rain

Weather Notes

Wind: 23 mph Humidity: 100% Total Precip: 1.01" Cumulative Precip: 70.66"

 **Hi:** 48
Lo: 41

0Related To-Dos



PO Box 2217 • Austin, TX 78768 • Phone: (512) 220-8000

Print-date: 3-6-2017

Daily Logs List

2-20-2017

Jobsite: - (Cypress Creek Apartment Homes at Joshua Station)

Added By: Tim Mantle

Files:



Log Notes

Rain over the week end

See pic

No Exterior work - LOST DAY

Total Lost Days: 84

Tags: Rain

Weather Notes

Wind: 17 mph Humidity: 100% Total Precip: 0.5" Cumulative Precip: 71.16"

 **Hi:** 68
Lo: 54

0Related To-Dos

BONNER CARRINGTON

PO Box 2217 • Austin, TX 78768 • Phone: (512) 220-8000

Print-date: 3-6-2017

Daily Logs List

2-27-2017

Jobsite: - (Cypress Creek Apartment Homes at Joshua Station)

Added By: Tim Mantle

Files:



Log Notes

TOOK DOCS TO JCSUD FROM RUMSEY

SENT BACKFLOW TEST #3 TO JCSUD

BLDG 2 TOO TODAY! MISSED BLDG 5 DUE TO PLUMBER NOT BEING COMPLETE

BLDG 3 INSULATION INSPECTION TOMORROW 3RD AND 4TH

BIDG 4 PASSED FURRDOWN INSPECTION

MONUMENT SIGN BEING REWORKED

Spoke with Joey about the W/H closet at the B2 units. No fix yet

Leasing will have Bldg 7 - 3/1

Working Bldg 1 for mgr walk

Need to add a retaining at bldg 6 and the bldg 1 play area

Have steps installed at Club

Will install hand rail at Bldg 6 paving per Casey and Paul

Making sidewalk changes for ADA to meet 5% in areas that need it!

Tags: Rain

Weather Notes

65-76 .25 RAIN OVER NIGHT Wind: 16 mph Humidity: 100% Total Precip: 0" Cumulative Precip: 71.41"



Hi: 79

Lo: 57

0Related To-Dos

Temporary Certificates of Occupancy

MULTI-FAMILY DWELLING TEMPORARY CERTIFICATE OF OCCUPANCY THE CITY OF JOSHUA BUILDING/INSPECTION DEPARTMENT			
<small>This certificate issued pursuant to the requirements of International Building Codes certifying that at the time of issuance, this structure was in compliance with the various ordinances of the City of Joshua regulating building construction or use for the following:</small>			
Building Address:	1006 Joshua Station Blvd - Bldg #1	Edition of Code:	IBC2015
Business Name:	Cypress Creek at Joshua Station	Use/Occupancy Group:	R2
Business owner/Tenant's Information:	Name: Cypress Creek Joshua Station Lp	Construction Type:	5A
	Address: 901 Mopac Expy Bldg V, Ste 100 Austin, Texas 46000	Design Occupant Load:	
Property owner's Information:	Name: Same	Fire Sprinkler System Required:	Yes
	Address:		
Zoning:	Planned Development	Bldg. Permit No.:	CO105-17
Land Use Designation:	Dwelling, Multifamily	Date:	1/31/17
Comments/ Special Stipulations/Conditions:			
In effect this the 31st day of January, 2017.			
Kevin Davis, Building Official <i>[Signature]</i>			
Joey Kratky, Fire Marshal <i>[Signature]</i>			
<small>This certificate of Occupancy must be posted in a conspicuous place.</small>			

MULTI-FAMILY DWELLING TEMPORARY CERTIFICATE OF OCCUPANCY THE CITY OF JOSHUA BUILDING/INSPECTION DEPARTMENT			
<small>This certificate issued pursuant to the requirements of International Building Codes certifying that at the time of issuance, this structure was in compliance with the various ordinances of the City of Joshua regulating building construction or use for the following:</small>			
Building Address:	1006 Joshua Station Blvd - Bldg #7	Edition of Code:	IBC2015
Business Name:	Cypress Creek at Joshua Station	Use/Occupancy Group:	R2
Business owner/Tenant's Information:	Name: Cypress Creek Joshua Station Lp	Construction Type:	5A
	Address: 901 Mopac Expy Bldg V, Ste 100 Austin, Texas 46000	Design Occupant Load:	
Property owner's Information:	Name: Same	Fire Sprinkler System Required:	Yes
	Address:		
Zoning:	Planned Development	Bldg. Permit No.:	CO105-17
Land Use Designation:	Dwelling, Multifamily	Date:	1/31/17
Comments/ Special Stipulations/Conditions:			
In effect this the 31st day of January, 2017.			
Kevin Davis, Building Official <i>[Signature]</i>			
Joey Kratky, Fire Marshal <i>[Signature]</i>			
<small>This certificate of Occupancy must be posted in a conspicuous place.</small>			

MULTI-FAMILY DWELLING TEMPORARY CERTIFICATE OF OCCUPANCY THE CITY OF JOSHUA BUILDING/INSPECTION DEPARTMENT			
<small>This certificate issued pursuant to the requirements of International Building Codes certifying that at the time of issuance, this structure was in compliance with the various ordinances of the City of Joshua regulating building construction or use for the following:</small>			
Building Address:	1006 Joshua Station Blvd - Bldg #8	Edition of Code:	IBC2015
Business Name:	Cypress Creek at Joshua Station	Use/Occupancy Group:	R2
Business owner/Tenant's Information:	Name: Cypress Creek Joshua Station Lp	Construction Type:	5B
	Address: 901 Mopac Expy Bldg V, Ste 100 Austin, Texas 46000	Design Occupant Load:	
Property owner's Information:	Name: Same	Fire Sprinkler System Required:	Yes
	Address:		
Zoning:	Planned Development	Bldg. Permit No.:	CO104-17
Land Use Designation:	Dwelling, Multifamily	Date:	1/31/17
Comments/ Special Stipulations/Conditions:			
In effect this the 31st day of January, 2017.			
Kevin Davis, Building Official <i>[Signature]</i>			
Joey Kratky, Fire Marshal <i>[Signature]</i>			
<small>This certificate of Occupancy must be posted in a conspicuous place.</small>			

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
MARCH 23, 2017

Presentation, Discussion, and Possible Action regarding a Placed in Service deadline extension for a development located in a major disaster area as allowed under Section 6 of IRS Revenue Procedure 2014-49 for Cypress Creek Apartment Homes at Parker Boulevard (HTC #14292)

RECOMMENDED ACTION

WHEREAS, Cypress Creek Parker Creek North, LP (the “Development Owner”) was allocated \$1,500,000 in 9% (“HTC”) in 2014 to construct Cypress Creek Apartment Homes at Parker Boulevard (the “Development”), a development consisting of 220 new multifamily units in Royse City in Rockwall County;

WHEREAS, the Development Owner was required by the Carryover Allocation Agreement to place all Units in service no later than December 31, 2016, and required by Internal Revenue Code §42(h)(1) to place each building in service by no later than December 31, 2016;

WHEREAS, the Development Owner has previously requested of the Board an extension to the placed in service deadline from December 31, 2016, to April 15, 2017, to place each building in service as allowed under IRS Revenue Procedure 2014-49 for buildings located in and impacted by a major disaster area, as declared by the President;

WHEREAS, the Board approved the requested placed in service extension for the Development at its board meeting of November 10, 2016;

WHEREAS, the Owner is now requesting further relief under IRS Revenue Procedure 2014-49 in the form of an additional three-month extension, from April 15, 2017, to July 15, 2017, to the Development’s placed in service (“PIS”) deadline;

WHEREAS, aside from delaying the availability of affordable units, the requested changes do not negatively affect the Development or impact the long term viability of the transaction, and the requested relief does not exceed the relief period specified in IRS Revenue Procedure 2014-49; and

WHEREAS, under 10 TAC §10.405(c), staff has determined that the requested extension warrants Board approval due to extenuating circumstances such that the buildings will not be ready to be placed in service by the current deadline of April 15, 2017, and without a further extension the units nearing completion would not qualify for the tax credits previously allocated to this development resulting in the financial collapse of the project;

NOW, therefore, it is hereby

RESOLVED, that an extension to the placed in service deadline to July 15, 2017, is hereby approved and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Cypress Creek Apartment Homes at Parker Boulevard (formerly known as Cypress Creek at Parker Creek North) was awarded credits in 2014 under the 9% HTC program. The Development is a 220-unit, new construction property located in Royse City in Rockwall County. The Owner, Cypress Creek Parker Creek North, LP, and its General Partner, Cypress Creek Parker Creek North General Partner LLC, are ultimately owned and managed by Linda Witt, Donald Sampley, and Gayle Sampley. Aubra Franklin and Susan Franklin are special limited partners, while Stuart Shaw, through its affiliated entities, is the consultant and prime subcontractor in the transaction.

At the meeting of November 10, 2016, the Department's board approved a three-and-a-half month extension to the placed in service deadline for the Development, from December 31, 2016, to April 15, 2017. This relief was provided under IRS Revenue Procedure 2014-49, relating to Owners of low-income buildings and housing credit agencies of States in major disaster areas declared by the President. The owner previously provided support for 77 working days lost as a result of the excessive rain and flooding and the after effects thereof.

The Owner previously submitted evidence that Rockwall County is included in the area that is eligible for public assistance. At the time of the first extension request, staff verified that the FEMA Notice of Major Disaster Declaration released on February 9, 2016, confirms the President's issuing of a major disaster declaration due to damage in the State of Texas resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of December 26, 2015, to January 21, 2016. Rockwall County is included as a county designated by FEMA for Public Assistance under the President's disaster declarations and therefore meets the requirements of Section 4 of the Revenue Procedure for purposes of determining whether the Owner is eligible to request relief provisions. The Owner previously pointed out that five other major disaster declarations were released for the surrounding counties between May 29, 2016, and June 11, 2016, and even though Rockwall County was not in all of these disaster declarations, the after effects of the rain and flooding from the disaster declarations in the region took a toll on the ability of the construction team to perform their work and delayed construction progress. No other major disaster declarations that would impact the Development have been issued by the President since June 2016.

In a letter dated March 6, 2017, Stuart Shaw requested a second extension of the placed in service deadline for the Development, from April 15, 2017, to July 15, 2017. According to the extension request letter, the request is due to additional delays created by the weather. The Owner explained that in January and February, key months on the critical path, the Development received 5.24 inches of rain, which has severely hampered the ability to prepare for and perform grading and irrigation work. According to the request letter, Royse City is ready to issue Temporary Certificates of Occupancy (TCOs) for several of the buildings, but Royse City will not issue a TCO until the irrigation and landscaping is installed around the buildings. The City requires the irrigation and landscaping to be far enough along so that there are no open ditches or trip hazards for the residents before the buildings are approved for occupancy. The extension request letter states that the site has expansive soils that hold water and modest amounts of rain create access issues for grading, irrigation and landscaping. Mr. Shaw indicated that the landscaping contractors are ready to perform the work and there will be substantial progress if weather permits. It is highly likely that if the

landscaping were to be completed as required by the City, obtaining a TCO for all buildings by the current placed in service deadline of April 15, 2017, or within a very short time after would be achievable. The biggest variable to completing the project relates to weather and the ability to finish grading, irrigation and landscaping. If the coming weeks remain dry, substantial progress will be made, but if the rain continues, the work may not be completed on time to be able to place the remaining buildings in service by April 15, 2017. The Owner is asking for a 90 day extension, but may only need 60 to 75 days to finish the landscaping if the weather cooperates.

While the initial extension was a result of a presidentially declared disaster, the current extension request is based on weather events that did not result in a major disaster declaration by the President. In other cases, it has been argued that if the delays caused by the previous major disaster declarations had not occurred, construction could have been completed by the original placed in service deadline, and the subsequent delays would have been avoided. It is noted that the consultant, as an owner in other transactions, has requested more than one extension to the placed in service deadline for two other 2014 developments in Region 3, and of the developments in Region 3 that received a tax credit award in 2014, only the developments affiliated to this consultant/contractor have requested extensions to the placed in service deadline.

The latest third-party construction inspection report for the Development, dated March 9, 2017, identifies significant delays in construction progress related to prior weather events and states that the occasional rain event continues to slow exterior progress. The report states that wet weather from October 2015, to July 2016, delayed construction and that if the current reasonably settled weather continues, on a normal schedule, it would take three months to complete the project. As of February 28, 2017, the development site was reported to be generally dry on the surface but still soft for construction equipment. According to the inspector, reasonable progress was being made with some fine landscape grading in progress where possible. The report identifies an estimated substantial completion date of June 1, 2017 and an estimated 100% completion date of July 15, 2017. The Development was estimated to be 83% complete as of February 28, 2017. According to information submitted with the extension request, at least eight days were lost due to rain in 2017 as of March 6, 2017.

In accordance with IRS Revenue Procedure 2014-49, Section 6.03, as an Owner affected by a presidentially declared disaster, the Owner is requesting the Department's approval for the carryover allocation relief. The agency, as directed by the Procedure, may approve such relief only for projects whose Owners cannot reasonably satisfy the deadlines of §42(h)(1)(E) because of an event or series of events that led to a major disaster declaration under the Stafford Act. The agency's determination may be made on an individual project basis or the agency may determine, because of the extent of the damage in a major disaster area, that all Owners or a certain group of Owners in the major disaster area warrant the relief. In accordance with Section 7.02, the agency has the discretion to provide less than the full amount of relief allowed or no relief based on all the facts and circumstances. Should additional delays occur and are found to have precipitated from the original disaster related complications and require a future extension staff will bring such request back to the board for approval. The Department will report any approved relief on the Form 8610 to the IRS.

While the support for the disaster related need for additional time is not conclusive, the need for additional time is clear and permissible under the provision of statute allowing the disaster extension. Moreover, failure by the Department to provide said extension for the units nearing completion would result in those units not qualifying for tax credits, which would likely in turn result in the financial collapse of the entire project.

Extension requests are normally considered under the Uniform Multifamily Rules, Subchapter E, 10 TAC §10.405(c); however, extensions are only considered in this section if the original deadline associated with carryover, the 10 Percent Test, construction status reports, or cost certification requirements will not be met. The provisions in the Rule do not specifically address extensions to the placed in service deadline, and the Department's Carryover Allocation Agreement states that no extension of the deadline to place in service can be made. The IRS, however, provides for the subject disaster related extension. Staff has the ability, in accordance with provisions in 10 TAC §10.405(c), to bring to the Board material determinations that warrant Board approval due to extraordinary circumstances such as those discussed above.

Staff recommends approval of the extension, from April 15, 2017, to July 15, 2017, as presented herein.

T O : ROSALIO BANUELOS - TDHCA

F R O M : STUART SHAW

R E G A R D I N G : CYPRESS CREEK APARTMENT HOMES AT PARKER BOULEVARD
TDHCA #14292
PLACED IN SERVICE DATE EXTENSION REQUEST

D A T E : MARCH 6, 2017

Dear Mr. Banuelos,

I would like to thank you and Raquel Morales for spending time discussing this community and the possibility of a needed extension with Casey Bump over the last week. I am sending you the following request on behalf of the owner of Cypress Creek Apartment Homes at Parker Boulevard (CCPB Royse), TDHCA #14292, located at 7000 W. Interstate 30, Royse City, Texas 75189. CCPB Royse is in a federally declared disaster area which allows relief, among many other forms of assistance, to the placed in service (PIS) deadline for affordable housing communities affected by the disaster.

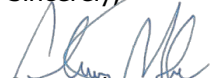
In January and February, key months on the critical path, CCPB Royse has received 5.24" of rain which has severely hampered the ability to prepare for and perform grading and irrigation work. The site has expansive soils that hold water and modest amounts of rain create access issues for grading, irrigation and landscaping. We have attached photos and aerials from January to March for your reference. This site takes a while to dry out so while the soil may appear dry in some photos it is difficult to work with and very wet as you will see in other photos.

Royse City is ready to issue certificates of significant completion for the clubhouse, building 1, building 11 and building 12, but will not issue a TCO until the irrigation and landscaping is installed around the buildings. The City requires the irrigation and landscaping to be far enough along so that there are no open ditches or trip hazards for the residents before the buildings are approved for occupancy. The landscaping contractors are ready to perform the work and you will see substantial progress if weather permits. As far as the interiors go, the last building, building 9, has sheet rock being completed this week. It is highly likely that if the landscaping was able to be completed as required by the City, obtaining a TCO for all buildings by the PIS date of April 15, 2017 would be achievable or, at the very least, within a very short time after April 15, 2017.

The biggest variable to completing the project relates to weather and the ability to finish grading, irrigation and landscaping. If the coming weeks remain dry CCPB Royse will make substantial progress, but if the rain continues we will be at the mercy of mother nature. We are asking for a 90 day extension, but will likely only need 60 to 75 days to finish the landscaping if the weather cooperates.

CCPB Royse requests an extension to the PIS date to July 15, 2017 (90 days) so that work can be completed and TCO issued for the remaining buildings. Should you have any questions or need additional information please contact Casey Bump at 512-220-8000 x603.

Sincerely,



Stuart Shaw
Consultant

Attachments



BONNER CARRINGTON

Cypress Creek at Parker Blvd

January 4, 2017

www.topflightphoto.com



BONNER CARRINGTON

Cypress Creek at Parker Blvd

January 29, 2017

www.topflightphoto.com



BONNER CARRINGTON

Cypress Creek at Parker Blvd

March 2, 2017

www.topflightphoto.com













Weather History
Summary Log, Grouped by Date

Date	Temp 1	Temp 2	Temp 3	Precip	Cumul Precip	Wind Velocity	Conditions
12/9/2016	27	36	42	0.00	52.99		Partly Cloudy
12/12/2016	42	47	54	0.00	52.99		Partly Cloudy
12/13/2016	50	55	57	0.00	52.99		Overcast
12/14/2016	37	46	54	0.00	52.99		Overcast
12/15/2016	36	41	46	0.00	52.99		Overcast
12/16/2016	46	49	60	0.00	52.99		Overcast
12/19/2016	14	28	35	0.00	52.99		Partly Cloudy
12/20/2016	27	40	48	0.00	52.99		Partly Cloudy
12/21/2016	41	52	64	0.00	52.99		Partly Cloudy
12/22/2016	43	50	56	0.00	52.99		Clear
12/27/2016	50	57	63	0.00	52.99		Partly Cloudy
12/28/2016	61	67	76	0.00	52.99		Partly Cloudy
12/29/2016	50	52	57	0.00	52.99		Partly Cloudy
12/30/2016	36	52	57	0.00	52.99		Partly Cloudy
1/3/2017	50	55	54	0.53	53.52		Partly Cloudy, LOST DAY
1/4/2017	31	36	43	0.00	53.52		Partly Cloudy
1/5/2017	33	38	37	0.00	53.52		Partly Cloudy
1/6/2017	24	26	25	0.00	53.52		Partly Cloudy
1/9/2017	34	43	50	0.00	53.52		Partly Cloudy
1/10/2017	62	65	71	0.00	53.52		Partly Cloudy
1/11/2017	60	67	73	0.00	53.52		Partly Cloudy
1/12/2017	68	70	73	0.00	53.52		Partly Cloudy
1/13/2017	47	54	57	0.00	53.52		Rain
1/16/2017	54	59	63	1.02	54.54		Overcast , Rain, Lost Day
1/17/2017	45	48	55	0.17	54.71		Partly Cloudy, rain overnight, LOST DAY
1/18/2017	46	51	53	0.29	55.00		Rain overnight, LOST DAY
1/19/2017	51	54	63	0.17	55.17		Partly Cloudy
1/20/2017	49	60	73	0.00	55.17		Clear
1/23/2017	49	60	73	0.28	55.45		Clear, .28" over weekend
1/24/2017	51	65	75	0.00	55.45		Clear
1/25/2017	47	51	54	0.00	55.45		Clear
1/26/2017	48	52	56	0.00	55.45		Clear
1/27/2017	34	46	56	0.00	55.45		Clear

Jan/Feb Rain Total: 5.24"

Total Lost Days: 95

Lost Days Jan Feb: 8



PO Box 2217 • Austin, TX 78768 • Phone: (512) 220-8000

Print-date: 3-6-2017

Daily Logs List

2-20-2017

Jobsite: - (Cypress Creek Apartment Homes at Parker Boulevard)

Added By: John Cook

Files:



Log Notes

Total of 93 lost days.

Furniture for club delivered today.

Beurrau of Veritas inspected #8 furrdowns.

Tags: LOST DAY, Rain

Weather Notes

Wind: 23 mph Humidity: 100% Total Precip: 0.53" Cumul Precip: 56.48"



Hi: 69

Lo: 57

0Related To-Dos



PO Box 2217 • Austin, TX 78768 • Phone: (512) 220-8000

Print-date: 3-6-2017

Daily Logs List

2-14-2017

Jobsite: - (Cypress Creek Apartment Homes at Parker Boulevard)

Added By: John Cook

Files:



Log Notes

Total of 92 Lost Days.

1.50" Of Rain Today.

10:00AM Safety Meeting.

Bureau of Veritas Passed MEP Inspection for Bldg. #9 & Meter Inspection for Bldg. #2.

Tags: LOST DAY, Rain

Weather Notes

Wind: 16 mph Humidity: 100% Total Precip: 0.5" Cumu Precip: 55.95"



Hi: 52
Lo: 44

0Related To-Dos



PO Box 2217 • Austin, TX 78768 • Phone: (512) 220-8000

Print-date: 3-6-2017

Daily Logs List

3-6-2017

Jobsite: - (Cypress Creek Apartment Homes at Parker Boulevard)

Added By: John Cook

Files:

Log Notes

Total of 95 Lost Days.

1/2" Rain over night.

57.23" Precipitation.

Bureau of Veritas Meter Inspection passed for Maint. Bldg.

Tags: LOST DAY, Rain

Weather Notes

Wind: 17 mph Humidity: 100% Total Precip: 0"

 **Hi:** 66
Lo: 64

0Related To-Dos



PO Box 2217 • Austin, TX 78768 • Phone: (512) 220-8000

Print-date: 3-6-2017

Daily Logs List

2-27-2017

Jobsite: - (Cypress Creek Apartment Homes at Parker Boulevard)

Added By: John Cook

Files:



Log Notes

Total of 94 Lost Days.

1/4" Rain over night.

56.73" Precipitation.

Bureau of Veritas gave a Significant Completion for Bldg. #11.
Inspection for Bldg. #9 Furrdowns passed.

I Called Royse City Building Official David Alkins he said he would like to know if a Letter of Significant completion would suffice? He and his team do not feel comfortable with a TCO.

I explained that this letter the bank and not for us to occupy the building. I also explained to David that all we had left to complete was the irrigation and landscaping. David said if a Letter of Significant completion will work he would write the letters as soon as the Fire Team finished their inspections.

I have called for a Significant completion and a courtesy walk on Bldg. #12 Club House, Bldg. #11 & Bldg. #1 for Tues.

Called Sanitation Solutions for dumpsters #10, #3, #4, #5 & #6 to be emptied.

Tags: LOST DAY, Rain

Weather Notes

Wind: 17 mph Humidity: 100% Total Precip: 0"



Hi: 78

Lo: 56

0Related To-Dos

1d

BOARD ACTION REQUEST

ASSET MANAGEMENT

MARCH 23, 2017

Presentation, Discussion, and Possible Action regarding a change in the ownership structure of the Development Owner, Developer, and Guarantors prior to issuance of IRS Form(s) 8609 for Sienna Pointe (File No. 12413)

RECOMMENDED ACTION

WHEREAS, Sienna Pointe (the “Development”) received an award of 4% Housing Tax Credits (“HTC”) and a Direct Loan award of HOME funds in the form of a \$2 million loan in 2012 to construct 228 multifamily units in San Marcos;

WHEREAS, there was a change in the ownership structure of NRP Sienna Pointe LLC (“NRP Sienna”), the Class B limited partner (.01%) of the Development Owner that involves the addition of new affiliated entities but no new principals, and the removal of one of its original principals;

WHEREAS, Alan F. Scott (“Scott”), 33.33% owner of NRP Sienna, has retired and sold his interest to the remaining principals, J. David Heller (“Heller”) and T. Richard Bailey, Jr. (“Bailey”);

WHEREAS, Scott, in addition to Heller and Bailey, was used to meet the Department’s Experience Requirement in the Application; and

WHEREAS, the transfer of ownership is being requested prior to the issuance of IRS Form(s) 8609 and 10 TAC §10.406(e) requires that parties reflected in the Application that have control must remain in the ownership structure and retain such control, unless approved otherwise by the Board, and changes in Developers or Guarantors are considered amendments under 10 TAC §10.405(a)(3)(C) requiring approval;

NOW, therefore, it is hereby

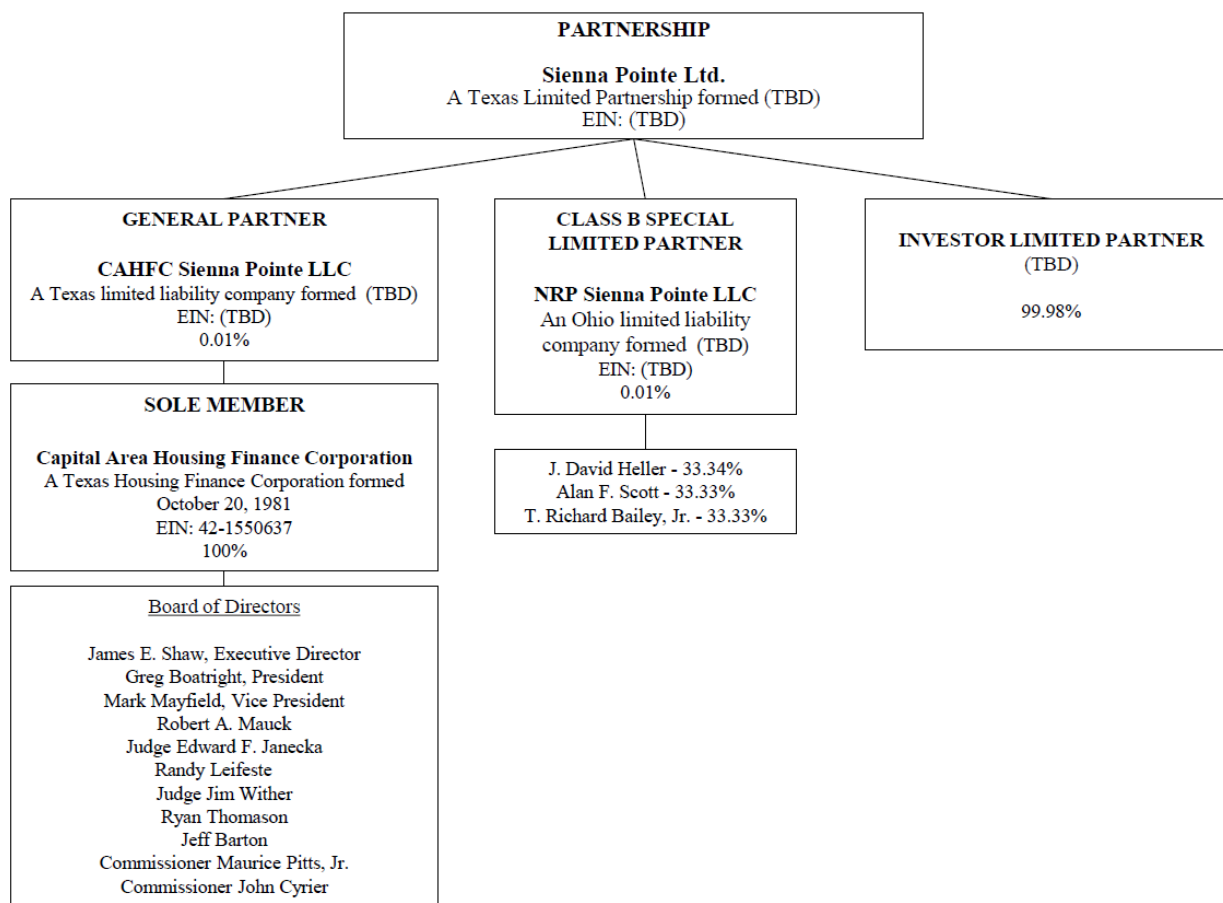
RESOLVED, that the ownership transfer and amendments in the Developer and Guarantor for Sierra Pointe is approved as presented to this meeting, and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing contingent on confirmation that the Executive Award Review and Advisory Committee (“EARAC”) would not recommend denial or approval with conditions as a result of its previous participation review.

BACKGROUND

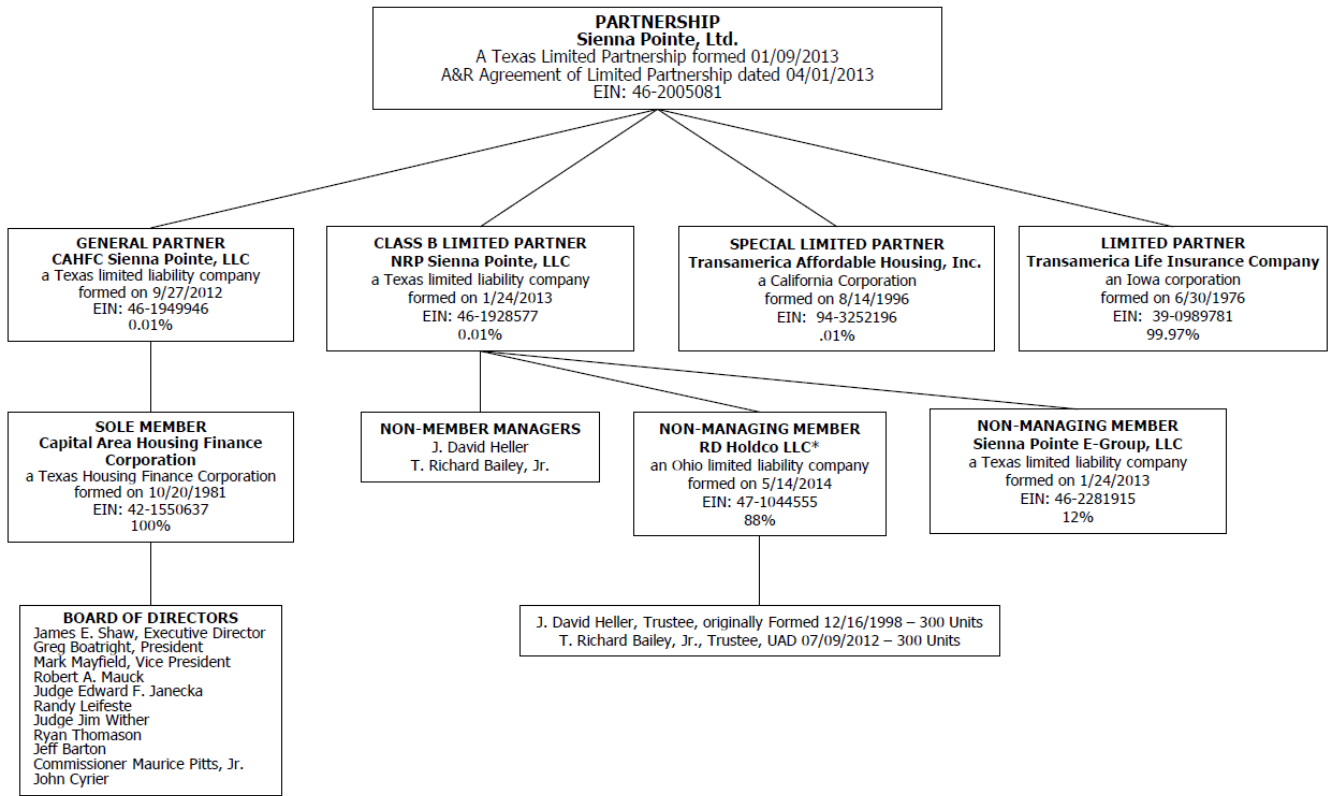
Sienna Pointe was approved for 4% Housing Tax Credits and a Direct HOME loan to construct 228 units in San Marcos, Hays County. NRP, the representative of the class B limited partner of the Development

Owner, Sienna Pointe, Ltd., has submitted a request for changes in the ownership structure of the Development Owner, Developer, and Guarantors. The changes involve the removal of affiliates and a principal and the addition of new affiliated entities but no new principals. The changes to the Development Owner are for the ownership structure of the class B limited partner, NRP Sienna Pointe, LLC (“NRP Sienna”). Alan F. Scott (“Scott”), 33.33% owner of NRP Sienna, retired and sold his interest to the remaining principals, J. David Heller (“Heller”) and T. Richard Bailey, Jr. (“Bailey”). Heller and Bailey transferred their ownership to RD Holdco LLC (“Holdco”) and Sienna Pointe E-Group, LLC (“E-Group”) but will remain non-member managers of NRP Sienna. Holdco (88%) will be controlled by J. David Heller, Trustee, and T. Richard Bailey, Jr., Trustee (“Bailey, Trustee”). The trusts are controlled by the current principals, Heller and Bailey. E-Group is controlled by Heller; however, the entity will have no management or control rights in NRP Sienna. Although Scott was used to meet the Experience Requirement in the Application, Heller and Bailey were also used and remain owners in the Development.

Ownership Structure approved at Application

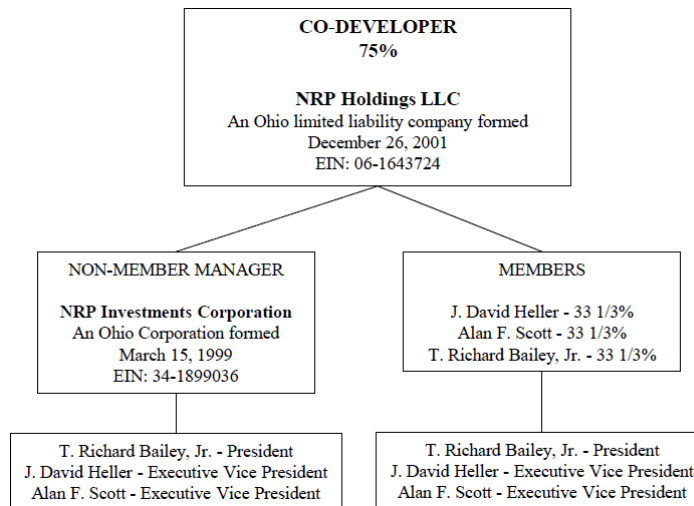


Revised Ownership Structure

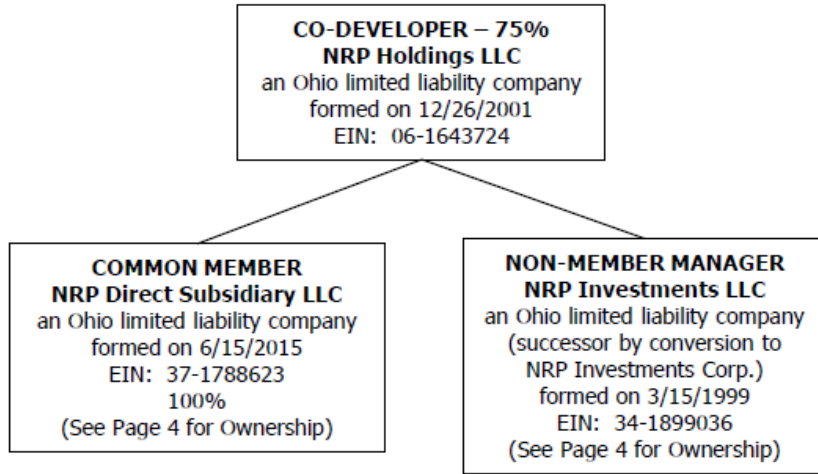


Change to the ownership structure of the co-Developer was also identified. Changes include the removal of Scott as a principal and replacing affiliated entities with new affiliates. The co-Developer, NRP Holdings LLC, was originally owned by Heller, Scott, and Bailey each holding a 33.33% ownership, and managed by NRP Investment Corporation. The entity is now owned by NRP Direct Subsidiary LLC and NRP Investments LLC.

Co-Developer at Application

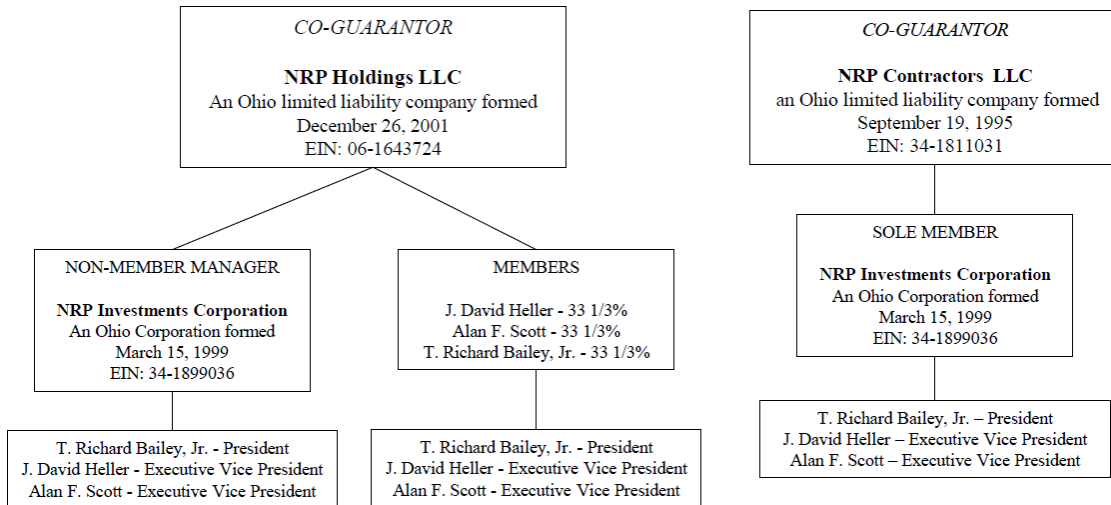


Revised Co-Developer

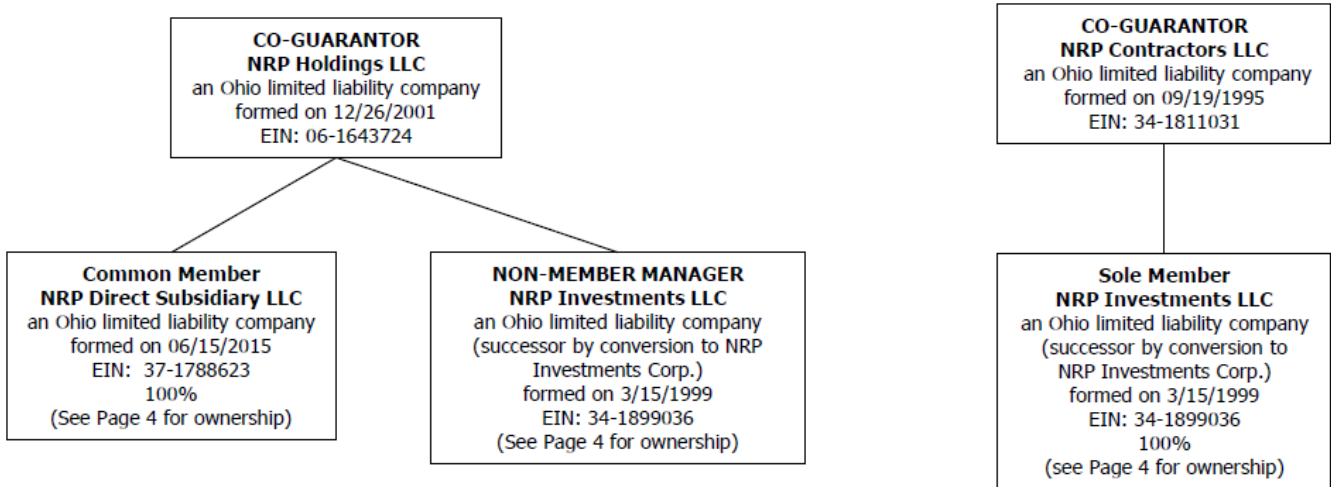


Finally, changes to the Guarantor identify the removal of Scott as a principal and the replacement of Heller and Bailey as individual members with affiliated entities, as reflected below.

Co-Guarantors at Application



Revised Co-Guarantors



The co-Guarantor, NRP Contractors LLC was owned by NRP Investment Corporation that was owned by Heller, Scott, and Bailey. The entity is now owned by NRP Investments LLC., an affiliate. NRP Investments LLC is owned by NRP Enterprises LLC (100%), the sole member, and managed by NRP Master L.P., the non-member manager. NRP Enterprises LLC is owned by NRP Direct Subsidiary LLC (100%) and a private equity fund, AGT NRP Investor, LLC, that does not exercise control. NRP Direct Subsidiary LLC is solely-owned by NRP Master L.P. that is owned by Heller, Trustee (99%), Bailey, Trustee (.5%), and JDH Realty Investment Corp. (.5%), solely-owned by Heller, Trustee.

Staff recommends approval of the requested changes in ownership structures for the Development Owner, the co-Developer, and the co-Guarantors for Sienna Pointe contingent upon previous participation review.



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Cleveland, Ohio 44125
Phone (216) 475-8900
Fax (216) 475-6101
www.nrpgroup.com

February 7, 2017

Ms. Laura DeBellas
Asset Manager
TDHCA
221 East 11th Street
Austin, Texas 78701-2410

Re: Sienna Pointe (TDHCA# 12413) – Ownership Transfer Request

Ms. DeBellas:

The purpose of this letter is to request the TDHCA's approval of the following changes in the ownership structure of Sienna Pointe, Ltd., as it relates to the sub-structure of the Class B Limited Partner, NRP Sienna Pointe, LLC (the "SLP") and NRP affiliate entities:

Class B Special Limited Partner

Additional entities were added to the ownership structure between the Class B Special Limited Partner and the principals of NRP. J. David Heller ("Heller") and T. Richard Bailey ("Bailey") manage/control these entities. RD Holdco LLC is an entity used to own all of Heller's and Bailey's affordable projects that closed prior to November 30, 2016. Sienna Pointe E-Group, LLC is wholly owned by employees of NRP, but is controlled by Heller; the E-Group has a small economic interest in the project, but no management or control rights.

Alan F. Scott

Mr. Scott retired from NRP in 2014 and sold his interest in the various NRP entities and projects to J. David Heller and T. Richard Bailey.

T. Richard Bailey

Mr. Bailey was bought out of NRP's operating companies, including NRP Holdings LLC, NRP Investments LLC and NRP Contractors LLC; however, for tax purposes he retained a .5% non-economic interest in NRP Master L.P. (Master), the owner of NRP Direct Subsidiary LLC (Direct Sub) and the owner of NRP Enterprises LLC (Enterprises). Master, is otherwise owned by Heller through a trust and another wholly owned subsidiary. None of the economics of Enterprises or Master, flow to Bailey, nor does he exercise any control of these entities. Bailey continues to own an interest and have management rights in the affordable projects that closed prior to November 30, 2016.

Direct Sub, which is ultimately 99.5% owned by Heller, owns 100% of the common interest in Enterprises. AGT NRP Investor LLC (AGT), a private equity firm, recently bought into a preferred position in Enterprises. AGT has the right to convert its preferred interest into a



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common interest, but at this time, AGT is only entitled to a fixed distribution from Enterprises and is not entitled to any common distributions of Enterprises. AGT does not exercise any control over the partnership.

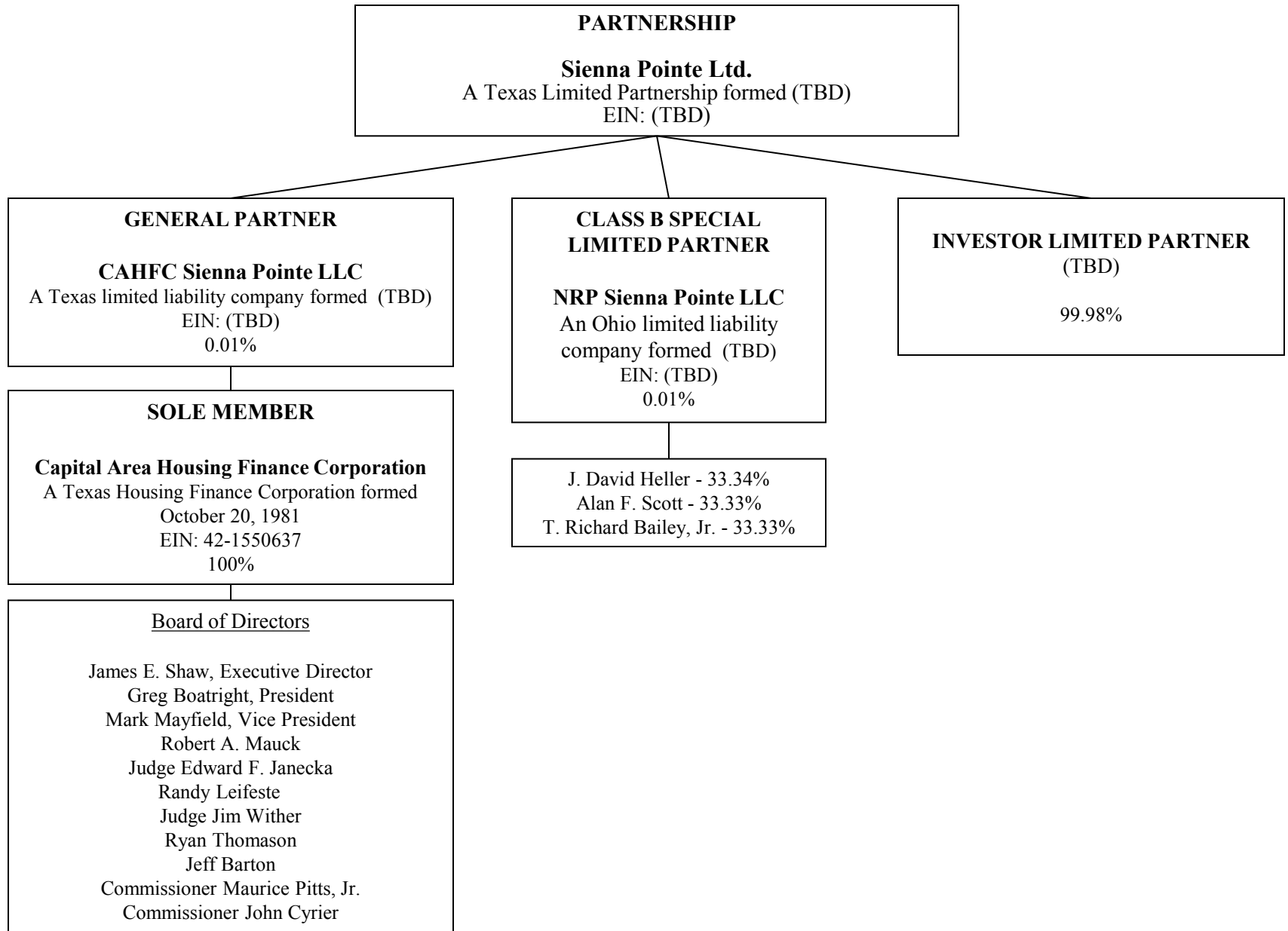
We respectfully request your consideration in this matter and have enclosed the complete Ownership Transfer Request and fee for \$1,000.

Sincerely,

By: 
Jessica Ludwig
NRP Assistant Project Manager - Development

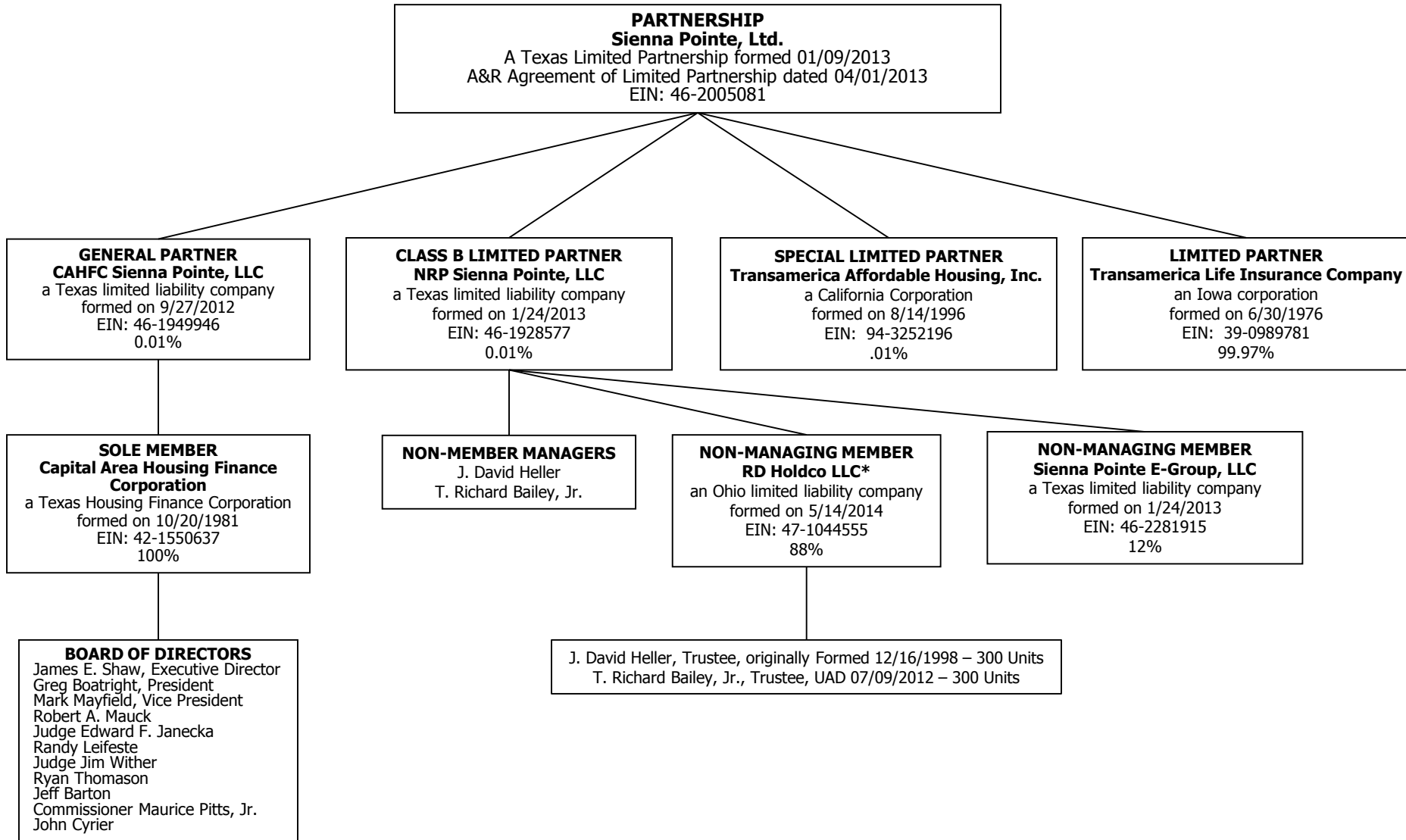
Sienna Pointe

BEFORE



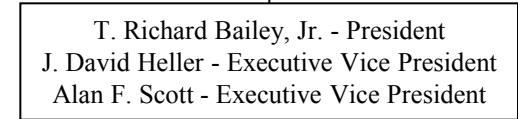
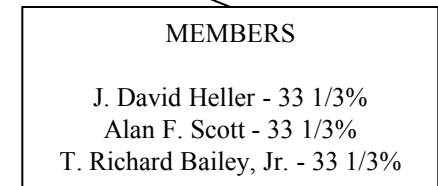
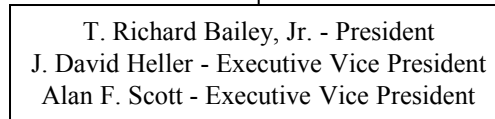
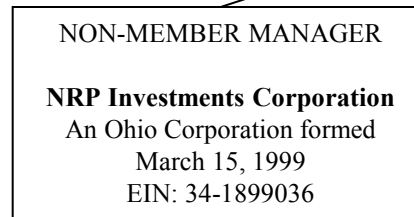
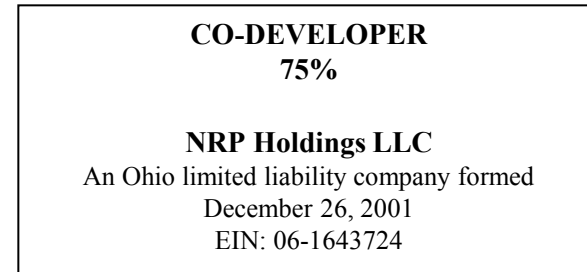
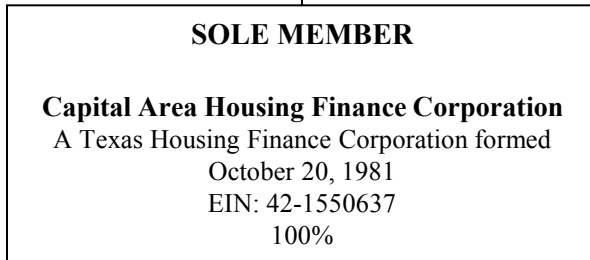
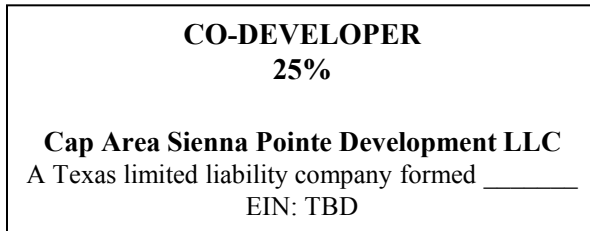
SIENNA POINTE

AFTER



*RD Holdco LLC (600 units = 100%)

DEVELOPERS



DEVELOPERS

CO-DEVELOPER – 25%
Cap Area Sienna Pointe Development, LLC
a Texas limited liability company
formed on 1/08/2013
EIN: 46-1972164

SOLE MEMBER
Capital Area Housing Finance Corporation
a Texas Housing Finance corporation
formed on 10/20/1981
EIN: 42-1550637
100%

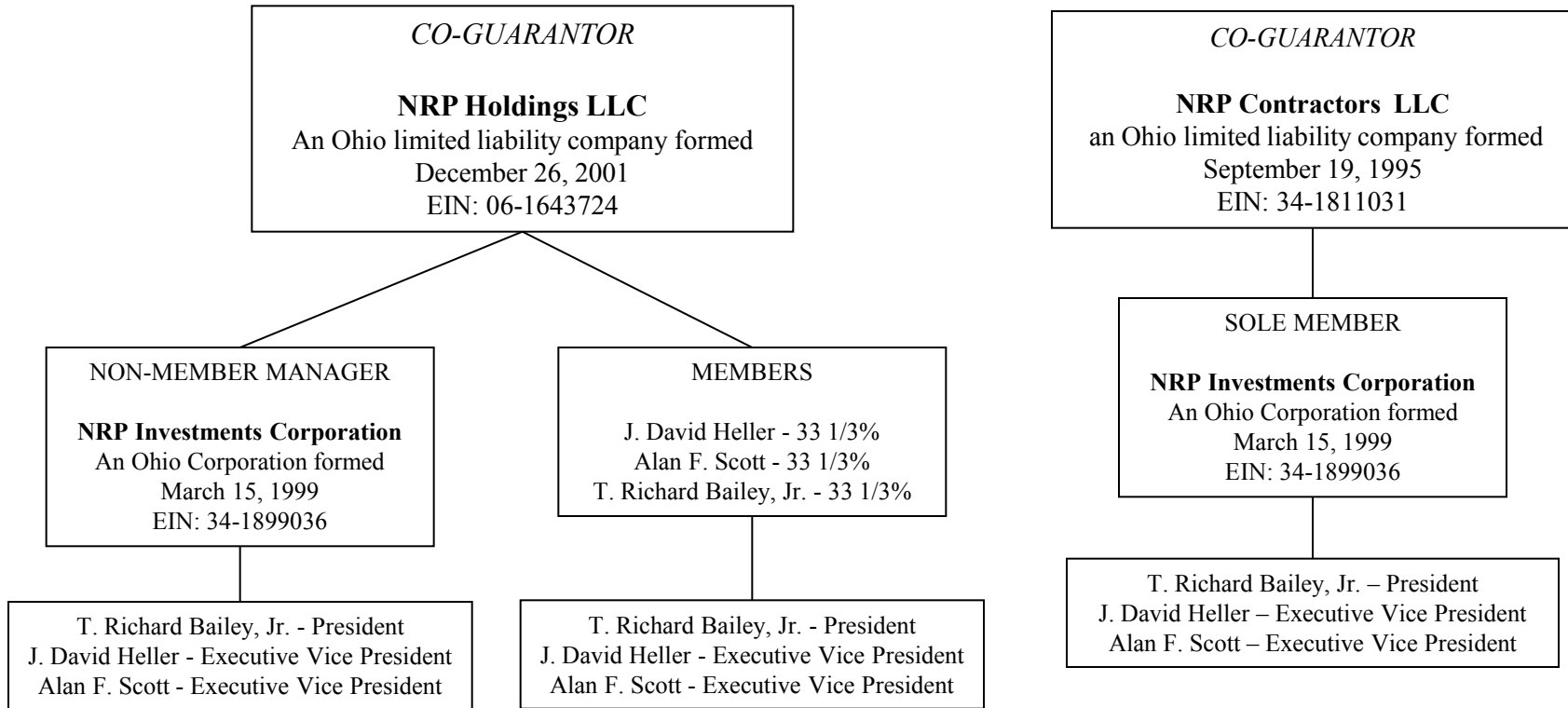
BOARD OF DIRECTORS
James E. Shaw, Executive Director
Greg Boatright, President
Mark Mayfield, Vice President
Robert A. Mauck
Judge Edward F. Janecka
Randy Leifeste
Judge Jim Wither
Ryan Thomason
Jeff Barton
Commissioner Maurice Pitts, Jr.
John Cyrier

CO-DEVELOPER – 75%
NRP Holdings LLC
an Ohio limited liability company
formed on 12/26/2001
EIN: 06-1643724

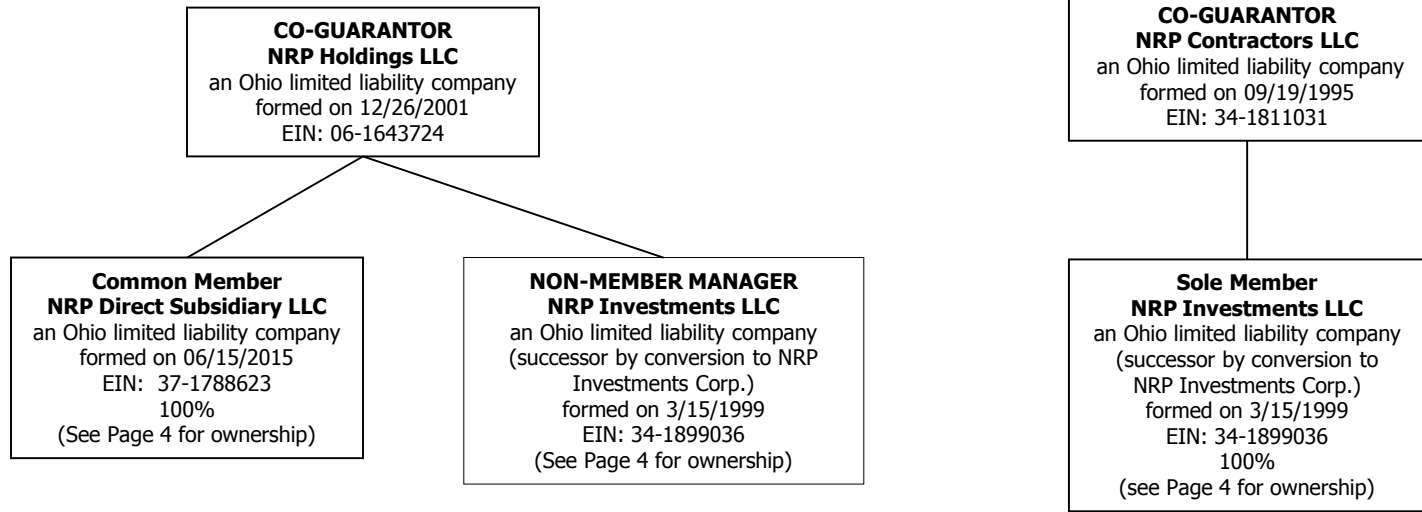
COMMON MEMBER
NRP Direct Subsidiary LLC
an Ohio limited liability company
formed on 6/15/2015
EIN: 37-1788623
100%
(See Page 4 for Ownership)

NON-MEMBER MANAGER
NRP Investments LLC
an Ohio limited liability company
(successor by conversion to
NRP Investments Corp.)
formed on 3/15/1999
EIN: 34-1899036
(See Page 4 for Ownership)

CO-GUARANTORS



GUARANTORS



SIENNA POINTE

NRP Investments LLC
 an Ohio limited liability company
 (successor by conversion to NRP Investments Corp.)
 formed on 3/15/1999
 EIN: 34-1899036

Sole Member
NRP Enterprises LLC
 a Delaware limited liability company
 formed on 6/15/2015
 EIN: 35-2538440

Non-Member Manager
NRP Master L.P.
 a Delaware limited partnership
 formed on 6/15/2015
 EIN: 47-4652432
 (see this page for ownership)

Common Member
NRP Direct Subsidiary LLC
 an Ohio limited liability company
 formed on 6/15/2015
 EIN: 37-1788623
 100%

AGT NRP Investor, LLC
 a Delaware limited liability company
 100% Convertible Preferred Member

NRP Master L.P.
 a Delaware limited partnership
 formed on 6/15/2015
 EIN: 47-4652432
 100%

AGT is a private equity fund that has multiple owners. It does not exercise control over the partnership.

Limited Partner
 J. David Heller, Trustee
 originally formed on 12/16/1998
 99%

Limited Partner
 T. Richard Bailey, Jr., Trustee
 UAD 7/9/2012
 .5%
 (non-economic interest)

General Partner
 JDH Realty Investments Corp.
 an Ohio corporation
 formed on 6/15/2015
 .5%

J. David Heller, Trustee
 originally formed on 12/16/1998
 100%

1e

BOARD ACTION ITEM
BOND FINANCE DIVISION
MARCH 23, 2017

Presentation, Discussion, and Possible Action regarding Resolution No. 17-013 approving an underwriting team and containing other provisions relating to the subject

RECOMMENDED ACTION

See attached Resolution.

BACKGROUND

In preparation for the possible issuance of single family mortgage revenue bonds for new origination and/or to refund all or part of the Department's Single Family Mortgage Revenue Bonds, 2007 Series B, at the Board meeting of November 10, 2016, the Board authorized the submission of applications to the Texas Bond Review Board ("BRB") to draw an amount not to exceed \$100 million in single family private activity bond authority and to request approval of the issuance of state bonds. To accommodate the accelerated schedule for the bond issue, the Board delegated to staff the selection of underwriters for the proposed transaction.

The schedule for this issuance has changed; the revised schedule, which is subject to change based on market conditions and other factors, is:

April 27, 2017	Bond issue is presented to the Board for final approval, including the approval of substantially final documents
May 18, 2017	BRB meeting to approve the transaction
June 7, 2017	Bond Pricing
June 22, 2017	Bond Closing

Because the schedule is no longer accelerated, staff is returning to the Board for approval of the underwriting team for this issuance. Staff recommends Ramirez & Co., Inc. as the book-running senior manager, and Jefferies LLC and RBC Capital Markets as co-managers for this transaction; as such, staff recommends approval of Resolution 17-013.

RESOLUTION NO. 17-013

RESOLUTION APPROVING AN UNDERWRITING TEAM 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 "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 (d) to issue its revenue bonds for the purpose of refunding any bonds theretofore issued by the Department; and

WHEREAS, by Resolution No. 17-007 ("Resolution 17-007") adopted on November 10, 2016, the Board authorized the filing of one or more applications with the Texas Bond Review Board with respect to qualified mortgage bonds and authorized the submission of an application for approval of state bonds to the Bond Review Board; and

WHEREAS, the Board desires to approve an underwriting team for the bonds referenced in Resolution 17-007;

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

ARTICLE 1

APPROVAL OF CERTAIN ACTIONS

Section 1.1 Underwriting Team. From the approved current pool of senior underwriters, the Governing Board designates Ramirez & Co., Inc. as the senior manager and Jefferies LLC and RBC Capital Markets as the co-managers.

Section 1.2 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 Deputy Executive Directors of the Department, the Chief Financial Officer 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

GENERAL PROVISIONS

Section 2.1 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 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 23rd day of March, 2017.

Vice Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

1f

**TO BE POSTED NOT LATER THAN THE
THIRD DAY BEFORE THE DATE OF
THE MEETING**

1g

BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
MARCH 23, 2017

Presentation, Discussion, and Possible Action on the re-release of a draft 2017 State of Texas Consolidated Plan: One-Year Action Plan

RECOMMENDED ACTION

WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) requires the submission of a One-Year Action Plan in accordance with 24 CFR §91.320;

WHEREAS, a draft 2017 State of Texas Consolidated Plan: One-Year Action Plan, which reports on the intended use of funds received by the State of Texas from HUD for Program Year (“PY”) 2017, beginning on February 1, 2017, and ending on January 31, 2018, was approved for release for public comment at the Board meeting of November 10, 2016;

WHEREAS, a public comment period was open from November 14, 2016, through December 15, 2016, and a public hearing was held on December 6, 2016, to garner input on the One-Year Action Plan;

WHEREAS, on December 15, 2016, HUD issued Notice CPD-16-18 with revised guidance and submission timeframe for the 2017 One-Year Action Plan, instructing the Department not to submit the final 2017 One-Year Action Plan until up to 60 days after the final 2017 allocation amounts are released by HUD, but not after August 16, 2017;

WHEREAS, since the conclusion of the public comment period on December 15, 2016, staff has identified additional programmatic revisions necessary for the 2017 One-Year Action Plan, per HUD guidance;

WHEREAS, the federal government does not yet have a funding instrument for the 2017 Federal Fiscal Year; and

WHEREAS, staff will prepare a revised draft 2017 State of Texas Consolidated Plan: One-Year Action Plan to release for 30-day public comment;

NOW, therefore, it is hereby

RESOLVED, a revised draft 2017 State of Texas Consolidated Plan: One-Year Action Plan as described herein will be prepared is hereby approved for release for public comment; and

FURTHER RESOLVED, that the Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to cause notice of the draft 2017 State of Texas Consolidated Plan: One-Year Action Plan to be published in the *Texas Register*.

BACKGROUND

The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”), Texas Department of Agriculture (“TDA”), and Texas Department of State Health Services (“DSHS”) prepared the draft 2017 State of Texas Consolidated Plan: One-Year Action Plan (“Plan”) in accordance with 24 CFR §91.320. TDHCA coordinates the preparation of the State of Texas Consolidated Plan documents. The Plan covers the State’s administration of the Community Development Block Grant Program (“CDBG”) by TDA, the Housing Opportunities for Persons with AIDS Program (“HOPWA”) by DSHS, the Emergency Solutions Grant (“ESG”) Program, the HOME Investment Partnerships (“HOME”) Program, and the National Housing Trust Fund (“NHTF”) Program by TDHCA.

The Plan reflects the intended uses of funds received by the State of Texas from HUD for Program Year 2017. The Program Year (“PY”) begins on February 1, 2017, and ends on January 31, 2018. The Plan also illustrates the State’s strategies in addressing the priority needs and specific goals and objectives identified in the 2015-2019 State of Texas Consolidated Plan.

Per 24 CFR §91.15(a)(1), the Plan is required to be submitted to HUD on December 15, 2016, which is at least 45 days before the start PY 2017. However, on August 12, 2016, the Department received written approval from HUD of a request to extend the submission date to February 15, 2017. The purpose of this extension was to allow the Department to incorporate the new NHTF Program into the State of Texas Consolidated Planning documents, while adhering to the HUD approved State of Texas Citizen Participation Plan.

A draft of the Plan was approved by the TDHCA Governing Board (“Board”) for release for public comment from November 14, 2016, through December 15, 2016, and a public hearing was held on December 6, 2016. The State received three total comments from the following 10 organizations: Accessible Housing Austin!, Accessible Housing Resources, Inc., ADAPT of Texas, Coastal Bend Center for Independent Living, Coalition of Texans with Disabilities, Lifeworks, Motivation, Education & Training, Inc., Personal Attendants Coalition of Texas, Texas Association of Community Development Corporations, and the Texas State Independent Living Council.

On December 15, 2016, HUD issued Notice CPD-16-18 with revised guidance and submission timeframe for the 2017 One-Year Action Plan, instructing the Department not to submit to HUD the final 2017 One-Year Action Plan before final 2017 allocation amounts are released by HUD, but also not after August 16, 2017. Since the conclusion of the public comment period on December 15, 2016, and per HUD guidance, staff has identified additional required programmatic revisions for the 2017 One-Year Action Plan described below. Accordingly, staff will prepare a revised draft for public comment of the 2017 One-Year Action Plan to include the reasoned responses to comments received during the November 14, 2016, through December 15, 2016, public comment period as well as the programmatic revisions. The revised draft is anticipated to include the following revisions:

- Updates to the HOME Resale and Recapture Provisions to align more clearly with HUD Notice CPD-12-003;
- Updates to the HOME Expected Resources under AP-15 and Annual Goals and Objectives under AP-20 to remove \$10,000,000 in anticipated Program Income received throughout the year from the resources section for multifamily activities from this Plan year and instead collect said program income and engage a public comment process to program those funds in the 2018 plan. This

change is as a result of HUD's final interim rule relating to Changes to HOME Program Commitment Requirement published December 2, 2016, correction published December 12, 2016, which alters the way in which program income is recycled. If not revised, this may result in the substantial loss of funding to the state because of the revised regulations regarding a timeframe for committing program income;

- Updates to ESG activities proposed in 2017 based on the federal annual allocation amount that include disincentives for funding for activities that are also funded by Continuum of Care funding for the same activity and allowance for the authority to reimburse pre-contact award costs in accordance with CPD-Notice 16-18;
- Changes to align the 2017 NHTF activities and the anticipated NHTF allocation; with the changes to the 2016 NHTF activities (currently out for public comment and approved by the Board at its last meeting);
- Updates to CDBG, HOME, and NHTF activities relating to HUD's new rule requiring considerations for broadband access for low and moderate-income residents based on HUD's final rule published December 16, 2016;
- Updates to Special population narratives relating to HUD's Final Rule Implementing Violence Against Women Reauthorization Act of 2013 (VAWA) published November 16, 2016, correction published December 6, 2016;
- Clarifications regarding tenant selection preferences under the HOME and NHTF program;
- Edits which may be necessary to respond to Community Development Block Grant-Disaster Recovery ("CDBG-DR") from HUD administered by the General Land Office ("GLO");
- Edits to the Department's contingency language, if the actual allocation amounts increase or decrease more than 20 percent from the estimated allocation amounts.

As the Department is still unaware of the final allocations, only estimated federal allocations will be in the draft approved for release by this action. In accordance with the State's HUD approved Public Participation Plan, once the allocations are released, this could trigger an additional 30-day public comment period if the actual allocation amounts increase or decrease more than 20 percent from the estimated allocation amounts.

The delays in having an approved HUD budget as well as the changes in regulations described above will potentially cause funding for PY 2017 to become available later in the year than normal. The immediate release of this draft along with action currently contemplated by staff to expedite award and contract of funds are being considered to limit the gap in time for those sub-recipients depending on a year round source for funding *eg* ESG.

This action seeks approval to release a revised draft 2017 One-Year Action Plan for public comment. Staff recommends approval of this action.

1h

**TO BE POSTED NOT LATER THAN THE
THIRD DAY BEFORE THE DATE OF
THE MEETING**

1i

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
MARCH 23, 2017

Presentation, Discussion, and Possible Action on Inducement Resolution No. 17-014 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2017 Waiting List for Emli at Liberty Crossing

RECOMMENDED ACTION

WHEREAS, an inducement resolution for Emli at Liberty Crossing was previously approved at the Board meeting of March 31, 2016, and a Certificate of Reservation was issued by the Bond Review Board (“BRB”) on November 14, 2016, with a bond delivery deadline of April 13, 2017;

WHEREAS, a full 2017 Housing Tax Credit application was submitted and is currently under review by the Department and the 2016 Certificate of Reservation has been withdrawn;

WHEREAS, due to the length of time passed since the original inducement, the inducement resolution is being updated;

WHEREAS, approval of the inducement will allow staff to submit an application to the BRB for the issuance of a 2017 Certificate of Reservation; and

WHEREAS, a 2017 Certificate of Reservation will require the application currently under review to conform to the 2017 Uniform Multifamily Rules and 2017 Qualified Allocation Plan, as applicable;

NOW, therefore, it is hereby

RESOLVED, that based on the forgoing, the Inducement Resolution No. 17-014, to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority from the 2017 Private Activity Bond Program for Emli at Liberty Crossing (#17600) is hereby approved in the form presented to this meeting;

FURTHER RESOLVED, that this Inducement Resolution is a Supplement to the Original Inducement Resolution adopted by the Board on March 31, 2016.

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 for a reservation of volume cap. Approval of the inducement resolution will allow staff to submit an application to the BRB for the issuance of another Certificate of Reservation and

allow the application to continue to move forward in the review process. Once the Certificate of Reservation is issued the Applicant will have 150 days to close on the private activity bond financing.

The full application was submitted on August 25, 2016; staff has completed the initial program review and the application is currently under review by Real Estate Analysis. Staff has conducted the public hearing and the bond financing documents are currently under review by the financing participants. Considering the length of time since the original inducement resolution was approved, staff is requesting that the inducement resolution be updated. Upon approval of the updated inducement resolution staff will submit the application to the BRB for another Certificate of Reservation that will include a 150-day closing deadline.

The inducement resolution is requesting authority to reserve \$25,000,000 in state volume cap. Emli at Liberty Crossing is proposed to be located at approximately 307 South Goode Road in Wilmer, Dallas County, and will include the new construction of 240 units serving the general population. This transaction is proposed to be Priority 3 with 54 of the units rent and income restricted at 50% of the Area Median Family Income (“AMFI”) and the remaining 186 units rent and income restricted at 60% AMFI.

The Department has received one letter of opposition from a member of the community and has not received any letters of support.

RESOLUTION NO. 17-014

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 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, which Application must be submitted within one year of the issuer's authorization to file the Application; and

WHEREAS, the Governing Board of the Department (the "Board") approved Resolution No. 16-012 on March 31, 2016 (the "Original Resolution") declaring 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 set forth therein and authorizing the filing of Applications with the Bond Review Board, and the Board has determined to supplement the Original Resolution in order to extend the period in which the Department may submit Applications for the Developments to the Bond Review Board; 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 of the Original Resolution 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 of the Original Resolution 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 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. The Original Resolution and this Resolution constitute 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 Deputy Executive Directors of the Department, the Chief Financial Officer 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. The Bonds will be a special limited obligation of the Department payable solely from amounts pledged for that purpose under the financing documents.

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 23rd day of March, 2017.

[SEAL]

By: _____
(Vice) Chair, Governing Board

ATTEST:

Secretary to the Governing Board

EXHIBIT "A"

Description of the Owner and the Development

Project Name	Owner	Principals	Amount Not to Exceed
Emli at Liberty Crossing	Liberty Crossing TC I, LP, a Texas to be formed limited partnership	General Partner/Member: Liberty Crossing GP, LLC, a Texas to be formed limited liability company	\$25,000,000
Costs: Construction of a 240-unit affordable, multifamily housing development to be known as Emli at Liberty Crossing, to be located at approximately 307 South Goode Road, Wilmer, Dallas County, 75172.			

From: [rebecca.jones](mailto:rebecca.jones@tdhca.state.tx.us)
To: [Shannon.Roth](mailto:Shannon.Roth@tdhca.state.tx.us)
Subject: Re: Emli at Liberty Crossing application information
Date: Thursday, January 12, 2017 4:47:30 PM

This is in regards to the application of Emli at Liberty Crossing in Wilmer, Texas. I have several objections to this project.

My first objection is the fact that two members of the Wilmer Planning and Zoning Board own property within the distance at which people have to be notified if they object to a project. Both members own property across the street from the proposed project and one member has bought and is repairing a house that is also across the street. Both members voted on a stipulation that the project could not have an exit on South Goode Road which borders the east side of the project because that would cause heavier traffic to travel pass their homes. The only entrance and exit would be on the southbound service road of Interstate 45. No entrance or exit on South Goode Road is a safety issue. Neither member recused themselves from voting on the project which is a conflict of interest and also an ethics violation.

Another issue with this project is that the original public hearing that was done, was done not in the city of Wilmer but in the city of Ferris which is located six (6) miles further south on Interstate 45. The public notice hearing notice was placed in the Dallas Morning News and not in the local paper, The Ellis County Press. Citizens of Wilmer Texas were given no notice.

The City of Wilmer Texas is a small community of less than 4000 citizens. There is no public transportation system in the city. There are no plans in place to bring buses or DART to the area. We have one school, a pre-kindergarten only, located in the city. All other students are bused to schools in Hutchins and Dallas as part of the Dallas Independent School District. The next school is 6 miles away in Hutchins. Wilmer has no grocery stores, the closes being 6 miles away. The Emli at Liberty Crossing is being touted as a low income apartment complex. Yet with no public transportation, no close school system, and no grocery stores in the area, these apartments would not help but hinder low income residents.

Thank you for taking the time for reading my concerns.

Rebecca Jones
5712 south interstate highway 45
Wilmer Texas 75172

From: Shannon Roth <shannon.roth@tdhca.state.tx.us>
To: rebecca.jones <rbccjones@yahoo.com>
Cc: Teresa Morales <teresa.morales@tdhca.state.tx.us>
Sent: Thursday, January 5, 2017 7:36 AM
Subject: RE: Emli at Liberty Crossing application information

Hi Rebecca

You can forward any comment to my attention at this email.

Shannon Roth

Multifamily Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3929
Fax: 512.475.1895

About TDHCA

The Texas Department of Housing and Community Affairs is committed to expanding fair housing choice and opportunities for Texans through the administration and funding of affordable housing and homeownership opportunities, weatherization, and community-based services with the help of for-profits, nonprofits, and local governments. For more information about fair housing, funding opportunities, or services in your area, please visit www.tdhca.state.tx.us or the [Learn about Fair Housing in Texas](#) page.

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).

From: rebecca jones [mailto:rbccjones@yahoo.com]
Sent: Wednesday, January 04, 2017 5:39 PM
To: Shannon Roth
Subject: Re: Emli at Liberty Crossing application information

what email address do I use to submit comments to the TDHCA board about the Emlii at liberty crossing application. Thank you for your time

From: Shannon Roth <shannon.roth@tdhca.state.tx.us>
To: "lady.hawk.7@hotmail.com" <lady.hawk.7@hotmail.com>; "rbccjones@yahoo.com" <rbccjones@yahoo.com>
Cc: Teresa Morales <teresa.morales@tdhca.state.tx.us>
Sent: Tuesday, November 22, 2016 11:33 AM
Subject: Emli at Liberty Crossing application information

The Emli at Liberty Crossing application is currently planned to be on the TDHCA Board agenda on January 26, 2017. You may submit public comment in writing up to January 17, 2017. Comment will be accepted via email, US Mail or overnight carriers.

Below is the link to the TDHCA Multifamily Program Rules and Qualified Allocation Plan (QAP):

<http://www.tdhca.state.tx.us/multifamily/docs/16-QAP.pdf>
<http://www.tdhca.state.tx.us/multifamily/docs/16-QAP.pdf>

As I mentioned on the phone the Emli at Liberty Crossing application was submitted under our 4% Housing Tax Credit and Tax Exempt Bond Program, those items marked for Competitive HTC or 9% HTC only would not apply.

I have also included a link to the 2016 Project Income and Rent Tool; which will identify the

maximum income and rent limits for TDHCA administered properties participating in the housing tax credit and tax exempt bond programs. I have also attached a version of the document completed for the Emli at Liberty Crossing application.

<http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>

Thanks and have a good day.

Shannon Roth

Multifamily Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.475.3929

Fax: 512.475.1895

About TDHCA

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Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).

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BOARD ACTION REQUEST

TEXAS HOMEOWNERSHIP DIVISION

MARCH 23, 2017

Presentation, Discussion, and Possible Action regarding publication of a Request for Proposal (“RFP”) for a Program Administrator for the Texas First Time Homebuyer Program, the My First Texas Home Program, the Texas Mortgage Credit Certificate Program, and other first-time homebuyer programs that may be implemented by the Department.

RECOMMENDED ACTION

WHEREAS, the publication of the RFP will allow the Department to identify qualified program administrators in order to assist in administering and managing tax-exempt mortgage revenue bond, mortgage credit certificate or other alternatively funded mortgage portfolios; and

WHEREAS, the Department’s current Program Administrator contract expires May 7, 2017;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designee(s) be, and each of them are, authorized for and on behalf of the Department to publish an RFP for Program Administrator and to select a qualified program administrator in accordance with that RFP and to report the selection to the Board.

BACKGROUND

The Department provides financing to low and moderate income first-time homebuyers that includes a first mortgage loan and a second mortgage loan. Additionally, the Department issues mortgage credit certificates to low and moderate income first-time homebuyers. The responsibilities of Program Administrator typically include providing access to a loan reservation system, conducting lender systems trainings, performing Internal Revenue Service tax code compliance file reviews and providing reporting services to Housing Finance Agencies.

Staff will develop and publish an RFP to identify qualified Program Administrators, select a Program Administrator and report the selection to the Board.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
MARCH 23, 2017

Presentation, Discussion, and Possible Action on an order proposing actions to 10 TAC Chapter 6 Community Affairs Programs, including the 1) proposed amendments in Subchapter A, General Provisions, of §6.2 Definitions, §6.4 Income Determination, and §6.5 Documentation and Frequency of Determining Customer Eligibility; and 2) proposed amendments in Subchapter C, Comprehensive Energy Assistance Program (“CEAP”), of §6.308 Allowable Subrecipient Administrative, Program Services Costs, and Assurance 16, and §6.310 Household Crisis Component; and directing that they be published for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov’t Code §2306.053, the Department is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, at the Board Meeting of November 10, 2016, the Board approved the adoption of 10 TAC Chapter 6, Community Affairs Programs: Subchapter A, General Provisions and Subchapter C, CEAP;

WHEREAS, the Department and Subrecipients have identified several needed revisions to correct items lacking clarity or to remedy discrepancies between 10 TAC Chapter 6 and federal guidelines resulting in proposed revisions to Subchapter A, General Provisions and Subchapter C, CEAP and it is the Department’s intent that 10 TAC Chapter 6 be clear, understandable, and consistent with federal guidelines;

WHEREAS, 10 TAC §6.5(a) and §6.5(b) adopted December 4, 2016, contain a scrivener’s error, and reflect that the annual income eligibility recertification under §6.5(a) was for Low Income Home Energy Assistance Program Weatherization Assistance Program (“LIHEAP WAP”) and the income eligibility recertification under §6.5(b) was for Department of Energy (“DOE”) WAP, which was not the intent; the Department intended for §6.5(a) to impact CEAP and CSBG only (not LIHEAP WAP), and §6.5(b) to impact both LIHEAP WAP and DOE WAP; and

WHEREAS, upon authorization of this item, these proposed actions will be published in the *Texas Register* for public comment from April 7, 2017, through May 8, 2017;

NOW, therefore, it is hereby

RESOLVED, that the Department has adhered and will continue to adhere to the rational and intended income eligibility certification until the correction is able to be adopted as proposed in the amendments revising §6.5(a) and §6.5(b); and

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 cause the proposed amendments to 10 TAC Chapter 6 Community Affairs Programs, Subchapter A, General Provisions; Subchapter C, CEAP in the form presented to this meeting, to be published in the *Texas Register* for review and public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

In 2016, the Department undertook a broad reorganization of, and revision to, the rules that govern the Community Affairs programs. Part of that reorganization was the creation of 10 TAC Chapter 6, Community Affairs Programs. On November 10, 2016, the Board approved its adoption and the new rules went into effect on December 4, 2016. Since that time, the Department and Subrecipients have identified several needed revisions to correct items lacking clarity or to remedy discrepancies between the newly created 10 TAC Chapter 6 and federal regulation and guidance, as well as a few non-substantive grammatical corrections, making it necessary to propose the amendment changes as summarized below. Staff will, upon action by the Board, publish the proposed rules in the *Texas Register* for public comment from April 7, 2017, through May 8, 2017.

- §6.2. Definitions
 - §6.2(b)(3). Categorical Eligible/Eligibility – Changes the definition to more clearly reflect that households are not already determined to be income eligible, but that Subrecipients determine a household to be eligible for the benefit if the household is receiving a certain other federal benefit. Also within the definition, it adds the citation reference to the definition for Means Tested Veterans Program payments.
 - §6.2(b)(19)(A). Elderly Person – A non-substantive grammatical correction.
 - §6.2(b)(22). Families with Young Children – A non-substantive grammatical correction.
 - §6.2(b)(25). High Energy Consumption – The rule previously had indicated that a dollar standard would be provided in contracts; instead that amount is being put in the rule at \$1,000. This amount was determined based on a calculation of average household energy expenditures, median household income, and federal poverty guidelines by household size.
 - §6.2(b)(26). Household – The definition was revised to specify that unborn children are excluded from the definition of household to provide greater clarity to Subrecipients (although unborn children remain included in the definition of Families with Young Children). In addition, CSBG has been added to distinguish CSBG and LIHEAP from the DOE definition of household.
 - §6.2(b)(28)(A). Low Income Household – The definition was revised to clarify that Households can be categorically eligible for DOE benefits.
 - §6.2(b)(28)(B). Low Income Household – A non-substantive grammatical correction.
- §6.4. Income Determination
 - §6.4(a). Clarifies that income determination is performed to establish a household's level of benefit, even if that household has already been determined to be categorically eligible for assistance. Being categorically eligible does not determine the level of benefit.
 - §6.4(a)(2)(R). Veterans (VA) Disability Payments – Removes this item from the list of types of Excluded Income because it is a broad category that the Department does not have clear authority to exclude under DOE guidance, not reflective of a specific funding

- assistance type, and other more specific VA related benefits are listed elsewhere on the list.
- §6.4(a)(2)(U). Income of Household members under Age 18 – A non-substantive grammatical correction.
 - §6.4(d)(3)(F). Revised to provide for how one-time income is calculated in annualizing income.
 - §6.5. Documentation and Frequency of Determining Customer Eligibility
 - §6.5(a). Replaces the term LIHEAP, which covers both CEAP and LIHEAP WAP, with the term CEAP, since this section is not intended to be applicable to LIHEAP WAP.
 - §6.5(b). Removes the term DOE, thereby having this section refer to both types of WAP (LIHEAP and DOE).

Chapter 6, Subchapter C, Comprehensive Energy Assistance Program

- §6.308. Allowable Subrecipient Administrative and Program Services Costs
 - §6.308. Removes Assurance 16 from the title.
 - §6.308(a). A non-substantive grammatical correction.
 - §6.308(b) and (c). Removes the section on Assurance 16. Assurance 16 is being removed because, based on federal clarification, funds to the Subrecipients are not being designated specifically as Assurance 16; however educational activities will still be occurring as reflected in newly added §6.308(b)(9).
- §6.310. Household Crisis Component
 - §6.310(a)(2). Removes language specifying that notice of disconnection has to be provided to the Subrecipient within the effective contract term; this may have negatively impacted the ability to assist some households.
 - §6.310(c)(4). Insert ‘Non-’ before Vulnerable Population households and remove ‘regardless of weather conditions’. These edits are made to make this section refer appropriately to the intended handling of these types of cases.
 - §6.310(c)(5). Insert ‘of existing heating and cooling units’ before ‘or purchase.....’ again to make the reading of this section accurately reflect the intention.
 - §6.310(e). Removed the term ‘LIHEAP’ to ensure that it is clear that this section only relates to CEAP, not LIHEAP WAP.
 - §6.310(f). Non-substantive grammatical corrections.

Preamble and Proposed Amendments to 10 TAC Chapter 6 Community Affairs Programs, Subchapter A, General Provisions, §6.2, §6.4 and §6.5, and Subchapter C, Comprehensive Energy Assistance Program, §6.308 and §6.310

The Texas Department of Housing and Community Affairs (the “Department”) proposes amendments to 10 TAC Chapter 6, Community Affairs Programs, Subchapter A, General Provisions, §6.2 Definitions, §6.4 Income Determination and §6.5 Documentation and Frequency of Determining Customer Eligibility and Subchapter C, Comprehensive Energy Assistance Program, §6.308 Allowable Subrecipient Administrative, Program Services Costs, and Assurance 16, and §6.310 Household Crisis Component.

Since 10 TAC Chapter went into effect on December 4, 2016, several areas for change have been identified to either provide clarification or to remedy discrepancies between the new rules and federal guidelines. The amendments to these sections are to correct these issues.

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

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be clarity of program requirements and consistency of 10 TAC Chapter 6 with federal guidelines. There will not be any economic cost to any individuals required to comply with the amendments.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held April 7, 2017, through May 8, 2017, to receive input on the amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Gavin Reid, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to the following address: gavin.reid@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M., Austin local time, May 8, 2017.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules, and Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

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

Chapter 6, Subchapter A

§6.2. Definitions

- (a) To ensure a clear understanding of the terminology used in the context of the CSBG, LIHEAP, and DOE-WAP programs of the Community Affairs Division, a list of terms and definitions has been compiled as a reference.
- (b) The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Refer to Subchapters B, C, and D of this chapter for program

specific definitions.

(1) Affiliate--An entity related to an Applicant that controls by contract or by operation of law the Applicant or has the power to control the Applicant or a third entity that controls, or has the power to control both the Applicant and the entity. Examples include but are not limited to entities submitting under a common application, or instrumentalities of a unit of government. This term also includes any entity that is required to be reported as a component entity under Generally Accepted Accounting Standards, is required to be part of the same Single Audit as the Applicant, is reported on the same IRS Form 990, or is using the same federally approved indirect cost rate.

(2) Awarded Funds--The amount of funds or proportional share of funds committed by the Department's Board to a Subrecipient or service area.

(3) Categorical Eligible/Eligibility: A method where a Subrecipient must deem a Household to be eligible for benefits if that Household includes Households determined to be income eligible because at least one member that receives:

(A) SSI payments from the Social Security Administration; or

(B) Means Tested Veterans Program payments. See §6.2(b)(30).

(4) Child--Household member not exceeding eighteen (18) years of age.

(5) Code of Federal Regulations ("CFR")--The codification of the general and permanent rules and regulations of the federal government as adopted and published in the *Federal Register*.

(6) Community Action Agencies ("CAAs")--Private Nonprofit Organizations and Public Organizations that carry out the Community Action Program, which was established by the 1964 Economic Opportunity Act to fight poverty by empowering the poor in the United States.

(7) Community Services Block Grant ("CSBG")--An HHS-funded program which provides funding for CAAs and other Eligible Entities that seek to address poverty at the community level.

(8) Comprehensive Energy Assistance Program ("CEAP")--A LIHEAP-funded program to assist low-income Households, in meeting their immediate home energy needs.

(9) Concern--A policy, practice or procedure that has not yet resulted in a Finding or Deficiency but if not changed will or may result in Findings, Deficiencies and/or disallowed costs.

(10) Contract--The executed written Agreement between the Department and a Subrecipient performing an Activity related to a program that describes performance requirements and responsibilities assigned by the document; for which the first day of the contract period is the point at which programs funds may be considered by a Subrecipient for expenditure unless otherwise directed in writing by the Department.

(11) Contracted Funds--The gross amount of funds obligated by the Department to a Subrecipient as reflected in a Contract.

(12) Cost Reimbursement--A Contract sanction whereby reimbursement of costs incurred by the Subrecipient is made only after the Department has conducted such review as it deems appropriate, which may be complete or limited, such as on a sampling basis, and approved backup documentation provided by the Subrecipient to support such costs. Such a review and approval does not serve as a final approval and all uses of advanced funds remain subject to review in connection with future or pending reviews, monitoring, or audits.

(13) Declaration of Income Statement ("DIS")--A Department-approved form used only when it is not possible for an applicant to obtain third party or firsthand verification of income.

(14) Deficiency--Consistent with the CSBG Act, a Deficiency exists when an Eligible Entity has failed to comply with the terms of an agreement or a State plan, or to meet a State requirement. The Department's determination of a Deficiency may be based on the Eligible Entity's failure to provide CSBG services, or to meet appropriate standards, goals, and other requirements established by the State, including performance objectives. A Finding, Observation, or Concern that is not corrected, or is repeated, may become a Deficiency.

(15) Deobligation--The partial or full removal of Contracted Funds from a Subrecipient. Partial

Deobligation is the removal of some portion of the full Contracted Funds from a Subrecipient, leaving some remaining balance of Contracted Funds to be administered by the Subrecipient. Full Deobligation is the removal of the full amount of Contracted Funds from a Subrecipient. This definition does not apply to CSBG non-discretionary funds.

(16) Department of Energy ("DOE")--Federal department that provides funding for a weatherization assistance program.

(17) Department of Health and Human Services ("HHS")--Federal department that provides funding for CSBG and LIHEAP energy assistance and weatherization.

(18) Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

(19) Elderly Person--

(A) for CSBG, a person who is ~~fifty-five (55)~~ years of age or older; and

(B) for CEAP and WAP, a person who is 60 years of age or older.

(20) Emergency--defined as:

(A) a natural disaster;

(B) a significant home energy supply shortage or disruption;

(C) significant increase in the cost of home energy, as determined by the Secretary of HHS;

(D) a significant increase in home energy disconnections reported by a utility, a state regulatory agency, or another agency with necessary data;

(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. §§2011, *et seq.*), the national program to provide supplemental security income carried out under Title XVI of the Social Security Act (42 U.S.C. §§1381, *et seq.*) or the state temporary assistance for needy families program carried out under Part A of Title IV of the Social Security Act (42 U.S.C. §§601, *et seq.*), as determined by the head of the appropriate federal agency;

(F) a significant increase in unemployment, layoffs, or the number of Households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

(G) an event meeting such criteria as the Secretary of HHS, at the discretion of the Secretary of HHS, may determine to be appropriate.

(21) Expenditure--An amount of money spent.

(22) Families with Young Children--A Household that includes a Child age five (~~5~~) or younger including a Household that has a pregnant woman.

(23) Finding--A Subrecipient's material failure to comply with rules, regulations, the terms of the Contract or to provide services under each program to meet appropriate standards, goals, and other requirements established by the Department or funding source (including performance objectives). A Finding impacts the organization's ability to achieve the goals of the program and jeopardizes continued operations of the Subrecipient. Findings include the identification of an action or failure to act that results in disallowed costs.

(24) High Energy Burden--Households with energy burden which exceeds 11% of annual gross income (as defined by the applicable program), determined by dividing a Household's annual home energy costs by the Household's annual gross income.

(25) High Energy Consumption--A Household that is billed more than \$1000 annually for the use of gas and electricity in their Dwelling Unit ~~than the median of Low Income home energy expenditures. The amount is identified in the Contract.~~

(26) Household--Any individual or group of individuals, excluding unborn children, who are living together as one economic unit. For DOE WAP this includes all persons living in the Dwelling Unit. For CSBG/LIHEAP these persons customarily purchase residential energy in common or make undesignated payments for energy.

(27) Inverse Ratio of Population Density Factor--The number of square miles of a county divided

by the number of poverty Households of that county.

(28) Low Income Household--defined as:

(A) For DOE WAP, a Household whose total combined annual income is at or below 200% of the HHS Poverty Income guidelines, or a Household who is Categorically Eligible;

(B) For CEAP and LIHEAP WAP, a Household whose total combined annual income is at or below 150% of the HHS Poverty Income guidelines, or a Household who is Categorically Eligible; and

(C) For CSBG, a Household whose total combined annual income is at or below 125% of the HHS Poverty Income guidelines.

(29) Low Income Home Energy Assistance Program ("LIHEAP")--An HHS-funded program which serves low income Households who seek assistance for their home energy bills and/or weatherization services.

(30) Means Tested Veterans Program--A program whereby applicants receive payments under §§415, 521, 541, or 542 of title 38, United States Code, or under §306 of the Veterans' and Survivors' Pension Improvement Act of 1978.

(31) Observation--A notable policy, practice or procedure observed though the course of monitoring.

(32) Office of Management and Budget ("OMB")--Office within the Executive Office of the President of the United States that oversees the performance of federal agencies and administers the federal budget.

(33) OMB Circulars--Instructions and information issued by OMB to Federal agencies that set forth principles and standards for determining costs for federal awards and establish consistency in the management of grants for federal funds. Uniform cost principles and administrative requirements for local governments and for nonprofit organizations, as well as audit standards for governmental organizations and other organizations expending federal funds are set forth in 2 CFR Part 200, unless different provisions are required by statute or approved by OMB.

(34) Outreach--The method that attempts to identify customers who are in need of services, alerts these customers to service provisions and benefits, and helps them use the services that are available. Outreach is utilized to locate, contact and engage potential customers.

(35) Performance Statement--A document which identifies the services to be provided by a Subrecipient.

(36) Persons with Disabilities--Any individual who is:

(A) a handicapped individual as defined in 29 U.S.C. §701 or has a disability under 42 U.S.C. §§12131 - 12134;

(B) disabled as defined in 42 U.S.C. 1382(a)(3)(A), 42 U.S.C. §423, or in 42 U.S.C. 15001; or

(C) receiving benefits under 38 U.S.C. Chapter 11 or 15.

(37) Population Density--The number of persons residing within a given geographic area of the state.

(38) Poverty Income Guidelines--The official poverty income guidelines as issued by HHS annually.

(39) Private Nonprofit Organization--An organization described in §501(c) of the Internal Revenue Code (the "Code") of 1986 and which is exempt from taxation under subtitle A of the Code and that is not a Public Organization.

(40) Production Schedule--The estimated monthly and quarterly performance targets and expenditures for a Contract period. The Production schedule must be signed by the applicable approved signatory and approved by the Department in writing.

(41) Program Year--January 1 through December 31 of each calendar year for CSBG and LIHEAP and July 1 through June 30 of each calendar year for DOE WAP.

(42) Public Organization--A unit of government, as established by the Legislature of the State of

Texas. Includes, but may not be limited to, cities, counties, and councils of governments.

(43) Referral--The documented process of providing information to a customer Household about an agency, program, or professional person that can provide the service(s) needed by the customer.

(44) Reobligation--The reallocation of deobligated funds to other Subrecipients.

(45) Single Audit-- Single Audit--The audit required by Office of Management and Budget (OMB), 2 CFR Part 200, Subpart F, or Tex. Gov't Code, Chapter 738, Uniform Grant and Contract Management, as reflected in an audit report.

(46) State--The State of Texas or the Department, as indicated by context.

(47) Subcontractor--A person or an organization with whom the Subrecipient contracts with to provide services.

(48) Subgrant--An award of financial assistance in the form of money, made under a grant by a Subrecipient to an eligible Subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases.

(49) Subgrantee--The legal entity to which a Subgrant is awarded and which is accountable to the Subrecipient for the use of the funds provided.

(50) Subrecipient--An organization that receives federal funds passed through the Department to operate the CSBG, CEAP, DOE WAP and/or LIHEAP program(s).

(51) Supplemental Security Income (SSI)--A means tested program run by the Social Security Administration.

(52) System for Award Management ("SAM")--Combined federal database that includes the Excluded Parties List System ("EPLS").

(53) Systematic Alien Verification for Entitlements ("SAVE")--Automated intergovernmental database that allows authorized users to verify the immigration status of applicants.

(54) Texas Administrative Code ("TAC")--A compilation of all state agency rules in Texas.

(55) Uniform Grant Management Standards ("UGMS")--The standardized set of financial management procedures and definitions established by Tex. Gov't Code Chapter 783 to promote the efficient use of public funds by requiring consistency among grantor agencies in their dealings with grantees, and by ensuring accountability for the expenditure of public funds. State agencies are required to adhere to these standards when administering grants and other financial assistance agreements with cities, counties and other political subdivisions of the state. This includes all Public Organizations. In addition, Tex. Gov't Code Chapter 2105, subjects subrecipients of federal block grants (as defined therein) to the Uniform Grant and Contract Management Standards.

(56) United States Code ("U.S.C.")--A consolidation and codification by subject matter of the general and permanent laws of the United States.

(57) Vendor Agreement--An agreement between the Subrecipient and energy vendors that contains assurances regarding fair billing practices, delivery procedures, and pricing for business transactions involving LIHEAP beneficiaries.

(58) Vulnerable Populations--Elderly persons, Persons with a Disability, and Households with a Child at or below the age of five.

(59) Weatherization Assistance Program ("WAP")--DOE and LIHEAP funded program designed to reduce the energy cost burden of Low Income Households through the installation of energy efficient weatherization materials and education in energy use.

§6.4. Income Determination

(a) Eligibility for program assistance is determined under the Poverty Income Guidelines and calculated as described herein (some forms of income may qualify the Household as Categorically Eligible for assistance (see §6.2(b)(3), however Categorical Eligibility does not determine the level of benefit, which is determined through the Income Determination process). Income means cash receipts earned and/or received by the applicant before taxes during applicable tax year(s), but not

the excluded income listed in paragraph (2) of this subsection. Gross income is to be used, not net income, except that from non-farm or farm self-employment net receipts must be used (*i.e.*, receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses), and net income from gambling or lottery winnings.

(1) If an income source is not excluded below, it must be included when determining income eligibility.

(2) Excluded Income:

- (A) Capital gains;
- (B) Any assets drawn down as withdrawals from a bank;
- (C) Balance of funds in a checking or savings account;
- (D) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
- (E) Proceeds from the sale of property, a house, or a car;
- (F) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;
- (G) Tax refunds, Earned Income Tax Credit refunds;
- (H) Jury duty compensation;
- (I) Gifts, loans, and lump-sum inheritances;
- (J) One-time insurance payments, or compensation for injury;
- (K) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;
- (L) Reimbursements (for mileage, gas, lodging, meals, etc.);
- (M) Employee fringe benefits such as food or housing received in lieu of wages;
- (N) The value of food and fuel produced and consumed on farms;
- (O) The imputed value of rent from owner-occupied non-farm or farm housing;
- (P) Federal non-cash benefit programs as Medicare, Medicaid, SNAP, WIC, and school lunches, and housing assistance (Medicare deduction from Social Security Administration benefits should not be counted as income);
- (Q) Combat zone pay to the military;
- ~~(R) Veterans (VA) Disability Payments;~~
- ~~(RS)~~ College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits ("GI Bill"), Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- ~~(ST)~~ Child support payments (amount paid by payor may not be deducted from income);
- ~~(TU)~~ Income of Household members under ~~eighteen~~ (18) years of age including payment to children under the age of 18 made payable to a person over the age of 18;
- ~~(UV)~~ Stipends from senior companion programs, such as Retired Senior Volunteer Program and Foster Grandparents Program;
- ~~(VW)~~ AmeriCorps Program payments, allowances, earnings, and in-kind aid;
- ~~(WX)~~ Depreciation for farm or business assets;
- ~~(XY)~~ Reverse mortgages;
- ~~(YZ)~~ Payments for care of Foster Children;
- ~~(ZAA)~~ Payments or allowances made under the Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- ~~(AABB)~~ Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c));

~~(BBCC)~~ Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (93, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d));

~~(CCDD)~~ Allowances, earnings, and payments to individuals participating in programs under the Workforce Innovation and Opportunity Act(29 U.S.C.3101);

~~(DEEE)~~ Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(g));

~~(EEFF)~~ The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858(q));

~~(FFGG)~~ Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

~~(GGHH)~~ Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459(e));

~~(HHH)~~ Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (94, §6);

~~(IJJ)~~ The first \$2,000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407 - 1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;

~~(JJKK)~~ Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (101) or any other fund established pursuant to the settlement in In Re Agent Orange Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);

~~(KKLL)~~ Payments received under the Maine Indian Claims Settlement Act of 1980 (96, 25 U.S.C. 1728);

~~(LLMM)~~ Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (95);

~~(MMNN)~~ Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802 - 05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811 - 16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);

~~(NNOO)~~ Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));

~~(OOPP)~~ Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. §1437a(b)(4));

~~(PPQQ)~~ A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);

~~(QRRR)~~ Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a)); and

~~(RRSS)~~ Any other items which are excluded by virtue of federal or state legislation or by properly adopted federal regulations have taken effect. The Department will, from time to time, provide on its website updated links to such federal exceptions. Notwithstanding such information, a Subrecipient may rely on any adopted federal exception on and after the date on which it took effect.

(b) The requirements for determining whether an applicant Household is eligible for assistance require the Subrecipient to annualize the Household income based on verifiable documentation of income, within 30 days of the application date. Income is based on the Gross Annual Income for all household members 18 years or older. Annual gross income is the total amount of money earned annually before taxes or any deductions.

(c) The Subrecipient must document all sources of income, including excluded income, for 30 days prior to the date of application, for all household members 18 years of age or older.

(d) Identify all income sources, not on the excluded list, for income calculation.

(1) The Subrecipient must calculate projected annual income by annualizing current income. Income that may not last for a full 12 months should be calculated assuming current circumstances will last a full 12 months, unless it can be documented that employment is less than 12 months/year and pay is not prorated over the entire 12 month period. For incomes not able to be annualized over a twelve month period, the income shall be calculated on the total annual earning period (*e.g.*, for a teacher paid only nine months a year, the annual income should be the income earned during those nine months). In limited cases where income is not paid hourly, weekly, bi-weekly, semi-monthly nor monthly, the Subrecipient may contact the Department to determine an alternate calculation method in unique circumstances on a case-by-case basis.

(2) For all customers including those with categorical eligibility, the Subrecipient must collect verifiable documentation of Household income received in the 30 days prior to the date of application.

(3) Once all sources of income are known, Subrecipient must convert reported income to an annual figure. Convert periodic wages to annual income by multiplying:

(A) Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);

(B) Weekly wages by 52;

(C) Bi-weekly wages (paid every other week) by 26;

(D) Semi-monthly wages (paid twice each month) by 24; and

(E) Monthly wages by 12.

(F) One-time income should be added to the total after the income has been annualized.

(4) Except where a more frequent period is required by federal regulation, re-certification of income eligibility must occur at least every twelve months.

(e) If a federal or state requirement provides an updated definition of income or method for calculating income, the Department will provide written notice to Subrecipients about the implementation date for the new requirements.

(f) If proof of income is unobtainable, the applicant must complete and sign a Declaration of Income Statement (DIS).

(g) For CSBG and LIHEAP, a live in aide or attendant is not considered part of the Household for purposes of determining Household income, but is considered for a benefit based on the size of the Household. Example 4(1): A Household applies for assistance. There are four people in the Household. One of the four people is a live-in aide. To determine if the Household is qualified, annualize the income of the other three Household members and compare it to the three person income limit. However, if the amount of benefit is based on Household size (such as benefit level based on the number of people in the Household), then this is a four person Household.

(h) Subrecipients shall not discourage anyone from applying for assistance. Subrecipients shall provide all potential customers with an opportunity to apply for programs.

§6.5. Documentation and Frequency of Determining Customer Eligibility

(a) For ~~LIHEAP~~ CEAP and CSBG, income must be verified annually, with a new application each Program Year.

(b) For ~~DOE-WAP~~, income must be verified at the initial application. If the customer is on a wait-list for over 12 months since initial application, household income must be updated within at least 12 months of the unit being initially inspected.

Chapter 6, Subchapter C

§6.308. Allowable Subrecipient Administrative, Program Services Costs, ~~and Assurance 16~~

(a) Funds available for Subrecipient administrative activities will be calculated by the Department as a percentage of direct services expenditures. Administrative costs shall not exceed the maximum percentage of total direct services expenditures as indicated in the Contract. All other administrative costs, exclusive of administrative costs for program services, must be paid with nonfederal funds. Allowable administrative costs for administrative activities includes costs for general administration and coordination of CEAP, and all indirect (or overhead) costs, and activities as described in paragraphs (1) - (7) of this subsection:

- (1) salaries;
- (2) fringe benefits;
- (3) non-training travel;
- (4) equipment;
- (5) supplies;
- (6) audit (limited to percentage of the contract expenditures, excluding training/travel costs as indicated in the Contract); and
- (7) office space (limited to percentage of the contract expenditures, excluding training/travel costs as indicated in the Contract).

(b) Program Services costs shall not exceed the maximum percentage of total direct services Expenditures as indicated in the Contract. Program Services costs are allowable when associated with providing customer direct services. Program services costs may include outreach activities and expenditures on the information technology and computerization needed for tracking or monitoring required by CEAP, and activities as described in paragraphs (1) - (28) of this subsection:

- (1) direct administrative cost associated with providing the customer direct service;
- (2) salaries and benefits cost for staff providing program services;
- (3) supplies;
- (4) equipment;
- (5) travel;
- (6) postage;
- (7) utilities;
- (8) rental of office space; and
- (9) staff time to provide energy conservation education, needs assessments, and referrals.

~~(c) Assurance 16. Assurance 16 services encourage and enable households to reduce their home energy needs and thereby the need for energy assistance. The Department calculates Assurance 16 based on total Contract Expenditure. Subrecipients must provide an energy-related needs assessment and referrals, budget counseling, and energy conservation education to each CEAP customer. Subrecipients may provide education to identify energy waste, manage Household energy use, and strategies to promote energy savings. Subrecipients must maintain documentation of the assessment, referrals, counseling and education provided.~~

§6.310. Household Crisis Component

(a) Crisis assistance can be provided under the following conditions:

- (1) A Life Threatening Crisis exists, as defined in §6.301 of this Subchapter;

(2) Disconnection notice - a utility disconnection notice may constitute a Household Crisis. Assistance provided to Households based on a utility disconnection notice is limited to two (2) payments per year. Weather criterion is not required to provide assistance due to a disconnection notice. ~~The notice of disconnection must have been provided to the Subrecipient within the effective contract term and~~ The notice of disconnection must have been issued within ~~no more than 60 days~~ from receipt by the Subrecipient; or,

(3) Extreme Weather Conditions exist, as defined in §6.301 of this Subchapter.

(b) Benefit Level for Crisis Assistance.

(1) Crisis assistance payments cannot exceed the minimum amount needed to resolve the crisis; *e.g.* when a shut-off notice requires a certain amount to be paid to avoid disconnection and the same notice indicates that there are balances due other than the required amount. Crisis assistance payments that are less than the amount needed to resolve the crisis may only be made when other funds or options are available to resolve the Household's remaining crisis need and are documented in the customer file.

(2) Crisis assistance for one Household cannot exceed the maximum allowable benefit level in one Program Year as defined in §6.309 of this Subchapter relating to Types of Assistance and Benefit Levels. If a Household's crisis assistance needs exceed that maximum allowable benefit, Subrecipient may pay up to the Household crisis assistance limit only if the remaining amount of Household need can be paid from other funds. If the Household's crisis requires more than the Household limit to resolve and no other funds are available, the crisis exceeds the scope of this component.

(3) Payments may not exceed Household's actual utility bill.

(4) Crisis funds, whether for utility payment assistance, disconnection notice, life threatening crisis, temporary shelter, emergency fuel deliveries, assistance related to natural disasters shall be considered part of the total maximum Household allowable assistance.

(5) Service and repair or purchase of heating and or cooling units for up to \$3,000 will not be counted towards the total maximum Household allowable assistance under the utility assistance and crisis components.

(c) Where necessary to prevent undue hardships from a qualified crisis, Subrecipients may provide:

(1) Payment of utility bill(s) during the month(s) when Extreme Weather Conditions exist, as defined in §6.301 of this Subchapter.

(2) Temporary shelter not to exceed the annual Household expenditure limit for the duration of the contract period in the limited instances that supply of power to the dwelling is disrupted--causing temporary evacuation;

(3) Emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing;

(4) For Non-Vulnerable Population Households ~~regardless of weather conditions~~, service and repair of existing heating and cooling units when the Household has an inoperable heating or cooling system when the county is experiencing Extreme Weather Conditions. If any component of the central system cannot be repaired using parts, the Subrecipient can replace the component in order to repair the central system. Documentation of service/repair and related warranty must be included in the customer file. Costs are not to exceed \$3,000 during the Contract period.

(5) For Vulnerable Population Households regardless of weather conditions, service and repair of existing heating and cooling units or purchase of portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort), when the Household has an inoperable or there is a nonexistent heating or cooling system-. If any component of the central system cannot be repaired using parts, the Subrecipient can replace the component in order to repair the central system. Any service or repair of air conditioning or heating units must comply with the 2015 International Residential Code ("IRC") to ensure proper installation. Documentation of

service/repair and related warranty must be included in the customer file. Costs are not to exceed \$3,000 during the Contract period.

(6) When a Household's crisis meets the definition of Life Threatening Crisis and the Household has a utility disconnection notice or is low on fuel, regardless of whether the county is experiencing Extreme Weather Conditions, utility or fuel assistance can be provided.

(d) When portable heating/cooling units are purchased and/or repaired, the following requirements must be met:

(1) Purchase of more than two portable heating/cooling units per Household requires prior written approval from the Department;

(2) Purchase of portable heating/cooling units which require performance of electrical work for proper installation requires prior written approval from the Department;

(3) Replacement of central systems and combustion heating units is not an approved use of crisis funds; and

(4) Portable heating/cooling units must be Energy Star®. In cases where the type of unit is not rated by Energy Star®, or if Energy Star® units are not available due to supply shortages, Subrecipient may purchase the highest rated unit available.

(e) When natural disasters result in energy supply shortages or other energy-related emergencies, CEAP/HHEAP will allow home energy related expenditures for:

(1) Costs to temporarily shelter or house individuals in hotels, apartments or other living situations in which homes have been destroyed or damaged, *i.e.*, placing people in settings to preserve health and safety and to move them away from the crisis situation;

(2) Costs for transportation (such as cars, shuttles, buses) to move individuals away from the crisis area to shelters, when health and safety is endangered by loss of access to heating or cooling;

(3) Utility reconnection costs;

(4) Blankets, as tangible benefits to keep individuals warm;

(5) Crisis payments for utilities and utility deposits; and

(6) Purchase of fans, air conditioners and generators. The number, type, size and cost of these items may not exceed the minimum needed to resolve the crisis.

(f) Time Limits for Assistance. —Subrecipients shall ensure that for customers who have already lost service or are in immediate danger of losing service, some form of assistance to resolve the crisis shall be provided within a 48-hour time limit (18 hours in life-threatening situations). The time limit commences upon completion of the application process. The application process is considered to be complete when an agency representative accepts an application, and completes the eligibility process.

(g) Subrecipients must maintain written documentation in customer files showing crises resolved within appropriate timeframes. Subrecipients must maintain documentation in customer files showing that a utility bill used as evidence of a crisis was received by the Subrecipient during the effective contract term. The Department may disallow improperly documented expenditures.

2a

TDHCA Outreach Activities, February-March 2017

A compilation of outreach and educational activities designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public.

Activity	Event	Date	Location	Division
Training/Workshop	Emergency Solutions Grants Learning Opportunity on Match	2/1/17	N/A	HOME & Homeless Programs
Training/Workshop	CSBG Workgroup #2 for Subrecipients	2/8/17	Austin	Community Affairs
Roundtable	2017 HOME Roundtable for Single Family Administrators - Rockwall	2/8/17	Rockwall	HOME & Homeless Programs
Training/Workshop	WAP Workgroup #2 for Subrecipients	2/10/17	Austin	Community Affairs
Other	Open: Request for Applications to Administer the CSBG in Dallas County	2/10/17	N/A	Community Affairs
Other	Open: Request for Applications to Administer the CSBG in Dimmit and La Salle Counties	2/10/17	N/A	Community Affairs
Roundtable	2017 HOME Roundtable for Single Family Administrators - Harlingen	2/16/17	Harlingen	HOME & Homeless Programs
Roundtable	2017 HOME Roundtable for Single Family Administrators - Austin	2/22/17	Austin	HOME & Homeless Programs
Roundtable	2017 HOME Roundtable for Single Family Administrators - Houston	2/28/17	Houston	HOME & Homeless Programs
Other	Open: Notice of Funding Availability for Federal Fiscal Year 2017 Community Services Block Grant ("CSBG") Discretionary Funds for Services to Native American and Migrant Seasonal Farm Worker Populations	2/28/17	N/A	Housing Resource Center
Deadline	Public Comment Opens: 2016 National Housing Trust Fund Allocation Plan, Substantially Amended 2015-2019 State of Texas Consolidated Plan, and Substantially Amended 2016 One-Year Action Plan (03/01/17-03/30/17)	3/1/17	N/A	Housing Resource Center
Training/Workshop	ESG Learning Opportunity - Performance Evaluation Report	3/1/17	N/A	HOME & Homeless Programs
Other	Public Comment Opens: 2017 DOE-WAP Draft State Plan	3/10/17	N/A	Community Affairs
Other	Disability Advisory Workgroup Meeting	3/21/17	Austin	Housing Resource Center
Other	Public Comment Closes: 2017 DOE-WAP Draft State Plan	3/24/17	N/A	Community Affairs

Activity	Event	Date	Location	Division
Deadline	Public Comment Closes: 2016 National Housing Trust Fund Allocation Plan, Substantially Amended 2015-2019 State of Texas Consolidated Plan, and Substantially Amended 2016 One-Year Action Plan (03/01/17-03/30/17)	3/30/17	N/A	Housing Resource Center
Deadline	Closed: Notice of Funding Availability for Federal Fiscal Year 2017 Community Services Block Grant (“CSBG”) Discretionary Funds for Services to Native American and Migrant Seasonal Farm Worker Populations	3/31/17	N/A	Housing Resource Center

See also TDHCA’s online Calendar at www.tdhca.state.tx.us/events/index.jsp

Internet Postings of Note

A list of new or noteworthy postings to the Department’s website.

Bond Finance

- Updates to www.tdhca.state.tx.us/bond-finance/index.htm
– Updated link to Multi-Family Indentures

Community Affairs (“CA”)

Comprehensive Energy Assistance Program (“CEAP”)

- Updates to: www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm
– Updated CEAP Vendor Agreement
- CEAP Subrecipient list update www.tdhca.state.tx.us/community-affairs/ceap/index.htm

Community Services Block Grant Program (“CSBG”)

- Updates to: www.tdhca.state.tx.us/community-affairs/csbg/index.htm
– CSBG Subrecipients list update
– Texas FFY 2018 and FFY 2019 CSBG State Application and Plan
– CSBG Workgroup (PDF)
– WAP Workgroup (PDF)
- Application materials for Requests for Applications (“RFA”) to administer CSBG in Dallas County, and to administer CSBG in Dimmit and La Salle Counties www.tdhca.state.tx.us/community-affairs/nofas.htm

Weatherization Assistance Program (“WAP”)

- Updates to www.tdhca.state.tx.us/community-affairs/wap/index.htm
– Texas FFY 2018 and FFY 2019 CSBG State Application and Plan
– CSBG Workgroup (PDF)
– WAP Workgroup (PDF)
– 2017 Draft DOE Weatherization Assistance Program (WAP) State Plan

Compliance

- Owner’s Certification that all Exigent and Fire Safety Deficiencies Have Been Corrected www.tdhca.state.tx.us/pmcomp/inspections/physical.htm
- Updated Subchapter F document www.tdhca.state.tx.us/pmcomp/manuals-rules-htc.htm

- Updated CMTS Filing Agreement and the number of days for processing www.tdhca.state.tx.us/comp_reporting.htm
- Added Affirmative Marketing Memo- Partial Suspension of §10.617(g)(2) www.tdhca.state.tx.us/pmcomp/forms.htm
- Added 1st Thursday Income Eligibility Training - April 6 www.tdhca.state.tx.us/pmcomp/COMPtrain.html

Fair Housing

- Posted 2017 Fair Housing Month webinar announcements www.tdhca.state.tx.us/fair-housing/announcements.htm

Finance

- Added “A disclosure of an “unaudited subsequent event” Year Ended 8/31/2016” www.tdhca.state.tx.us/finan.htm

HOME and Homeless Programs

Emergency Solutions Grants (“ESG”)

- Updates to www.tdhca.state.tx.us/home-division/esgp/video-library.htm
 - Posted Match Guidelines video and PDF
 - Posted Consolidated Annual Performance Evaluation Report – March 2, 2017 (Video), and Consolidated Annual Performance Evaluation Report Handout
- Added 2017 Urban/Rural Designations www.tdhca.state.tx.us/home-division/esgp/applications.htm

Homeless Housing and Services Program (“HHSP”)

- 2017 HHSP Subrecipients – Allocations and Contacts (PDF) www.tdhca.state.tx.us/home-division/hhsp/index.htm

HOME Program

- Added 2017 Consolidated Annual Performance and Evaluation Report (CAPER) www.tdhca.state.tx.us/home-division/esgp/guidance-solutions.htm

Homeownership

- Updated MCC Loan Application Refinance application www.tdhca.state.tx.us/homeownership/fthb/mort_cred_certificate.htm
- Loan review and application fee update www.tdhca.state.tx.us/homeownership/fthb/lender_reqs_loans.htm

Housing Resource Center (“HRC”)

- January 31, 2017 TICH meeting transcript www.tdhca.state.tx.us/tich/meetings.htm
- Updated Health and Human Services Coordination Council meeting materials www.tdhca.state.tx.us/hhsc/council-meetings.htm

Multifamily

Multifamily Bonds

- 2017 Multifamily Housing Revenue Bond Rules www.tdhca.state.tx.us/multifamily/nofas-rules.htm

Four Percent Housing Tax Credits

- Updates to www.tdhca.state.tx.us/multifamily/housing-tax-credits-4pct/index.htm
 - Updated HTC Consultants (PDF)

Nine Percent Housing Tax Credits

- Updates to www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm
 - Updated 2017 9% Competitive Housing Tax Credit Full-Application log
 - Updated HTC Consultants (PDF)
 - Moved 2016 9% HTC Carryover Allocation Information, 2016 9% HTC Full-Applications and 016 9% Competitive Housing Tax Credit Pre-Application to online archive at www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/archive.htm

Miscellaneous Multifamily Items

- Updated Public Hearing Schedule for Comment on the 2017 Competitive Housing Tax Credit Applications www.tdhca.state.tx.us/multifamily/announcements.htm

Notices of Funding Availability (“NOFA”)

- Updates to www.tdhca.state.tx.us/nofa.htm
 - Added Native Americans/Migrant Seasonal Farm Worker NOFA

Public Comment Center

- Updates to www.tdhca.state.tx.us/public-comment.htm
 - Added item open for public comment: 2017 DOE Draft State Plan
 - Added item open for public comment: 2016 National Housing Trust Fund Allocation Plan, Substantially Amended 2015-2019 State of Texas Consolidated Plan, and Substantially Amended 2016 One-Year Action Plan

Purchasing

- Added link to Request for Offer #332-RFO17-1001 Organizational Standards Software under “What’s New” menu www.tdhca.state.tx.us/

Real Estate Analysis (“REA”)

- Updates to www.tdhca.state.tx.us/rea/index.htm
 - 2017 Regional Operating Expense Database
 - 2017 Statewide Operating Expense Database
 - Moved 2016-year-end 2014 data to REA archives www.tdhca.state.tx.us/rea/archive.htm

Section 811

- Updates to participating properties table with new properties and update applications/application packets with new versions indicating the new properties. www.tdhca.state.tx.us/section-811-pra/participating-properties.htm

Other

- Updated Public Information Request policy www.tdhca.state.tx.us/policies/public-information.htm

Frequently Used Acronyms

AMFI	Area Median Family Income	Organization	
AYBR	Amy Young Barrier Removal Program	CSBG	Community Services Block Grant Program
CEAP	Comprehensive Energy Assistance Program	DOE	U.S. Department of Energy
CFD	Contract for Deed Program	ESG	Emergency Solutions Grants Program
CFDC	Contract for Deed Conversion Assistance Grants	FAQ	Frequently Asked Questions
CHDO	Community Housing Development	HBA	Homebuyer Assistance Program
		HHSC	Housing and Health Services

	Coordination Council	OIG	Office of Inspector General
HHSP	Homeless Housing and Services Program	QAP	Qualified Allocation Plan
HRA	Homeowner Rehabilitation Assistance Program	REA	Real Estate Analysis
HTC	Housing Tax Credit	RFA	Request for Applications
HTF	Housing Trust Fund	RFO	Request for Offer
HUD	U.S. Department of Housing and Urban Development	RFP	Request for Proposals
LURA	Land Use Restriction Agreement	RFQ	Request for Qualifications
MF	Multifamily	ROFR	Right of First Refusal
MFTH	My First Texas Home Program	SLIHP	State of Texas Low Income Housing Plan
MRB	Mortgage Revenue Bond Program	TBRA	Tenant Based Rental Assistance Program
NHTF	National Housing Trust Fund	TICH	Texas Interagency Council for the Homeless
NOFA	Notice of Funding Availability	TXMCC	Texas Mortgage Credit Certificate
NSP	Neighborhood Stabilization Program	WAP	Weatherization Assistance Program

2b

BOARD REPORT ITEM

TEXAS HOMEOWNERSHIP DIVISION

MARCH 23, 2017

Quarterly Report on Texas Homeownership Division Activity

Background

The Texas Homeownership Division is primarily responsible for the creation, oversight and administration of the Department's non-federal homeownership programs, which are designed to assist low-to-moderate income first time homebuyers. The program does this through both bond proceeds, as well as through a To Be Announced ("TBA") program in which funds are generated through private investors.

The Department currently offers homeownership options through the following programs:

- My First Texas Home ("TMP 79") Program offers expanded mortgage-loan opportunities to qualifying first-time homebuyers, including government and conventional 30-year fixed rate mortgage loan options that include downpayment and/or closing cost assistance.
- Texas Mortgage Credit Certificate ("MCC") Program assists in making homeownership more affordable by providing first-time homebuyers a federal income tax credit, reducing the homebuyer's potential federal income tax liability. By having an MCC, the homebuyer has the ability to convert a portion (currently 40%) of their annual mortgage interest into a direct income tax credit of up to \$2,000 on their U.S. individual income tax return. The credit may be applied for the life of the loan, as long as it continues to be the borrower's primary residence. The Texas MCC Stand-alone option can be used with a conventional or government first mortgage loan.
- "Combo" option – to further expand the opportunity for affordable homeownership, first-time homebuyers can maximize their home-purchase benefits by combining a Texas Mortgage Credit Certificate with a My First Texas Home-TMP 79 mortgage loan. This "Combo" option is available at a minimal additional cost to the homebuyer.

The following reports reflect program activity over the prior two years (updated through February 28, 2017) for each of the three available options described above (Loan Only, MCC Only, Combo). The reports provide monthly loan purchase trends, average interest rates, top originating counties, average mortgage credit certificate amount, and average FICO score.

The reports reveal an increase in activity in November which include the first closings that evidence the changes to the program that took place in October 2016. As previously reported to the Board, the Department made three significant changes to the financing structure that resulted in substantially better pricing and more effective execution effective October 1, 2016. The Department designated the Idaho Housing and Finance Association as its master servicer and in doing so was

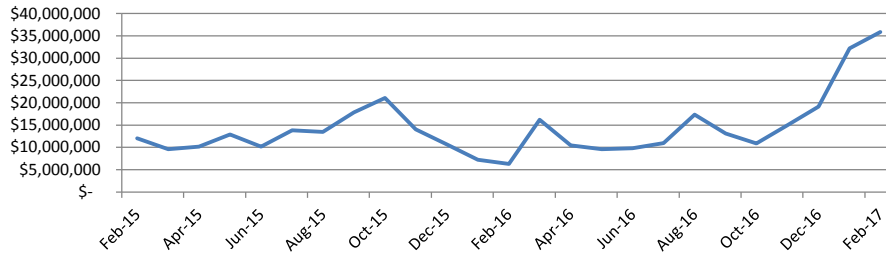
able to improve the servicing-related economics and reduce loan processing and approval timeframes. The Department began accessing a \$10 million, 10-year low interest loan from Woodforest National Bank which reduced the cost of funds used for down payment assistance. The Department also began accessing short term funds from the Federal Home Loan Bank of Dallas to further reduce the cost previously incorporated as part of our master servicer costs. These structural and pricing improvements combined with our marketing surge to announce the changes has resulted in activity volumes that are over three times what they were for the same period for the prior two years. They have also positively impacted the volume of mortgage credit certificate activity. This increase in activity has continued, and is anticipated to be more prevalent in the months to come.

Texas Department of Housing and Community Affairs

My First Texas Home - Program 79

As of February 28, 2017

My First Texas Home Monthly Loan Purchase Activity



Reflects loans purchased by the Master Servicer in the month the loan was purchased. A seasonal reduction in new loan origination typically occurs December through February and is reflected on a delayed basis to take into account the time from loan origination to closing and purchase by the Master Servicer. The recent surge in activity is primarily due to our new relationship with Idaho HFA as Master Servicer.

Recent 3-Month Activity (12/1/16 - 2/28/17)

Number of Loans	544
Total Loan Amount	\$ 87,250,526

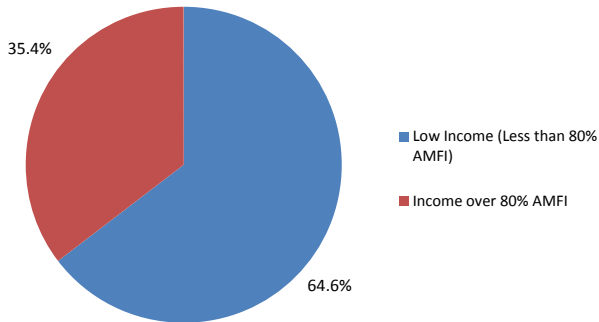
At a Glance (For the Past 2 Year Period)

Number of Loans	2,353
Average Loan Amount	\$ 147,878
Average Down Payment Assistance	\$ 6,720
Average Purchase Price	\$ 150,496
Average Annual Income	\$ 50,184
Average Household Size	2.6
Average FICO Score	682

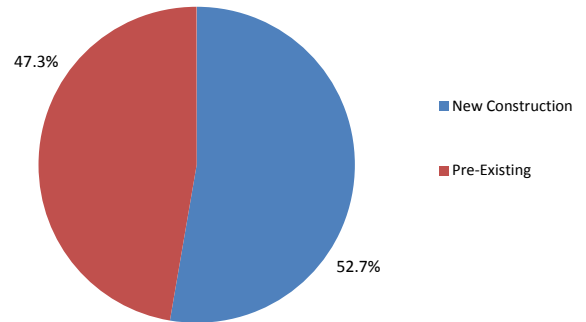
Interest Rates (For the Past 2 Year Period)

2 Year Average	4.39%
Last 12 Month Average	4.14%
Last 30 Day Average	4.18%

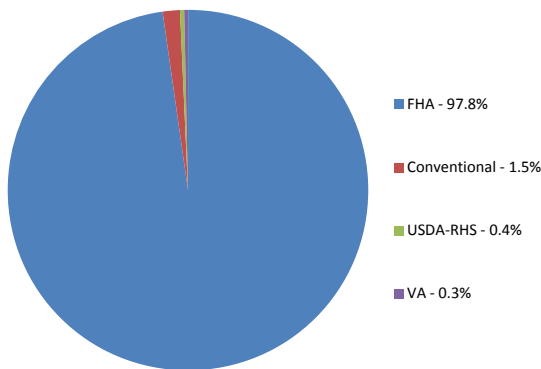
Household Income



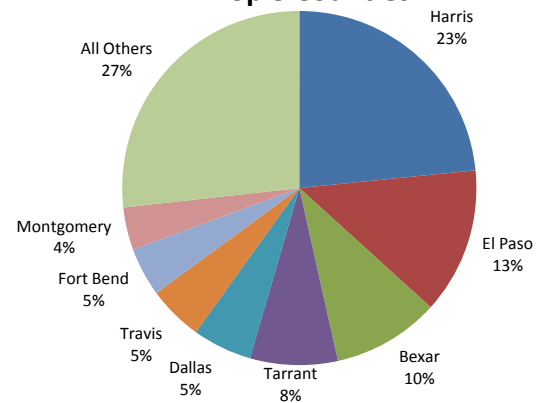
New Construction or Pre-Existing



Type of Loan



Top 8 Counties

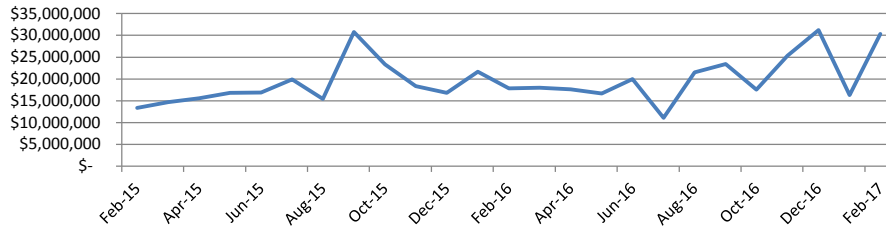


Texas Department of Housing and Community Affairs

Mortgage Credit Certificates (MCCs)

As of February 28, 2017

Mortgage Credit Certificates (MCCs) Monthly MCC Issuance Activity



Reflects MCCs issued over a two-year period. A seasonal reduction in MCC issuances typically occurs September through December.

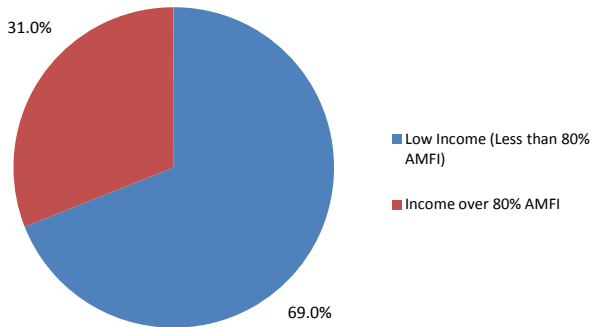
Recent 3-Month Activity (12/1/16 - 2/28/17)

Number of Loans	455
Total Loan Amount	\$ 77,806,301

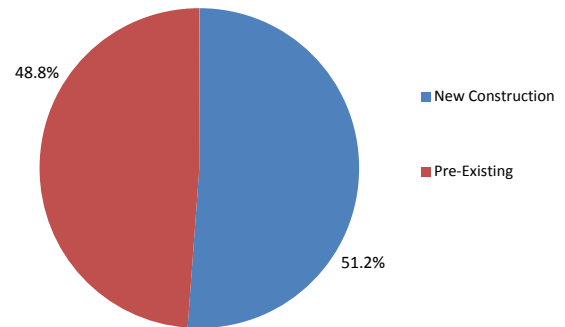
At a Glance (For the Past 2 Year Period)

Number of MCCs	2,896
Average Loan Amount	\$ 164,721
Average MCC Amount	\$ 65,888
Current MCC Credit Rate	40%
Average Purchase Price	\$ 170,624
Average Annual Income	\$ 51,356
Average Household Size	2.3
Average FICO Score	694

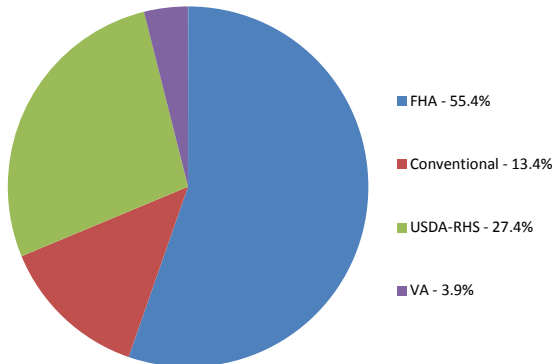
Household Income



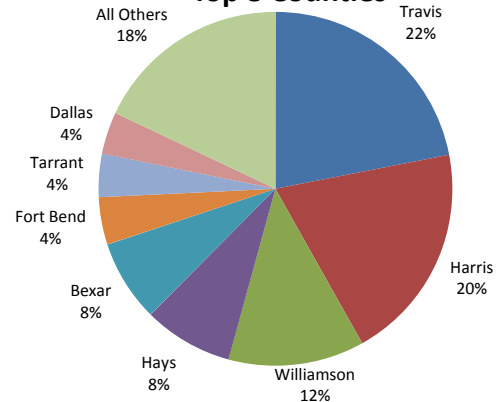
New Construction or Pre-Existing



Type of Loan



Top 8 Counties

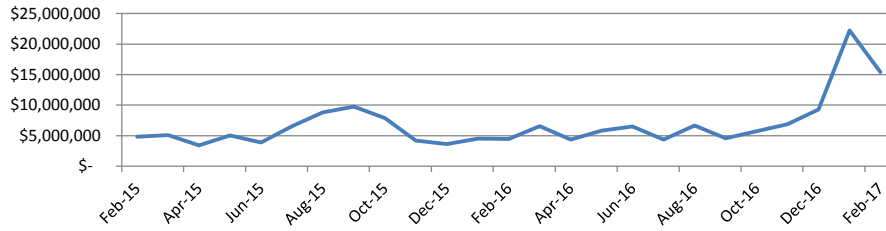


Texas Department of Housing and Community Affairs

Combos (My First Texas Home Loan with an MCC)

As of February 28, 2017

Combos (My First Texas Home Loan with an MCC)
Monthly Combo Issuance Activity



Reflects Combos issued over a two-year period. A seasonal reduction in Combos typically occurs September through December. The recent surge in activity is primarily due to our new relationship with Idaho HFA as Master Servicer.

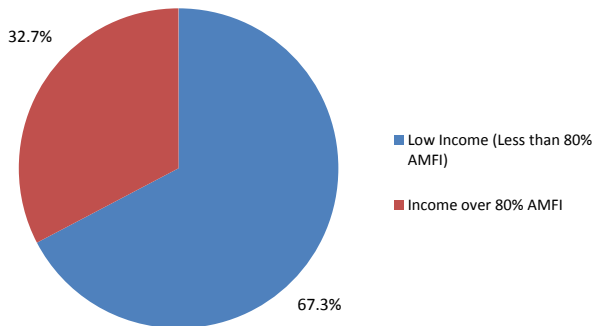
Recent 3-Month Activity (12/1/16 - 2/28/17)

Number of Loans	338
Total Loan Amount	\$ 54,230,056

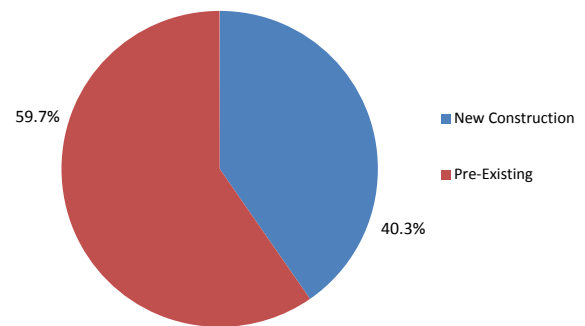
At a Glance (For the Past 2 Year Period)

Number of Combos	1,198
Average Loan Amount	\$ 144,169
Average MCC Amount	\$ 57,668
Average Down Payment Assistance	\$ 6,493
Current MCC Credit Rate	40%
Average Purchase Price	\$ 147,230
Average Annual Income	\$ 49,572
Average Household Size	2.5
Average FICO Score	685

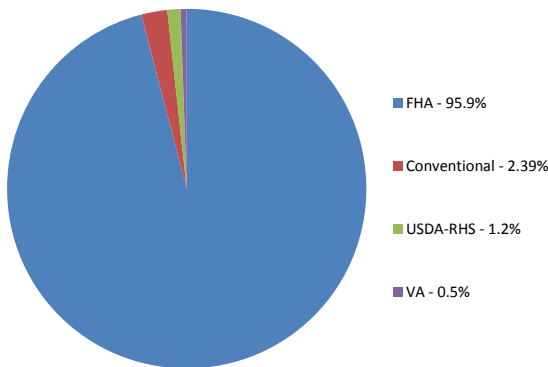
Household Income



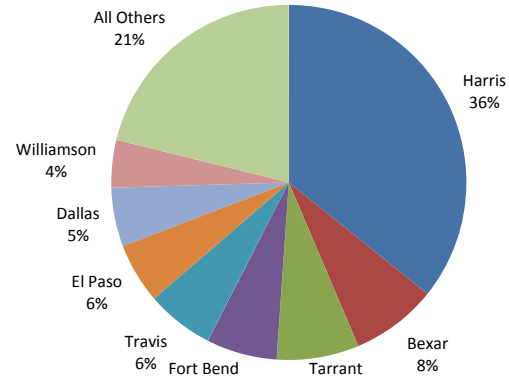
New Construction or Pre-Existing



Type of Loan



Top 8 Counties



2c

BOARD REPORT ITEM

FAIR HOUSING, DATA MANAGEMENT, & REPORTING

MARCH 23, 2017

Report on Department's Fair Housing Activities

The Fair Housing, Data Management & Reporting (“FHDMR”) Team actively works on a variety of fair housing related projects. Reflected below is a summary of the major fair housing related projects and activities in various stages of research, planning, and implementation including the documentation of efforts by the Texas Department of Housing and Community Affairs (“TDHCA”) to affirmatively further fair housing. Attached is a detailed annual report on fair housing activities implemented or completed by TDHCA staff.

Fair Housing Workgroup, Preparations to Comply with the Affirmatively Furthering Fair Housing Rule

TDHCA, Texas Department of Agriculture, Texas General Land Office, and Texas Department of State Health Services participate in programs through the U.S. Department of Housing and Urban Development (“HUD”) and have a duty to affirmatively further fair housing in Texas. This group of agencies, and the Texas Workforce Commission meet on a regular basis to discuss fair housing issues, rule and policy changes, and brainstorm new ideas to improve agency coordination and resource sharing. The Fair Housing Workgroup meets regularly to prepare to comply with the Affirmatively Furthering Fair Housing (“AFFH”) rule using the state Analysis of Fair Housing (“AFH”) tool. The rule includes significant changes to the Citizen Participation Plan; FHDMR staff is preparing a timeline to comply with the new plan and is identifying how it will roll out changes. If the AFH tool is finalized by HUD the tool will be in effect for the 2020-2025 Consolidated Plan and the 2021-2025 Public Housing Authority Plan.

Fair Housing Month, April 2017

TDHCA has a number of events planned to mark April as Fair Housing Month. Staff is conducting a Fair Housing Webinar series in coordination with the Texas Workforce Commission. The series features training sessions designed to introduce, add to, or refresh general fair housing knowledge. Trainings will provide an overview of fair housing in Texas, information on reasonable accommodations, and fair housing testing. Beginning in 2017 all TDHCA staff are now required to complete a HUD-approved fair housing training biennially. This training is available online through the Texas Workforce Commission, Civil Rights Division.

Develop Single Family Affirmative Marketing Tool

Building on efforts from the new Single Family Affirmative Marketing Rule put in place in 2015 staff is designing a tool to assist Single Family administrators of Federal Funds with affirmative marketing and identifying groups who are considered “least likely” to know about or apply for housing. Administrators are currently required to have an Affirmative Marketing Plan – HUD form 935.2B or an equivalent plan. The tool will assist administrators with limited capacity and resources that may not have staff proficient at analyzing Census demographic data.

Violence Against Women Act of 2013, Rules and Guidance

Staff is working to comply with the regulations in the Violence Against Women Act (“VAWA”) of 2013. VAWA 2013 gives certain protections to households that have experienced domestic violence, dating violence, sexual assault or stalking, and may require certain changes in housing operations for persons that

have this status. The changes include notification of possible rights under VAWA to households and establishing VAWA Emergency Transfer Plans for covered multifamily properties.

Creation of a Language Assistance Webpage

TDHCA created a language assistance webpage that details how persons who are not able to speak, read, write or understand the English language may request translation assistance with documents, events or other information from the Department. The webpage includes translations for the 25 languages most spoken by income eligible households with limited English Proficiency in Texas. For assistance households may call the agency's language service and utilize an interpreter to speak with TDHCA staff. A link to languages is available on critical pages for beneficiaries such as Help for Texans, Public Comment Center, Public Complaint Process, Fair Housing pages, Disaster Relief Resources, Income and Rent Limits, Section 8, Texas Homeownership, and Section 811.



Summary Report

TDHCA Fair Housing Activities

This report provides a summary of efforts (“Action Steps”) that the Department is currently planning, implementing, or that have already been incorporated into the rules and processes of the housing and/or community affairs programs that the Department administers.

Understanding this report

The report lists the Department’s Fair Housing Action Steps. Action Steps may be associated with one or more of six Impediments identified in the 2013 Analysis of Impediments to Fair Housing Choice for the State of Texas. This report includes all Fair Housing Action Steps for both HUD and non-HUD funded activities.

The report is generated from a database maintained by the Fair Housing, Data Management, and Reporting Division. Some elements of the database and report may change in the future as staff works to improve reporting and document the Department’s efforts to affirmatively further fair housing.

	Action Step ID Number	Action Step Title		
TDHCA Fair Housing Action Steps				
Action Step ID	1	Development of a Revised Multifamily Affirmative Fair Housing Marketing Rule		
Begin Date:	6/6/2014 COMPLETED - 4/1/2015		Multifamily	H
Summary	Development of a revised rule for Multifamily Affirmative Fair Housing Marketing through Subchapter F of the Uniform Multifamily Rules. The new rule will guide owners and managers in identifying "least likely to apply" populations using HUD's definition of minority concentration and seek to clarify and expand on HUD's definition of a "market area". The Department hosted roundtables for feedback and create a tool to assist in comparing tenant pool data (or in the case of new construction developments, census tract demographic data) to MSA or County demographic census data.			

The report lists a begin date and status for each entered Action Step. The status will reflect “Completed” for items that are finished. The status of “In Progress” is used for items that are underway and have not yet been completed. The “On Going” status is used for items that are continuing, without a planned end date.

	Begin date	Status	End date	H: Includes HUD Funded Programs
TDHCA Fair Housing Action Steps				
Action Step ID	1	Development of a Revised Multifamily Affirmative Fair Housing Marketing Rule		
Begin Date:	6/6/2014 COMPLETED - 4/1/2015		Multifamily	H
Summary	Development of a revised rule for Multifamily Affirmative Fair Housing Marketing through Subchapter F of the Uniform Multifamily Rules. The new rule will guide owners and managers in identifying "least likely to apply" populations using HUD's definition of minority concentration and seek to clarify and expand on HUD's definition of a "market area". The Department hosted roundtables for feedback and create a tool to assist in comparing tenant pool data (or in the case of new construction developments, census tract demographic data) to MSA or County demographic census data.			

Included in the report is a summary of each Action Step and the overhead category describing the activity. Categories include Agency Wide, Single Family, and Multifamily. Community Affairs items, which include the Emergency Solutions Grant Program, are included in the Single Family category. Action Steps are tied to specific TDHCA program areas. The “H” indicates the program area includes HUD funded programs. This report tracks all Fair Housing activity, including activities on non-HUD funded programs.

TDHCA Fair Housing Action Steps

Ongoing Action Steps

Action Step ID **2 Internal Program Area and Monitoring Area Reviews**

Begin Date: 4/22/2014 ONGOING Agency Wide **H**

Summary TDHCA program and monitoring areas were reviewed for developments in Fair Housing. Meetings were held with Division Directors to discuss current efforts and potential goals of program areas. Guiding documents of the program area were reviewed, collected demographic data was discussed, and initial action steps were identified. This type of review is ongoing and all guiding documents, rules, and plans are reviewed from this perspective.

Action Step ID **15 State Agency Fair Housing Workgroup**

Begin Date: 5/6/2014 ONGOING Agency Wide **H**

Summary A routine meeting schedule was established for Texas Department of Agriculture, Texas Department of Housing and Community Affairs ("TDHCA"), Texas Workforce Commission, General Land Office, and Department of State Health Services to assist state agencies in aligning fair housing efforts including efforts associated with the Analysis of Impediments, consider ways to improve fair housing education and outreach across the state, and develop consistency in complaint direction, training, and resource provision. The workgroup will also work jointly on the implementation of the new affirmatively furthering fair housing rule ("AFFH") rule and state tool. The workgroup has been meeting since May 2014 and continues to meet quarterly or as needed.

Action Step ID **16 Memorandum of Understanding with the Texas Workforce Commission**

Begin Date: 5/13/2014 ONGOING Agency Wide **H**

Summary The current memorandum of understanding ("MOU") between TDHCA and Texas Workforce Commission ("TWC") was reviewed and revised to add the opportunity for improved training collaboration and complaint direction. MOU requirements for mandated reporting in the event of uncorrected fair housing violations were strengthened and the expectation for information on reported violations and settlements was clarified. TDHCA and TWC continue to work closely together, sharing information and referrals as outlined in the MOU.

Action Step ID **37 TDHCA Sets aside 5% of HOME funds for Use in Programs Serving Persons with Disabilities ("PWD")**
Begin Date: 6/1/2001 ONGOING Multifamily H
Summary Since 2001, the state has set-aside a portion of the annual HOME allocation for use by persons with disabilities, per Texas Government Code 2306.111(c). TDHCA currently reserves 5% for use in PWD activities to encourage better service provision to households with an individual who has a disability across the state and in Participating Jurisdictions. The state also tracks households that voluntarily report that at least one member of their household includes a person with a disability, and that accounts for 15% to 20% of total households served in the HOME program.

Action Step ID **155 Implementation of National Housing Trust Fund, Development of Units to Serve Extremely Low-Income Households**
Begin Date: 11/2/2015 ONGOING Multifamily H
Summary The National Housing Trust Fund ("NHTF") is a new affordable housing production program that will complement existing Federal, state and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low- and very low-income households, including homeless families. NHTF funds may be used for the production or preservation of affordable housing through the acquisition or new construction of non-luxury housing with suitable amenities. Funds will be allocated through the Regional Allocation Formula and subject to affirmative marketing requirements. All NHTF-assisted units will be required to have a minimum affordability period of 30 years. Texas will receive an allocation of \$4,789,477. Staff are seeking approval of the Allocation Plan from HUD. The Department anticipates awarding NHTF in 2017.

Action Step ID **180 Participation in the Money Follows the Person Program to Increase Housing Options for Persons Exiting Institutions**
Begin Date: 1/1/2012 ONGOING Single Family H
Summary Since 2012, the Department has partnered with Texas Department of Aging and Disability Services ("DADS") and Texas Health and Human Services Commission ("HHSC") to use Money Follows the Person ("MFP") funds to increase housing options for individuals who choose to exit institutions. TDHCA has used the MFP program to support the administration of Section 8 Housing Choice Vouchers targeted to individuals leaving institutions, to develop and implement a Section 811 Project Rental Assistance (PRA) Program, and to support the administration of tenant based rental assistance through the HOME Investment Partnership Program. MFP funds assist Texas in creating a bridge program for individuals leaving institutions which can subsidize rent for up to five years for individuals awaiting Housing Choice Vouchers or other rental assistance. MFP-funded staff build capacity in communities across Texas. Staff also assists Medicaid and Service Coordinator providers on how to make referrals to housing programs and work with relocation contractors to improve programs (see also step #38 and #93). The Centers for Medicaid and Medicare Services completed a site visit to Texas to learn more about the state's MFP program. The evaluators stated that "Overall Texas has made tremendous strides at enhancing the lives of individuals participating in the MFP program."

Action Step ID **189 Track Conciliation and Cause Notifications from Texas Workforce Commission, Civil Rights Division**

Begin Date: 6/1/2016 ONGOING Multifamily **H**

Summary Staff tracks conciliation agreements and cause notifications from Texas Workforce Commission, Civil Rights Division regarding fair housing complaints at TDHCA funded properties. Texas Workforce Commission notifies TDHCA per a memorandum of understanding. Agreements are attached to property records in the Compliance Monitoring and Tracking System (“CMTS”) for TDHCA staff to reference. This will assist the agency in monitoring and working with properties to mitigate fair housing barriers and take corrective actions.

Action Step ID **208 Participation in the State of Texas Reentry Task Force**

Begin Date: 6/19/2009 ONGOING Agency Wide **H**

Summary A member of the fair housing team participates in the State of Texas Reentry Task Force and quarterly meetings. Texas’ statewide Reentry Task Force promotes increased collaboration and coordination among localized re-entry initiatives and state-level entities, specifically in efforts to help stakeholders minimize barriers that impact individuals’ successful reintegration into Texas communities. The Texas Reentry Task Force was establish through House Bill 1711 and became effective June 19, 2009 through Texas Gov’t Code §501.098.

Completed or In Progress Action Steps

Action Step ID **1 Development of a Revised Multifamily Affirmative Fair Housing Marketing Rule**

Begin Date: 6/6/2014 COMPLETED - 4/1/2015 Multifamily **H**

Summary Development of a revised rule for Multifamily Affirmative Fair Housing Marketing through 10 TAC §10.617, Affirmative Marketing Requirements. The new rule will guide owners and managers in identifying "least likely to apply" populations using HUD's definition of minority concentration and seek to clarify and expand on HUD's definition of a "market area." The Department hosted roundtables for feedback and created a tool to assist in comparing tenant pool data (or in the case of new construction developments, census tract demographic data) to MSA or County demographic census data. The tool is web based and has been effective in helping properties better strategize in affirmative marketing.

Action Step ID **3 Development of a Fair Housing Tracking Database**

Begin Date: 4/22/2014 COMPLETED - 7/31/2014 Agency Wide **H**

Summary The Fair Housing Tracking database was created to track agency goals, efforts, and progress made under the Phase 2 Analysis of Impediments ("AI"). The Fair Housing Tracking database provides the Department with an ability to pull basic metrics and provide reports by AI Goals, Impediments, Action Items, and other meaningful search criteria. Such abilities assist the state in identifying areas of improvement and success under its HUD-related obligation to affirmatively further fair housing choice. The design of the database was completed in 2014; however, the content of the database is maintained on an ongoing basis.

Action Step ID **4 Redevelopment of TDHCA Fair Housing Website Section**

Begin Date: 6/11/2014 COMPLETED - 10/9/2014 Agency Wide **H**

Summary This step involved the redevelopment of the TDHCA Fair Housing website to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. Website sections were created (additional sections were implemented into the website plan such as a survey, news corner, and Texas Fair Housing events). Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments ("AI"). The site continues to be updated and augmented.

Action Step ID **6 Austin Area Meeting on the Adoption of a City Ordinance: Source of Income as a Protected Class**
Begin Date: 6/4/2014 COMPLETED - 6/4/2014 Agency Wide H
Summary Fair Housing Team networking and attendance at a City of Austin meeting discussing a proposed ordinance to include source of income as a protected class. The ordinance would extend City of Austin fair housing protections to Section 8 Housing Choice voucher holders and other subsidy program recipients.

Action Step ID **7 Development of Qualified Allocation Plan ("QAP") Scoring Incentives for Development in High Opportunity Areas**
Begin Date: 6/1/2012 COMPLETED - 1/1/2013 Multifamily
Summary In 2013, TDHCA implemented a series of scoring items to facilitate the development of tax credit properties in high opportunity areas. The scoring items included an opportunity index with the highest scoring options for locating developments in census tracts with low poverty rates (less than 15%), high household incomes, and high elementary school performance ratings (as reported by the Texas Education Agency). A second scoring item known as "Educational Excellence" provides additional points for locating developments in areas that also have high quality middle and high schools. These items were updated in each subsequent QAP and continuing to refine the scoring in the QAP through a fair housing perspective occurs annually. Staff are currently participating in monthly QAP 2017 roundtable discussions. Staff researched potential scoring items, changes in Texas Education Agency educational standards, regional scores, updated poverty and income census data, and mapped data to determine eligible tracks and potential patterns.

Action Step ID **8 Expansion of Ineligible Adverse Site and Area Characteristics**
Begin Date: 7/1/2013 COMPLETED - 11/15/2013 Multifamily H
Summary In 2013, existing site ineligibility characteristics were expanded. The rule covers up to a 1,000 foot radius and ineligible features include blight, high crime, heavy industrial facilities, and other characteristics which may not be appropriate for residential development. The rule requires disclosure of such features for any multifamily applications for funding rehabilitation of an existing property or new construction. The rule results in improved neighborhood conditions or appropriate mitigation measures for tenants. These criteria are evaluated annually and updated as needed.

Action Step ID **9 Review and Revision of TDHCA's Language Assistance Plan**
Begin Date: 4/22/2014 COMPLETED - 8/1/2014 Agency Wide H
Summary The Language Assistance Plan was completed and will be revisited as staff work to comply with the new Affirmatively Furthering Fair Housing rule and robust Citizen Participation Plan. In February 2015 TDHCA secured two contracts for third party interpretation and translation services, one for the Spanish language, one for other languages. The agency will roll out translated documents and resources as deemed necessary in the language access plan.

Action Step ID **10 Housing and Health Services Coordination ("HHSC") Council and TDHCA Partnership and Creation of Rental Assistance Video Series**

Begin Date: COMPLETED - 9/26/2014 Agency Wide H

Summary The Housing and Health Services Coordination ("HHSC") Council and TDHCA collaborated on a short video series to educate the public on fair housing (including reasonable accommodations), homebuyer assistance, rental assistance, energy assistance, home repair, emergency assistance, and service enriched housing. The short video series is available on TDHCA's website and is used to engage and inform the public. From March 2015 to March 2017 there were nearly 1,000 page views on TDHCA's webpage with the video series.

Action Step ID **11 University of Houston Contract for Multifamily Primer**

Begin Date: COMPLETED - 10/14/2014 Multifamily

Summary To better address opportunities for meaningful and substantive input regarding the development of affordable housing and to meet the needs of the public, advocacy groups, elected officials, and local governments in understanding Multifamily programs offered by the Department (particularly the Housing Tax Credit program), TDHCA contracted with the University of Houston to develop a lay person's guide to Multifamily housing and local community involvement.

Action Step ID **12 Development of a Demographic Collection Database**

Begin Date: 4/16/2014 COMPLETED - 4/30/2015 Agency Wide H

Summary Because of the wide array of service provision systems used by TDHCA staff, the mechanism for capturing the demographic data of all multifamily households served by various program areas was created. The database serves Multifamily programs for purposes of better program planning and policy provision and to evaluate progress towards the goals identified in the AI. Staff continues to look at demographics during program design across all of its programs. Staff continue to update the database, adding Census tract information into multifamily properties in the Compliance Monitoring and Tracking System ("CMTS").

Action Step ID **14 Section 811 Project Rental Assistance ("PRA") Round 2 Application**

Begin Date: 5/6/2014 COMPLETED - 6/1/2014 Single Family H

Summary The Section 811 Project Rental Assistance group applied for Round 2 PRA 811 funds in an effort to acquire additional funds to support initiatives to increase housing options for persons with disabilities in the existing TDHCA multifamily portfolio. The second 811 grant was awarded for an additional \$12 million for the program.

Action Step ID **17 Creation of External Outreach Tools: Fair Housing Listserv**
Begin Date: 5/6/2014 COMPLETED - 7/9/2014 Agency Wide **H**
Summary A new Fair Housing listserv group was implemented. The new listserv will assist TDHCA in reaching external fair housing advocacy and special interest groups that would not ordinarily be part of the Department's listservs.

Action Step ID **18 Development of a Revised Tenant Selection Rule**
Begin Date: 5/22/2014 COMPLETED - 4/1/2015 Multifamily **H**
Summary Tenant Selection Criteria can greatly affect the demographic mix of a property and the fair housing choice of protected classes. The current rule in Subchapter F of the Uniform Multifamily Rules was reviewed, feedback was collected from the property community, advocacy groups were consulted, a large scale review of plans collected during onsite monitoring were analyzed, and other State HFA policies were researched. The new rule clarifies fair housing and reasonable accommodation provisions.

Action Step ID **19 Creation of an Internal and External Email and Marketing Statement**
Begin Date: 5/28/2014 COMPLETED - 7/14/2014 Agency Wide **H**
Summary The Fair Housing Team and staff from the Policy and Public Affairs Division met with Executive and developed a new mission statement and byline that highlight fair housing. The mission statement is used with external marketing publications and communications.

Action Step ID **20 TDHCA Fair Housing Accessibility First Construction and Compliance Training**
Begin Date: 5/29/2014 COMPLETED - 5/29/2014 Agency Wide **H**
Summary In coordination with the Texas Affiliation Of Affordable Housing Providers (TAAHP) and other State agencies who receive Federal funds, TDHCA coordinated the Fair Housing Accessibility First Construction and Compliance training offered by Jack Catlin (HUD approved trainer) and industry expert, LCM Architects.

Action Step ID **21 TDHCA 2010 Americans with Disabilities Act ("ADA") Standards Training**
Begin Date: 5/30/2014 COMPLETED - 5/30/2014 Agency Wide **H**
Summary In January 2014 following Department of Justice guidance, TDHCA adopted 2010 ADA construction standards for Section 504 compliance. TDHCA's Compliance Division hosted a 2010 ADA training and invited property management, owners, engineers, architects, and the general public. Site plan reviews are conducted on HOME multifamily properties.

Action Step ID **22 Qualified Census Tract ("QCT") Data and the Housing Tax Credit Portfolio: Research**
Begin Date: 4/25/2014 COMPLETED - 6/3/2014 Multifamily
Summary In addition to gathering data on how many portfolio properties were funded in a Qualified Census Tract ("QCT") in past allocation cycles, additional data was collected on any other noted trends, such as non-profit developers receiving property tax exemptions, at risk set aside developments, and large amounts of multifamily HOME funds. Staff assisted in trying to determine identifiable patterns that may have accounted for higher scoring items associated with funding developments not located in QCTs. This type of research continues annually.

Action Step ID **24 Creation of a Fair Housing Ad in TAAHP publication**
Begin Date: 5/28/2014 COMPLETED - 6/5/2014 Agency Wide H
Summary The Department received an opportunity to post a TDHCA ad in an upcoming TAAHP publication. The Fair Housing Team researched statistics and created a fair housing tagline to be used to draw attention to the Department's commitment to fair housing efforts and raise public awareness about the importance of fair housing choice. Additionally, TDHCA ran an ad in the 2015 TAAHP annual conference program.

Action Step ID **25 Development of a New Single Family Affirmative Fair Housing Marketing Rule**
Begin Date: 6/10/2014 COMPLETED - 12/6/2015 Single Family H
Summary A new Single Family Affirmative Marketing Rule was drafted for inclusion in the Single Family Umbrella Rule. The new Rule clarifies expectations and monitors compliance with HUD's affirmative marketing requirements. State Housing Trust Fund programs are also subject to the provision to create consistency within the Department.

Action Step ID **28 TDHCA Speakership: TxAPA Conference - Zoning Laws and Best Practices for Fair Housing**
Begin Date: 7/1/2014 COMPLETED - 10/16/2014 Agency Wide H
Summary TDHCA appeared as a speaker along with representatives from Coats Rose and the City of Buda at the Texas American Planning Association ("TxAPA") Conference in Frisco, TX on October 16, 2014. The panel discussion included topics such as recent legal actions related to zoning, a city representative's perspective on the Housing Tax Credit program and how to engage with the public, and a general discussion of zoning best practices.

Action Step ID **29 Research and Identification of Translation Services for Limited English Proficiency clients**

Begin Date: 6/20/2014 COMPLETED - 2/12/2015 Agency Wide **H**

Summary The Fair Housing Team led the efforts to address the need for agency third party translation services. Funding was discussed as well as developing a memorandum of understanding with another state agency currently contracting (Department of State Health Services "DSHS", Texas Health and Human Services Commission "HHSC") for services. DSHS and HHSC were contacted for more information and in preparation of a TDHCA proposal for services. An internal agency survey was conducted through program Division Directors to acquire feedback on prospective use of written and oral translation services. Results of the survey were used to assist the agency in estimating efficacy and cost. Translation services were subsequently procured on a standing as-needed basis, and are used across the agency.

Action Step ID **30 Revisions to Compliance Monitoring and Tracking System ("CMTS") Demographic Data Collection Fields**

Begin Date: 6/27/2014 IN PROGRESS Multifamily **H**

Summary The Fair Housing Team and Compliance Division are guiding CMTS system changes to report demographic information by household member rather than on a cumulative household basis. These corrections in the CMTS system will assist the Department in being able to better evaluate and streamline demographic reporting, deliver data to the US Department of Housing & Urban Development ("HUD") for inclusion in the Housing Finance Agency report, and analyze the demographic composition of its portfolio. The revised screen will include information on household members' race, ethnicity, age, and disability status. In March 2016, the Department's Information Systems steering committee designated this as a high priority project. Staff is on track to complete the changes to CMTS by the end of December. Property management software vendors that provide their customers with an interface for batch uploads of unit and tenant data into CMTS will be updating their systems in the early part of 2017. The target date for all software vendors to complete the changes is April 1, 2017.

Action Step ID **31 Creation of a Fair Housing Article for the Texas Municipal League**

Begin Date: 7/1/2014 COMPLETED - 9/15/2014 Multifamily **H**

Summary In order to support local elected official and government needs for information related to affordable housing development, TDHCA's Executive Director drafted an article for consideration in the publication of the Texas Municipal League's newsletter. This article provided local governments with important information about affordable housing developments. The article was published on September 14, 2014.

Action Step ID **32 Revisions to Compliance Monitoring and Tracking System ("CMTS"): Fixing and Populating Census Tract Entry**
Begin Date: 7/8/2014 COMPLETED - 8/1/2015 Multifamily H
Summary The Fair Housing Team led the initiative to improve and populate census tract entry field to prepare for creating a website mapping tool that will show service delivery areas and demographic populations served. This kind of tool is heavily dependent on address entry being accurate and the ability to easily pull census data. Geographic information system ("GIS") latitude/longitude verification tools will also be researched for integration. This tool is currently in use in the Compliance Monitoring and Tracking System ("CMTS").

Action Step ID **33 Expansion of Undesirable Site and Area Features Rules in the 2015 Multifamily Rules**
Begin Date: 7/15/2014 COMPLETED - 1/1/2015 Multifamily H
Summary Elements related to Environmental Justice were researched for inclusion in the 2015 Undesirable Site and Area Features Rules to be incorporated in the Uniform Multifamily Rules in Subchapter B. The rule revisions consider the incorporation of additional undesirable site features such as large refineries and highly volatile pipelines and suggest a basic criteria to be used in determining whether additional staff review of a site is necessary (criteria suggested considered poverty rates, crime index ratings, and proximity to facilities that raise environmental justice concerns). The rule change was adopted.

Action Step ID **34 Increase of Project Access Voucher Allocations**
Begin Date: 1/1/2012 COMPLETED - 1/1/2014 Single Family H
Summary Project Access vouchers were increased from 100 in 2012 to 140 in 2014 to maximize the amount of assistance provided to low income households with an individual with a disability. Project Access serves individuals exiting nursing facilities, intensive care facilities, and board and care facilities statewide. The waiting list fluctuates in size and continues to assist persons transitioning out of facilities into community based settings. As of January 2017, there were less than 45 applicants.

Action Step ID **36 Section 8 Technical Assistance for Relocation Contracts and the HOME TBRA Bridge**
Begin Date: 9/1/2014 COMPLETED - 12/22/2010 Single Family H
Summary Section 8 created program policy to encourage the use of HOME Tenant Based Rental Assistance ("TBRA") as a bridge to the Project Access program to better assist persons with disabilities and facilitate access to vouchers, including allowing TBRA HOME Administrators to amend their program designs to prioritize individuals residing in institutions and on the Project Access waitlist where a Project Access voucher was not yet available. This change occurred through an amendment to 10 TAC § 5.801. Technical Assistance for Relocation Contractors was also provided so TBRA Administrators could assist in identifying opportunities for transitioning eligible HOME TBRA participants to the Project Access program (which unlike TBRA does not have a time limit on assistance). This program continues and its use fluctuates as the Project Access waiting list fluctuates.

Action Step ID **42 Section 8 Streamlining of Criminal Screening Standards**

Begin Date: COMPLETED - 1/1/2012 Single Family H

Summary Prior to 2012, Local Operators were allowed to separately screen Section 8 participants. However, in an effort to ensure that screened and accepted Section 8 households were not subject to additional or higher standards at the Local Operator level, this was subsequently disallowed and only TDHCA was allowed to conduct the screening for the applicant household.

Action Step ID **43 Update of TDHCA's Section 8 Administrative Plan**

Begin Date: 5/1/2014 COMPLETED - 5/26/2016 Single Family H

Summary The Department's Administrative Plan for the Section 8 Housing Choice Voucher Program ("HCVP") was reviewed and revised to better align with overall Department goals to affirmatively further fair housing. The administrative plan serves as the standard operating procedures for the Department and establishes policies for administration of the state's HCVP in accordance with HUD requirements. For example, the plan includes procedures for assisting households with disabilities, improving access for persons with Limited English Proficiency, affirmatively furthering fair housing and handling of discrimination complaints; for instance, if a household believes illegal discrimination has prevented the family from leasing a suitable unit. The plan was formally adopted by TDHCA's board on May 26, 2016.

Action Step ID **44 Revision of the Single Family Umbrella Rule to Allow Housing Trust Fund Amy Young Barrier Removal Funds to be used for Manufactured Housing Modifications**

Begin Date: COMPLETED - 11/1/2014 Single Family

Summary The revision of the Single Family Umbrella Rule for the 2014 Rules Cycle included revised language concerning the use of Federal funds in manufactured housing modifications. The Rule was specifically modified to allow the use of State funded Housing Trust Fund in the Amy Young Barrier Removal Program to be used to modify existing manufactured homes where accessibility features are required to meet the needs of individuals with disabilities. Feedback on this Rule was generated through TDHCA's work with the Housing and Health Services Coordination ("HHSC") Council and the Disability Advocacy Workgroup ("DAW").

Action Step ID	46 Revision of the Fair Housing Training Component for the Emergency Solutions Grants ("ESG") Implementation Workshop		
Begin Date:	8/5/2014 COMPLETED - 9/16/2014	Single Family	H
Summary	The ESG group, with the help of the Fair Housing Team and Legal, drafted a comprehensive Fair Housing training component to be presented during the ESG Implementation Workshop each year. Training components included detailed discussions of all Civil Rights laws related to ESG, Americans with Disabilities Act ("ADA") requirements for shelters, reasonable accommodation requirements, equal access guidance, Limited English Proficiency guidance, and information on affirmative outreach provisions. This is updated and provided annually.		
Action Step ID	47 Creation of a Brochure Regarding Tenant's Programmatic Rights		
Begin Date:	8/8/2014 COMPLETED - 1/1/2015	Multifamily	H
Summary	A tenant rights and resources brochure was created by the Fair Housing and Compliance team with the intent of: 1) Increasing education about fair housing rights and reasonable accommodations, 2) Increasing education about the rights of Section 8 renters in TDHCA funded multifamily rental properties, 3) Creating a more meaningful fair housing disclosure notice, and 4) Ensuring properties are adequately advertising their available amenities and services. Brochures are posted in multifamily properties and given to tenants at move in. The Uniform Multifamily Rules, under Subchapter F, Section 10.612(a)(4) require that a Fair Housing Disclosure Notice form be presented to the household at the time of application for occupancy. The form provides the household with notification of their rights to choose among available housing options. The brochure is available in English and Spanish, in July 2016 the brochure was translated upon request into Chinese and Filipino.		
Action Step ID	48 Expansion of Universal Design Elements to HOME Homeowner Rehabilitation Assistance ("HRA") Minimum Construction Standards		
Begin Date:	9/4/2014 COMPLETED - 11/1/2014	Single Family	H
Summary	Single family programs implemented Minimum Construction Standards to be effective in January of 2015 to identify universal design concepts such as accessible doorway considerations when the home is rehabilitated with federal funds. These programs increase the stock of housing that is available for persons with disabilities.		

Action Step ID	49 Revamp of the Research Database Used When Answering the Auto-Call Distribution ("ACD") Phone Line		
Begin Date:	8/21/2014 COMPLETED - 4/1/2015	Agency Wide	H
Summary	The research database, which provides the content for the Help for Texans center of the TDHCA webpage, was revamped at the Housing Resource Center's request to include fair housing related calls which can now be included in reporting and tracking of fair housing-related information calls through the ACD line. HRC also follows up fair housing related ACD calls with an informational letter directing callers to TWC for complaints and to the Fair Housing Team and new website section for fair housing-related information.		
Action Step ID	50 Creation of a Marketing Giveaway (Letter Openers) with References to Fair Housing Commitment		
Begin Date:	8/21/2014 COMPLETED - 9/1/2014	Single Family	
Summary	Homebuyer and Mortgage Credit Certification ("MCC") programs requested a marketing giveaway in the form of letter openers with references to the new Fair Housing commitment tagline, "Expanding Fair Housing Choice and Opportunities for all Texans" to increase the visibility of Fair Housing in the State. The letter openers were given out during the Texas Municipal League conference.		
Action Step ID	51 Rule Provisions and Statute Require All Multifamily Properties to be Subject to Section 504 as Specified Under 24 CFR Part 8, Subpart C		
Begin Date:	8/1/2012 COMPLETED - 1/4/2013	Multifamily	H
Summary	The State of Texas regulations and TDHCA Rules require all Multifamily TDHCA monitored rental properties to follow Section 504 requirements. Rule provisions are included in statute, the Uniform Multifamily Rules, Chapter 10, Subchapter B, Section 10.101(a)(8), and are reiterated in additional program area rules, notices of funding availability, and in the Compliance Monitoring Rules in Subchapter F.		
Action Step ID	52 Creation of an Agency Wide Reasonable Accommodation Rule in 10 TAC Section 1.204		
Begin Date:	12/1/2013 COMPLETED - 2/16/2014	Agency Wide	H
Summary	The Reasonable Accommodation Rule was created in 10 TAC Section 1.204 to better align 504 mandates with monitoring goals and provide guidance to single family, multifamily, and community affairs stakeholders regarding laws and implementation of reasonable accommodation practices.		

Action Step ID **53 Expansion of Affirmative Marketing requirements to National Housing Trust Fund ("NHTF"), Mortgage Revenue Bond ("MRB"), and Housing Tax Credit ("HTC") properties**

Begin Date: COMPLETED - 4/1/2015 Multifamily

Summary Affirmative Marketing requirements are extended to the HTC and the NHTF programs through the Uniform Multifamily Rules in Subchapter F to ensure state goals of affirmatively furthering fair housing across its affordable housing portfolio. As a result of including these additional programs, all multifamily TDHCA monitored properties are required to affirmatively market.

Action Step ID **55 Qualified Allocation Plan Limitation on Qualified Non-Rural Elderly Developments**

Begin Date: COMPLETED - 1/1/2014 Multifamily

Summary The 2014 QAP provided a limitation on qualified non-rural elderly developments in the counties of Collin, Denton, Ellis, Johnson, Hays, and Guadalupe as well as non-rural developments in Regions 5, 6, and 8. This limitation was created to balance TDHCA's portfolio, which showed a percentage of qualified elderly households exceeding percentages of the total qualified elderly eligible populations for the area. As result, developers were incentivized to pursue general family developments in these areas and increase housing stock for non-elderly families.

Action Step ID **57 Qualified Allocation Plan Tie Breaker Factor Based on High Opportunity Area Provisions**

Begin Date: COMPLETED - 1/1/2014 Multifamily

Summary The 2014 QAP included applications scoring higher on the Opportunity Index as its first tie breaker factor in the event that Competitive HTC applications should tie with another application with the same score at the time of HTC award. This further served to incentivize development in High Opportunity areas as specified in the 2014 QAP under Chapter 11. This continues to be used as the highest tie breaker since 2014.

Action Step ID **60 Qualified Allocation Plan Provisions to Ensure Incentives for Local Community Support or Opposition are Consistent with Fair Housing Objectives**

Begin Date: COMPLETED - 1/1/2013 Multifamily

Summary Provisions were added in Section 11.9(d), relating to community engagement, to advise community organizations and local governments to consider Fair Housing laws, Fair Housing Activity Statement—Texas ("FHAST") forms, current Analysis of Impediment documents in local jurisdictions, one year action plans, and five year consolidated plans when generating opposition or support documents.

Action Step ID **61 Uniform Multifamily Rule Provision to Treat All Rehabilitation as Substantial Alteration**

Begin Date: COMPLETED - 2/16/2014 Multifamily H

Summary The rule provision in 10 TAC 1.209 requires that all applications proposing rehabilitation (including reconstruction) be treated as substantial alteration. The inclusion of this provision requires any developer to make 2% of units accessible to persons with vision and hearing impairments and 5% of units accessible to persons with mobility impairments as part of the development's improvements.

Action Step ID **62 Uniform Multifamily Rule Provision Related to Owner Certification of Fair Housing Education**

Begin Date: COMPLETED - 1/17/2013 Multifamily H

Summary The Uniform Multifamily rule provision in Subchapter C, Section 10.204(1)(D) requires the Development Owner to certify to the reading and understanding of the Department's fair housing educational materials posted on the website as of the beginning of the application acceptance period. The inclusion of this provision is intended to assist in reminding Owners of their duties and obligations under Fair Housing law and in aligning with TDHCA's certification to affirmatively further fair housing.

Action Step ID **63 Uniform Multifamily Rule Provisions Requiring Fair Housing Training Certification for Owners, Management Agents, Engineers, and Architects**

Begin Date: COMPLETED - 1/17/2013 Multifamily H

Summary The Uniform Multifamily rule provisions in 10.402(e) and (g) of Subchapter E require 4% Housing Tax Credit ("HTC") and Mortgage Revenue Bonds ("MRB") and 9% Competitive HTC awarded developments to demonstrate five hours of Fair Housing Training for Owners or Management Agents and either Engineers or Architects at the time of Post Bond Closing and the HTC 10% Test. Demonstration of training must be provided in the form of a training certification provided within the last 2 years. HOME multifamily Developments are required to share training methods at the time of application when they submit a development's Affirmative Marketing Plan.

Action Step ID **64 Uniform Multifamily Rules and Statute Provision for Tenant Selection Criteria**

Begin Date: 6/1/2013 COMPLETED - 11/22/2013 Multifamily H

Summary The Uniform Multifamily rules provision requires the creation and use of Written Policies and Procedures in 10 TAC § 10.610 that prohibit refusal to rent to Section 8 tenants or tenants of other federal subsidy programs, create a minimum income standard for voucher holders to decrease impediments to low income access, and prohibit owners from denying prospective tenants on the basis of provision protected under the Violence Against Women Reauthorization Act of 2013. The rule was first adopted on November 22, 2013.

Action Step ID **66 Uniform Multifamily Rule Provision Related to Notice of Amenities and Services**
Begin Date: COMPLETED - 1/2/2015 Multifamily **H**
Summary The Uniform Multifamily rule provision included in 10 TAC § 10.613, Leasing Provisions, requires that the development owner provide each household at the time of execution of an initial lease a notice describing fair housing and tenant choice and common amenities, unit amenities, or required services. The provision assists the Department in expanding choice to low income and households with an individual with a disability who might desire particular amenities or services. The rule was amended on January 2, 2015.

Action Step ID **67 Bond, 4% Housing Tax Credit Rules Tie Breaker Factor Based on Housing De-Concentration Factors**
Begin Date: COMPLETED - 1/1/2014 Multifamily **H**
Summary The Multifamily Housing Revenue Bond Rules in Section 12.4 (c) Scoring and Ranking, include tie breaker factors for 4% Housing Tax Credit ("HTC") and Mortgage Revenue Bond ("MRB") deals in the following order: 1) Applications that meet any of the criteria under serving and supporting Texans most in need (related to offering more units at a lower AMI ("area median income") range to create more affordable housing options for low income families, offering tenant services or supportive housing or housing to tenants with special housing needs, or qualifying under the opportunity index), or 2) Applications that are the greatest linear distance from the nearest HTC assisted development (in the interest of ensuring maximum fair housing choice).

Action Step ID **69 Qualified Allocation Plan ("QAP") At Risk Set Aside provisions**
Begin Date: COMPLETED - 1/1/2014 Multifamily
Summary The QAP includes At Risk Set Aside criteria that allowed relocation of existing units qualifying as at risk if the affordable restrictions and subsidies were approved for transfer to a new site prior to the tax credit commitment deadline, the same number of restricted units was proposed, and the new development site would qualify for points under the Opportunity Index. This new provision assisted TDHCA in guiding new policies concerning demolition and replacement of at risk units in areas better suited to fair housing choice and opportunity than their original locations while also seeking to preserve affordable housing units. Subsequent QAPs have continued this criteria.

Action Step ID **70 Provision of Awards Based on the Texas State Regional Allocation Formula ("RAF")**

Begin Date: COMPLETED - 7/1/2000 Agency Wide H

Summary The Regional Allocation Formula was developed in compliance with Texas Gov't Code §2306.1115 (effective September 1, 2017) to award available funds within rural and urban sub-regions and to ensure equitable and consistent provision of credits, HOME, and Housing Trust Fund ("HTF") funds based on statistical data that measures affordable housing needs and resources in 13 State Service Regions. The RAF is revised annually to reflect changes in data, public comment, and assess available resources. The RAF has been in place since 2000.

Action Step ID **71 Qualified Allocation Plan ("QAP") Quantifiable Community Participation Provisions**

Begin Date: COMPLETED - 1/1/2013 Multifamily

Summary The QAP includes Quantifiable Community Participation provisions in Section 11.9(4)(D) that include highest point incentives for explicit support or neutrality from a Neighborhood Organization that during at least one of three prior Application Rounds provided a written statement that qualified as Quantifiable Community Participation opposing any Competitive Housing Tax Credit Application and whose boundaries remain unchanged. These provisions assist TDHCA in incentivizing development in communities which have been historically opposed to affordable housing but have changed their views.

Action Step ID **72 Qualified Allocation Plan ("QAP") Community Revitalization Provisions**

Begin Date: COMPLETED - 1/1/2013 Multifamily

Summary The QAP includes Community Revitalization Plan provisions in Section 11.9(d)(7) that serve as an incentive for communities outside of the Opportunity Index to invest in community revitalization to address adverse environmental conditions, presence of blight, inadequate transportation and infrastructure, lack of accessibility and/or inadequate public facilities, presence of significant crime, lack of poor condition and/or performance of public education, lack of local business providing employment opportunities, or lack of planning efforts to promote diversity. As a result of this investment, communities with concerted revitalization efforts that include affordable housing development can still enter competitive applications for consideration.

Action Step ID **83 Emergency Solutions Grants ("ESG") Request for HUD Waiver to Exceed Fair Market Rents ("FMR")**

Begin Date: 10/13/2014 COMPLETED - 10/13/2014 Single Family **H**

Summary TDHCA requested a waiver from HUD on October 13, 2014, under 24 CFR Section 576.106(d) of the ESG Interim Rule for permission to exceed the HUD FMR for ESG rapid re-housing and homelessness prevention programs and expand tenant fair housing choice to high opportunity neighborhoods in higher cost rental markets that have recently experienced rent increases due to rapid economic and population growth. As part of this waiver, the Department requested approval to: 1) Assist participants with rents at 110% of the HUD published FMR in all Texas areas except Dallas-Fort Worth-Arlington and Laredo MSAs, 2) Assist participants in Dallas-Fort Worth-Arlington and Laredo metropolitan statistical areas ("MSAs") with rents up to HUD's Small Market FMRs, and 3) Assist participants with disabilities who require reasonable accommodations to rent units up to 120% of the HUD published FMR. HUD guidance indicated that this request was too broad. Staff revised and resubmitted, see action step #141.

Action Step ID **84 Emergency Solutions Grants ("ESG") Adoption of Outcome Analysis and Continuum of Care ("CoC") Award Models**

Begin Date: 6/26/2014 COMPLETED - 9/30/2016 Single Family **H**

Summary ESG, as part of a Federal program design moved funding awards to Continuum of Care recipients rather than individual providers. This was accomplished in Tarrant County in which ESG funding was awarded to the Tarrant County Homeless Coalition, the lead agency for the Continuum of Care. Tarrant County Homeless Coalition then awarded local providers and managed the contracts with the sub-subrecipients. The result will be awards moving through local jurisdictions rather than individual providers and should achieve a better mechanism for data capture, needs assessment, and determining efficiency and accountability. This model was conducted in 2014 and 2015, but discontinued in 2016 due to unsustainability for administrative funds.

Action Step ID **85 Emergency Solutions Grant ("ESG") Spanish Language Contract Requirements**

Begin Date: 9/1/2014 COMPLETED - 5/3/2016 Single Family **H**

Summary The contract between the Department and its ESG subrecipients requires that subrecipients provide program applications, forms, and educational materials in both English and Spanish and other languages as appropriate for the service area. ESG staff provided additional guidance for Limited English Proficiency ("LEP") provisions through a webinar and sample Language Access Plan ("LAP"). The forms used by program participants have been translated into Spanish and are posted online. Those forms include the Income Screening Tool, Income Certification, Request for Unit Approval, and Rental Assistance Agreement. A Language Access Plan is required of all subrecipients starting with fiscal year 2016 awards. Spanish is a mandatory language for all LAPs.

Action Step ID **87 Single Family HOME Homeowner Rehabilitation Assistance ("HRA") Allowance of Additional Funds for Accessible Features**
 Begin Date: COMPLETED - 8/30/2015 Single Family **H**
 Summary The HRA section of the single family HOME Rules allows \$5,000 in direct costs in excess of the program maximum to be requested for homeowners requesting accessible features.

Action Step ID **88 Single Family HOME Homebuyer Assistance Program ("HBA") Additional Assistance for Homebuyers Needing Accessible Features**
 Begin Date: COMPLETED - 12/12/2013 Single Family **H**
 Summary The single family HOME Homebuyer Assistance Program ("HBA") and Contract for Deed ("CFD") program rules allow expanded use for acquisition and rehab for homebuyers needing accessibility modifications (modifications may be made inside or outside the property, such as an accessible walkway). Persons with disabilities are eligible for up to \$20,000 in hard costs and \$5,000 in soft costs to meet these needs under 10 TAC § 23.31 and 10 TAC § 23.51 respectively.

Action Step ID **90 Single Family HOME Tenant Based Rental Assistance ("TBRA") Extended Terms for Tenants Applying for Vouchers or Other Subsidized Housing Programs**
 Begin Date: COMPLETED - 12/12/2013 Single Family **H**
 Summary Under the single family HOME TBRA rules 10 TAC § 23.61, total lifetime assistance is limited to 36 months except in cases where the tenant has applied for a Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program, and is placed on a waiting list during their TBRA participation tenure, in which case lifetime assistance can go up to 60 months. This extension for TBRA assistance allows subrecipients to guide participants towards permanent housing options that will best meet their household's needs and helps to avoid unnecessary gaps in housing assistance for low income families and persons with disabilities.

Action Step ID **91 Single Family HOME Application Changes**
 Begin Date: 7/1/2014 COMPLETED - 9/2/2016 Single Family **H**
 Summary The 2016 HOME single family notice of funding availability ("NOFA") and application incentivized submission of a Language Access Plan with the application to reinforce Limited English proficiency ("LEP") requirements as finalized under the revised single family umbrella rule.

Action Step ID	92 Single Family Accessibility Requirements and Incorporation in Program Area Rules		
Begin Date:	6/1/2011 COMPLETED - 8/14/2015	Single Family	H
Summary	To ensure compliance with single family accessibility requirements, changes in program rules were implemented to receive verification of accessibility requirements based on architect certification on building plans and written verification of accessibility of the unit at final inspection. Stronger compliance and enforcement will assist the state in ensuring new single family units are constructed in compliance with the single family accessibility standards mandated by TDHCA and statute.		
Action Step ID	108 Revision of the Fair Housing Training Component for the Amy Young Barrier Removal Program Administrator's Training		
Begin Date:	10/10/2014 COMPLETED - 10/22/2014	Single Family	
Summary	The Amy Young Barrier Removal Program Administrator's Training slides covering Fair Housing and Section 504 requirements were reviewed and updated by program staff with the help of the Fair Housing Team. The Fair Housing Team Lead attended the workshop presentation on Fair Housing and was available for questions by program administrators.		
Action Step ID	109 Presentation of Fair Housing Team and Website Release at the Housing and Health Services Coordination Council ("HHSCC") Meeting		
Begin Date:	10/8/2014 COMPLETED - 10/8/2014	Agency Wide	H
Summary	On October 8, 2014, the Fair Housing Team Lead attended the Housing and Health Services Coordination Council ("HHSCC") Meeting with Executive to share information related to the creation of the new Team and its efforts and to provide information on the release of its new fair housing website section and promote HHSCC members and agencies joining the TDHCA Fair Housing listserv. The website section launch was also announced via email to HHSCC members and County government email lists.		
Action Step ID	110 TDHCA Attendance at the Congress for the New Urbanism Central Texas Chapter Luncheon "Great Places and Healthy People"		
Begin Date:	10/22/2014 COMPLETED - 10/29/2014	Agency Wide	H
Summary	TDHCA attended the Congress for New Urbanism luncheon on "Great Places and Healthy People" that hosted keynote speaker Dr. Richard Jackson, Pediatrician and Public Health Leader. The lecture examined the connection between poor community design and burgeoning health issues, such as obesity, diabetes, heart, asthma, cancer and depression. These issues are highlighted in the 4-part Public Broadcasting Service series "Designing Healthy Communities."		

Action Step ID **112 TDHCA Attendance at the Opportunity Forum presented by the University of Texas School of Law: Fair Chance Hiring - Reducing Criminal Record Barriers to Employment**

Begin Date: 10/22/2014 COMPLETED - 11/14/2014 Agency Wide H

Summary TDHCA attended the Opportunity Forum on Fair Chance Hiring and Criminal Record Barriers to Employment in an effort to gain more insight on what others are identifying and doing in response to criminal record barriers which is a common housing challenge. The presentation was directed by Maurice Emsellem, Program Director at the National Employment Law Project, and David Kirk, sociology professor at The University of Texas at Austin, and included discussions on the significant role criminal records play in creating barriers to employment. The opening presentations were followed by a panel discussion with local experts to consider the implications for Texas and strategies being used at state and local levels.

Action Step ID **113 Attendance on HUD's State of Fair Housing in America Call**

Begin Date: 11/17/2014 COMPLETED - 11/17/2014 Agency Wide H

Summary Reviewed HUD's Annual Fair Housing Report and attended HUD's State of Fair Housing in America conference call addressing its current activities, landmark cases, and upcoming goals.

Action Step ID **114 Tenant Selection Criteria Training**

Begin Date: 1/5/2015 COMPLETED - 2/17/2015 Multifamily H

Summary A webinar training on the revised Tenant Selection Criteria rule in Subchapter F, Section 10.610 was created by the Fair Housing Team and presented in coordination with the Multifamily Compliance Division. The training focuses on highlights of the new rule, best practices for achieving compliance, how monitoring will be affected, and answer questions related to implementation.

Action Step ID **115 Affirmative Marketing Training**

Begin Date: 1/5/2015 COMPLETED - 2/23/2015 Multifamily H

Summary A webinar training on the revised Affirmative Marketing Requirements rule in Subchapter F, Section 10.617 was created by the Fair Housing Team and presented in coordination with the Multifamily Compliance Division. The training focuses on highlights of the new rule, best practices for achieving compliance, how monitoring will be affected, and answer questions related to implementation.

Action Step ID **117 Fair Housing Webinar Series to Celebrate Fair Housing Month 2015: Webinar One - Fair Housing Training**
Begin Date: 4/7/2015 COMPLETED - 4/7/2015 Agency Wide H
Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission, Greater San Antonio Fair Housing Council, and Texas Rio Grande Legal Aid. Invitations were sent out via TDHCA's entire listserv, including the fair housing email group.

Action Step ID **118 Fair Housing Webinar Series to Celebrate Fair Housing Month 2015: Webinar Two - The Investigative Role of Texas Workforce Commission Civil Rights Division**
Begin Date: 4/14/2015 COMPLETED - 4/14/2015 Agency Wide H
Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission, Greater San Antonio Fair Housing Council, and Texas RioGrande Legal Aid. Invitations were sent out via TDHCA's entire listserv, including the fair housing email group.

Action Step ID **119 Fair Housing Webinar Series to Celebrate Fair Housing Month 2015: Webinar Three - Reasonable Accommodations**
Begin Date: 4/20/2015 COMPLETED - 4/20/2015 Agency Wide H
Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission, Greater San Antonio Fair Housing Council, and Texas RioGrande Legal Aid. Invitations were sent out via TDHCA's entire listserv, including the fair housing email group.

Action Step ID **120 Fair Housing Webinar Series to Celebrate Fair Housing Month 2016: Webinar One - Fair Housing Overview**
Begin Date: 2/3/2016 COMPLETED - 4/12/2016 Agency Wide H
Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission. The presentation provided the basics of fair housing in Texas, an overview of HUD's new Affirmatively Furthering Fair Housing ("AFFH") rule, and a review of case scenarios. Trainings were geared towards city, county, and local governments, housing providers, housing consumers and other fair housing partners. Invitations were sent out via TDHCA's fair housing email group. Videos of the webinars were posted on TDHCA's website along with the PowerPoint slides and a transcript.

Action Step ID **121 Fair Housing Webinar Series to Celebrate Fair Housing Month 2016: Webinar Two - Reasonable Accommodations**
Begin Date: 2/3/2016 COMPLETED - 4/19/2016 Agency Wide H
Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission. The presentation covered the reasonable accommodation process including details on how properties should respond when a reasonable accommodation request is made by a tenant. Trainings were geared towards city, county, and local governments, housing providers, housing consumers and other fair housing partners. Invitations were sent out via TDHCA's fair housing email group. Videos of the webinars were posted on TDHCA's website along with the PowerPoint slides and a transcript.

Action Step ID **122 Fair Housing Webinar Series to Celebrate Fair Housing Month 2016: Webinar Three – Fair Housing Best Practices for Multifamily Developments**
Begin Date: 2/3/2016 COMPLETED - 4/26/2016 Agency Wide H
Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission. The presentation covered fair housing considerations for tenant selection criteria, wait list management, and affirmative marketing as well as information on Texas House Bill 1510 and the potential impact on landlord liability considerations when renting to persons with a criminal background. Trainings were geared towards city, county, and local governments, housing providers, housing consumers and other fair housing partners. Invitations were sent out via TDHCA's fair housing email group. Videos of the webinars were posted on TDHCA's website along with the PowerPoint slides and a transcript.

Action Step ID **123 Internal Fair Housing Training for TDHCA Staff (2016)**
Begin Date: 2/4/2016 COMPLETED - 4/25/2016 Agency Wide H
Summary Conducted fair housing training for TDHCA staff. Training provided an overview of fair housing, disparate impact, HUD's new Affirmatively Further Fair Housing rule, outreach to outreach to persons with Limited English Proficiency including access to Language Line Services, and HUD's proposed rules on the 2013 Violence Against Women Act. Two sessions were offered to accommodate interested staff.

Action Step ID **124 Develop Checklist and Example Language Access Plan ("LAP") for Emergency Solutions Grant Program ("ESG")Subrecipients**
Begin Date: 1/1/2016 COMPLETED - 3/1/2016 Single Family H
Summary The language access plan checklist for ESG subrecipients outlines sections needed to further comply with HUD guidance on Limited English Proficient ("LEP") populations. The checklist helps subrecipients comply with the guidance on how to provide necessary language access, including prioritizing types of assistance and interactions with LEP persons. Language access plans assist with fair housing barriers based on national origin.

Action Step ID **129 Analyze TDHCA Programs Assisting Persons with Disabilities ("PWD"), Data Reported and Need in Texas**

Begin Date: 2/22/2016 COMPLETED - 6/2/2016

Multifamily

H

Summary

Analyzed funding provided to persons with disabilities through TDHCA's rental assistance, homebuyer assistance, and homeowner repair programs. Staff analysis of Census data found 15% of individuals below poverty level in Texas have a disability. Persons with disabilities, as reported to TDHCA, comprised 14.3% of all households served through TDHCA down-payment assistance, rental assistance, and home rehabilitation programs between 2010-2014 calendar year and 16.6% of funding (disability status is not disclosed for households assisted through the single family bond homeownership programs). This data aids staff in determining appropriate outreach strategies and changes in program design to meet the needs of persons with disabilities. TDHCA does not require applicants to disclose certain household characteristics, such as disability status, unless those characteristics are related to eligibility requirements. TDHCA knows through voluntary reporting that households with a disability are served by programs other than those specifically designed for people with disabilities. Fair housing staff presented the data analysis at the Department's May 11, 2016 Disability Advisory Workgroup ("DAW") meeting.

Action Step ID **130 TDHCA attendance at Texas Department of Agriculture Roundtable, Fair Housing within the Texas Community Development Block Grant ("CDBG") Program**

Begin Date: 2/25/2016 COMPLETED - 2/25/2016

Agency Wide

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Summary

TDHCA attended the Texas Department of Agriculture roundtable, discussing fair housing in rural communities utilizing Texas Community Development Block Grant program funds. Participants discussed issues specific to rural and small communities such as addressing disparities in poverty and access to opportunity.

Action Step ID **131 TDHCA Attendance at Austin Fair Housing Conference**

Begin Date: 2/19/2016 COMPLETED - 4/20/2016

Agency Wide

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Summary

TDHCA staff from the HOME, Multi-Family, and Fair Housing divisions attended the 2016 Fair Housing Conference on April 20, 2016, hosted by the City of Austin and Texas Workforce Commission. TDHCA's Executive Director, Tim Irvine, presented on a panel discussion on the new Affirmatively Furthering Fair Housing ("AFFH") rule from the US Department of Housing & Urban Development ("HUD"). The conference covered disparate impact, analysis of impediments to fair housing choice, fair housing testing, and case law.

Action Step ID **132 Housing and Health Services Coordination ("HHSC") Council Conducted Housing and Services Partnership Academy**

Begin Date: 8/1/2014 COMPLETED - 2/10/2016 Agency Wide H

Summary HHSC Council staff coordinated the Housing and Services Partnership Academy to promote Service Enriched Housing ("SEH") in Texas. SEH is defined as integrated, affordable, and accessible housing that provides residents with the opportunity to receive on-site or off-site health-related and other services and supports that foster independence in living and decision-making for individuals with disabilities and persons who are elderly. The academy consisted of teams throughout the state including persons with disabilities, public housing authorities, local governments, developers, centers for independent living, and faith based organizations. The topics included a tenant/consumer panel; an overview of new construction and rehabilitation development processes; identifying and securing existing units for SEH; round table sessions on housing and services programs; peer presentations; and team planning sessions.

Action Step ID **133 Analyze and Modify Section 8 Fair Market Rents**

Begin Date: 11/3/2015 COMPLETED - 12/17/2015 Single Family H

Summary Staff examined small area fair market rents ("FMRs") and hypothetical small area fair market rents to determine if FMRs in the Department's Section 8 service area needed to increase to expand tenant housing choice. The establishment of the standard is important because it essentially determines whether a household will be able to find a unit they can afford with the voucher the Department issues. In areas where market rents are high and there is high demand for rental units it can be challenging for a voucher holder to find a unit. Increased FMRs aid in areas where voucher holders have difficulty in finding acceptable units or affording units in more desirable areas. Higher FMRs provide additional choices and opportunities to tenants in highly competitive rental markets. On November 12, 2015, the Board authorized 2016 Payment Standards. Payment standards were revised at the December 17, 2015 board meeting to include the areas previously administered by AACOG ("Alamo Area Council of Governments"). The payment standards became effective on January 1, 2016 (see also step #38).

Action Step ID **134 Development of "Becoming a Homeowner" Online Homebuyer Education Tool**

Begin Date: 9/1/2014 COMPLETED - 4/15/2016 Single Family

Summary The Texas Homeownership division developed a free online homebuyer education module, "Becoming a Homeowner." The tool is available in both English and Spanish. This provides buyers with a greater understanding of what to expect when purchasing a home, including information on the Mortgage Credit Certificate ("MCC") program, down payment assistance, and lending rates. The convenient, self-paced course offers a pre- and post-purchase tutorial on the ins and outs of buying a home. The online course is available 24/7.

Action Step ID **135 Points Awarded in Notice of Funding Availability ("NOFA") for Fair Housing Training for HOME Single Family Subrecipients**

Begin Date: 9/4/2015 COMPLETED - 10/19/2015 Single Family H

Summary In the 2015 HOME competitive funding round (NOFA of approximately \$10,006,619 in HOME SF funding), points were given to Administrators that provided evidence that Fair Housing responsibilities are included in the job description of at least one employee of the Applicant, or if at least one employee of the Applicant is documented as having attended Fair Housing training no earlier than September 4, 2014. One additional point was given if both items were met, meaning that the applicant's staff took fair housing training and will also be the point person for all fair housing related matters. The overwhelming majority of applications, 58 of 60, requested points under the Fair Housing Training criteria in the NOFA. By making this a scoring item, TDHCA effectively ensured a broader awareness of fair housing requirements and how best to assist disabled households with their housing needs.

Action Step ID **137 Conduct Single Family ("SF") Affirmative Marketing Training**

Begin Date: 1/7/2016 IN PROGRESS Single Family H

Summary In December 2015, TDHCA's board approved the new single family affirmative marketing rule requiring an Affirmative Marketing Plan--HUD Form 935.2B or equivalent plan. Staff is developing a training to assist SF administrators in complying with the rule to affirmatively market and promote choice and opportunity for those considered "least likely" to know about or apply for housing based on an evaluation of market area data, and submission of the plan will be required prior to execution of any new administrator contracts. Staff will begin with a webinar training directed towards HOME single family subrecipients in 2017.

Action Step ID **139 Translate HOME Single Family Application Materials into Spanish**

Begin Date: 1/1/2016 COMPLETED - 8/5/2016 Single Family H

Summary Staff translated HOME single family client application materials into the Spanish language, posted them to the website, and sent out a notification to administrators via the listserv on August 5, 2016. This includes applications for Homebuyer Assistance, Single Family Development, Tenant Based Rental Assistance, Contract for Deed, and Homeowner Rehabilitation Assistance, and other vital documents. Application materials can be made available in other languages, as needed and requested.

Action Step ID **143 HOME Notice of Funding Availability ("NOFA"), Points Awarded for Supportive Services**

Begin Date: 9/4/2015 IN PROGRESS Single Family H

Summary In 2015 HOME program points were provided to Tenant Based Rental Assistance ("TBRA") applicants with supportive services in the categories of child care, nutrition, job training, health, and human services activities. TBRA administrators that provide more holistic approach to assisting families help to remove barriers to mobility and provides more housing choice through their knowledge of housing stock in the community.

Action Step ID **145 Increase Homeownership Opportunities**

Begin Date: 12/1/2015 COMPLETED - 10/1/2016

Single Family

Summary In the fall of 2015 TDHCA's master servicer for Texas Homeownership programs put new overlays in place, increasing credit score requirements, increasing debt to income ratio, and eliminating manual underwriting. TDHCA staff worked to counter the impact of this and increase lending options for households at risk for predatory and high cost loans. The Department continues to offer this lending product and worked to finance this option to expand housing choice and opportunity for those most in need of assistance with homeownership.

Action Step ID **148 Conduct Fair Housing Training for Multifamily Notice of Funding Availability**

Begin Date: 12/11/2015 COMPLETED - 2/2/2016

Multifamily

H

Summary Staff conducted a fair housing training for the multifamily notice of funding availability ("NOFA"). The training included a fair housing update on the new affirmatively furthering fair housing rule as well as an overview of affirmative marketing and wait list management.

Action Step ID **149 TDHCA Attendance at the Opportunity Forum presented by University of Texas LBJ School of Public Affairs**

Begin Date: 2/19/2016 COMPLETED - 2/19/2016

Agency Wide

H

Summary TDHCA attended the Opportunity Forum on racial and ethnic divides in education in an effort to gain more insight into educational access. Presentations discussed racial, ethnic, and economic disparities in education in the Austin metropolitan area. Panelists included an Austin Independent School District school board member, researchers within the College of Education, and the Executive Director from Austin Voices for Education and Youth.

Action Step ID **150 Undesirable Neighborhood Characteristics in the 2016 Multifamily Rules**

Begin Date: 7/1/2015 COMPLETED - 12/1/2016

Multifamily

H

Summary Undesirable neighborhood characteristics include census tracts with a poverty rate above 40%, violent crime rates above 18 per 1,000 persons as reported on neighborhoodscout.com, multiple vacant structures, development site within attendance zones of elementary, middle, and a high school that does not have a Met Standard rating by the Texas Education Agency. The rule requires disclosure of such features for any multifamily applications for funding rehabilitation of an existing property or new construction. The rule results in improved neighborhood conditions for tenants.

Action Step ID **151 Fair Housing Training, Emergency Solutions Grants 2015 Implementation Workshop**

Begin Date: 9/1/2015 COMPLETED - 9/22/2015 Single Family **H**

Summary Staff made a fair housing presentation during the 2015 Emergency Solutions Grants ("ESG") Implementation Workshop. Materials covered a variety of topics including civil rights laws, reasonable accommodations, affirmative outreach, limited English proficiency, and equal access and non-discrimination policies for protected classes (see also step #187).

Action Step ID **152 Conduct Coordinated Access and Fair Housing Training Webinar for Emergency Solutions Grants ("ESG") Program**

Begin Date: 11/13/2015 COMPLETED - 1/6/2016 Single Family **H**

Summary ESG, Fair Housing, and Legal staff collaborated to present materials on the intersection of coordinated access and fair housing during the monthly ESG learning opportunity webinar. Training components included information on screening for diversion and homelessness prevention and applying criteria evening across protected classes as well as referrals to eligible resources, promoting choice.

Action Step ID **153 Implementation of House Bill 3311, Cap on Credits to Elderly Developments**

Begin Date: 6/1/2015 COMPLETED - 11/1/2015 Multifamily **H**

Summary Staff implemented House Bill 3311, in regions containing a county that has a population in excess of one million; the Board cannot allocate more than the maximum percentage of credits available for elderly developments, unless there are no other qualified applications in the subregion. Staff utilized data which breaks households down by income, size, tenure and broad age groups, also known as HISTA data. The Department published maximum percentages for each affected area in the site demographics characteristics report on its website.

Action Step ID **156 Multifamily Direct Loan Program, Set-Aside for Supportive Housing or Units for Very Low-Income Households**

Begin Date: 3/22/2016 IN PROGRESS Multifamily **H**

Summary The Multifamily Direct Loan Program provides funding to nonprofit and for-profit entities for the new construction or rehabilitation of affordable multifamily rental developments (10 TAC §13). The 2016 Notice of Funding Availability ("NOFA") includes a \$3 million set-aside for deferred forgivable loans. Developments may qualify by meeting TDHCA's Supportive Housing definition or by creating units for households at 30% area median income ("AMI"). Funds under this set-aside are intended to increase the number of 30% rent-restricted units and occupy them with households with an annual income of 30% AMI or less who are not currently receiving any type of rental assistance. The 2017 Multifamily Direct Loan notice of funding availability closes on August 31, 2017.

Action Step ID **157 Staff Attend National Americans with Disabilities Act ("ADA") Symposium**

Begin Date: 3/29/2016 COMPLETED - 6/22/2016

Agency Wide

H

Summary Physical Inspections staff attend the National Americans with Disabilities Act ("ADA") Symposium annually. The conference is the most comprehensive training event available on the ADA and disability related laws. The Symposium is designed to provide the latest information on ADA regulations and guidelines, implementation strategies, and best practices.

Action Step ID **158 Attendance at the Opportunity Forum, Uniting our Divided City: Closing the Racial Wealth Gap**

Begin Date: 4/4/2016 COMPLETED - 4/22/2016

Single Family

Summary TDHCA attended the University of Texas ("UT") School of Law Opportunity Forum on Closing the Racial Wealth Gap, featuring speakers from the Federal Reserve Bank of Dallas, Texas Appleseed, and the UT School of Law. The event focused on Austin's persistent racial wealth divides. Speakers addressed disparities in homeownership rates, lending terms, and the ability to generate wealth.

Action Step ID **159 Fair Housing Information Added to Handouts of TDHCA Programs and Resources**

Begin Date: 2/18/2016 COMPLETED - 4/1/2016

Agency Wide

H

Summary TDHCA's Policy & Public Affairs division revised agency handouts to include references to fair housing resources along with TDHCA program resources. These are available on-demand for staff attending local events. The handouts, which include contact information for a variety of local resources, can be generated in English and Spanish versions from the "Resources" database.

Action Step ID **160 Presentation of Fair Housing Report and Update at the Housing and Health Services Coordination Council Meeting**

Begin Date: 4/13/2016 COMPLETED - 4/13/2016

Agency Wide

H

Summary On April 13, 2016, the Fair Housing Project manager attended the Housing and Health Services Coordination Council ("HHSC") meeting and shared the fair housing annual report. Staff also provided updates on the US Department of Housing and Urban Development's ("HUD") new Affirmatively Furthering Fair Housing rule and the Assessment of Fair Housing. Staff invited the council to participate in the Fair Housing Month webinar series, including a session on reasonable accommodations and accessibility.

Action Step ID **163 Review Complaint Submission Process for TDHCA Programs**

Begin Date: 4/1/2016 COMPLETED - 6/1/2016

Agency Wide

H

Summary Fair Housing staff reviewed the requirements to submit a complaint to TDHCA. Staff revised the language to explicitly include a reasonable accommodation process for persons with a disability to submit a complaint over the phone. These revisions were incorporated into staff's Standard Operating Procedures.

Action Step ID **164 Translation of Vital Documents on TDHCA's Website to Ensure Meaningful Access for Beneficiaries with Limited English Proficiency**

Begin Date: 5/2/2016 COMPLETED - 8/31/2016

Agency Wide

H

Summary Staff identified and prioritized TDHCA's web content and online information subject to the Language Access Plan. Appropriate webpages were translated including the following pages: complaints, Help for Texans, public information requests, and programs that directly serve beneficiaries including Section 8. Content was translated into Spanish per the Language Access Plan, and other languages as deemed necessary (see also step #194).

Action Step ID **165 Revise the State's Citizen/Community Participation Plan to Comply with the Affirmatively Furthering Fair Housing ("AFFH") Rule**

Begin Date: 2/1/2016 IN PROGRESS

Agency Wide

H

Summary Staff is beginning this process and is developing a timeline and detailed process to comply with the new requirements for the Citizen Participation Plan in HUD's AFFH Rule. The rule requires consultation and community participation in the analysis of fair housing data, an assessment of fair housing issues and contributing factors, and an identification of fair housing priorities and goals. The participation plan must be amended prior to the initiation of the Assessment of Fair Housing ("AFH") process and attempt to reach a broad audience, with specific engagement with protected classes and organizations representing those classes. TDHCA staff are working with the Fair Housing Workgroup to create the State's Citizen Participation Plan.

Action Step ID **166 Revise Homelessness Program Rules to Strengthen Affirmative Marketing and Tenant Selection Criteria Requirements**

Begin Date: 4/8/2016 COMPLETED - 11/10/2016

Single Family

H

Summary Staff drafted rule changes to the Emergency Solutions Grants ("ESG") and Homeless Housing and Services Program ("HHSP") to align with fair housing goals. Revisions include affirmative marketing requirements to market to those least likely to apply for services and tenant selection criteria to ensure reasonable accommodation and Violence Against Women Act ("VAWA") notifications occur with any adverse action. The final version of the rules was approved by the Board at the November 10, 2016 TDHCA board meeting under 10 TAC § 7.13, Inclusive Marketing.

Action Step ID **167 Conduct Webinar for HOME Single Family Subrecipients on Requirements to Address Persons with Limited English Proficiency**

Begin Date: 5/17/2016 IN PROGRESS Single Family **H**

Summary TDHCA ensures that clients of the Department have meaningful access to services, programs and activities although they may be limited in their English language proficiency. TDHCA will provide training on how to create a language access plan in 2017 to ensure subrecipients of Department HOME funds understand vital documents; how to use of a checklist for creating a Language Access Plan, and will provide a sample LAP (see also step #137).

Action Step ID **168 Attend Texas Interagency Council for the Homeless ("TICH") Meeting, Provide Fair Housing Update**

Begin Date: 5/18/2016 COMPLETED - 7/12/2016 Agency Wide **H**

Summary Fair housing staff attended the July TICH meeting and presented an update on fair housing in Texas. Staff also discussed possible fair housing related changes to the Emergency Solutions Grants and Homeless Housing and Services Program. The proposed rule changes relate to affirmative marketing requirements and tenant selection criteria.

Action Step ID **169 Fair Housing Ad in Texas Affiliation of Affordable Housing Providers ("TAAHP") Publication**

Begin Date: 4/1/2016 COMPLETED - 6/3/2016 Agency Wide **H**

Summary TDHCA's Division of Policy and Public Affairs ("DPPA") created an ad to run in the 2016 Texas Affiliation of Affordable Housing Providers ("TAAHP") annual conference program. The fair housing tagline brings attention to the Department's commitment to fair housing efforts and the importance of fair housing choice.

Action Step ID **170 Revise TDHCA's Description in the Texas State Directory to include Fair Housing**

Begin Date: 5/27/2016 COMPLETED - 6/15/2016 Agency Wide **H**

Summary TDHCA's description in the Texas State Directory was revised to include the agency's fair housing work, to expand fair housing choice and opportunities for Texans. The directory is an almanac of Texas government including information on cities, counties, and state government.

Action Step ID **174 Analysis of Homebuyer Data Trends**

Begin Date: 2/12/2016 COMPLETED - 7/4/2016

Single Family

Summary Fair Housing staff analyzed the Texas Homeownership lending activity for the past five years, looking at statewide distribution. Program expansion over time was mapped in ArcGIS (“Geographic Information System”) by lending activity (loans, mortgage credit certificates, and combos). The lender network was compared to the statewide population distribution. Staff recommended specific outreach efforts based on the data and possible underserved areas.

Action Step ID **175 Reasonable Accommodation Rule Change**

Begin Date: 5/13/2016 COMPLETED - 12/15/2016

Agency Wide

H

Summary Staff proposed a rule change to 10 TAC Chapter 1, Subchapter B, Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act. The revisions were proposed to clarify requirements related to accessibility standards and reasonable accommodations to ensure persons with disabilities have full and equal access to programs. The rule changes require responses to a reasonable accommodation request within a reasonable amount of time, not to exceed 14 calendar days. The response must either grant the request, deny the request, offer alternatives to the request, or request additional information to clarify the Reasonable Accommodation request. The proposed rule change was presented at the July 28, 2016, TDHCA board meeting. Staff withdrew the proposed amendments at the August 25, 2016, TDHCA board meeting to incorporate new guidance from the Department of Justice. The proposed amendments were taken back to the board at the October 13, 2016, TDHCA board meeting. The Board approved the final rule at the December 15, 2016 board meeting.

Action Step ID **177 Participate on a Texas Affiliation of Affordable Housing Providers ("TAAHP") Panel Discussion on Affirmatively Furthering Fair Housing**

Begin Date: 5/3/2016 COMPLETED - 7/26/2016

Multifamily

H

Summary Fair Housing staff spoke on a panel at the 2016 Texas Housing Conference for the Texas Affiliation of Affordable Housing Providers (“TAAHP”). The panel is entitled “Fair Housing Choices” and appeared under the Legislative Track. TAAHP is a non-profit 501(c)(6) trade association serving affordable housing industry providers. TAAHP’s principal goal is to increase the supply and quality of affordable housing for Texans with limited incomes and special needs.

Action Step ID **178 Attend Webinar on Advocacy Strategies for Protecting the Fair Housing Rights of People with Criminal Records**

Begin Date: 5/20/2016 COMPLETED - 6/7/2016 Agency Wide **H**

Summary Fair Housing staff attended the Shriver Center and the National Housing Law Project webinar addressing the intersection of fair housing issues and persons with criminal records. Adverse housing decisions based on a person's criminal record screening may violate the Fair Housing Act, which prohibits discrimination on the basis of race. The presentation provided a summary of HUD policies on the use of criminal records, an overview of HUD guidance, and common issues related to tenant screening, eviction policies, due process rights, blanket bans, reasonable look back periods, discretion and denials.

Action Step ID **179 Revise the Department's Language Access Plan ("LAP")**

Begin Date: 5/5/2016 COMPLETED - 9/2/2016 Agency Wide **H**

Summary TDHCA's Language Access Plan ("LAP") was revised to reflect updated language service protocols. The agency procured third-party translation and interpreting services through two vendors available on an as-needed basis. Language addressing current points of contact between the Department and client populations was updated to include Spanish-speaking contacts within the Department. The revised LAP is posted on TDHCA's website.

Action Step ID **182 Section 811 PRA ("Project Rental Assistance") Program, Marketing to Project-Based Section 8 Properties in High Opportunity Areas**

Begin Date: 2/5/2016 COMPLETED - 6/15/2016 Single Family **H**

Summary Fair housing staff mapped Project-Based Section 8 Properties along with the 2016 Qualified Allocation Plan, Opportunity Index points. The analysis was provided to Section 811 PRA Program staff to help identify properties for possible participation in the Section 811 PRA Program (see also step #93).

Action Step ID **183 Data Update for the Multifamily Affirmative Fair Housing Marketing Tool**

Begin Date: 4/1/2016 IN PROGRESS Multifamily **H**

Summary Fair Housing, Data Management, and Reporting ("FHDMR") staff is currently researching a possible data update to the Multifamily Affirmative Fair Housing Marketing Tool. The tool currently uses 2010 Census data; an update has been discussed with Compliance and Legal to use American Community Survey ("ACS") data to reflect a more recent time period. Compliance staff plan to propose a rule change in 2017 to take effect in 2018 (see also step #1).

Action Step ID **184 TDHCA Attendance at Webinar on HUD Guidance on the Limitations of Using Criminal History**

Begin Date: 7/15/2016 COMPLETED - 7/28/2016 Agency Wide H

Summary The US Department of Housing and Urban Development's ("HUD") Office of General Counsel issued guidance on April 4, 2016, for all property owners and managers on the use of criminal history in tenant screening and other adverse housing decisions. National experts from different perspectives provided a balanced, comprehensive explanation of the guidance and its implications. TDHCA Fair Housing and Compliance staff attended the webinar on July 28, 2016.

Action Step ID **185 Submit Comments on HUD's Assessment of Fair Housing Tools for States, Local Governments, and Public Housing Authorities**

Begin Date: 4/1/2016 COMPLETED - 5/23/2016 Single Family

Summary TDHCA provided comment on the US Department of Housing and Urban Development's ("HUD") Affirmatively Furthering Fair Housing ("AFFH"), Assessment of Fair Housing ("AFH") tool for states and insular areas, local governments, and public housing authorities. The comments addressed unique challenges Texas faces to comply with the rule, and limitations with the draft tools that would not effectively help Texas to affirmatively further fair housing. TDHCA encouraged HUD to adopt clear definitions of areas of opportunity and areas of concerted revitalization initiative, with specific percentages of HUD resources to address those two categories (see also step #199).

Action Step ID **186 Attend Training on Creating Affirmative Fair Housing Plans**

Begin Date: 8/2/2016 COMPLETED - 8/9/2016 Agency Wide H

Summary Fair housing, compliance, and single-family program area staff attended webinar training on affirmative fair housing plans. The training included information to determine the target marketing population including those 'least likely to apply' and document compliance with the Affirmative Fair Housing Plan.

Action Step ID **187 Fair Housing Training, Emergency Solutions Grants 2016 Implementation Workshop**

Begin Date: 6/15/2016 COMPLETED - 8/9/2016 Single Family H

Summary Staff conducted a 60 minute webinar on fair housing during the 2016 Emergency Solutions Grant ("ESG") Implementation Workshop held in August 2016. Materials covered fair housing topics including civil rights laws, reasonable accommodations, affirmative outreach, limited English proficiency, language access plans, use of criminal records, and equal access and non-discrimination policies for protected classes, fair housing complaints, and fair housing documentation (see also step #151).

Action Step ID **188 Staff Attended Webinar Training "Breaking Down Barriers to Opportunity: Transportation and the Affirmatively Furthering Fair Housing Rule"**

Begin Date: 8/15/2016 COMPLETED - 8/17/2016

Agency Wide

H

Summary Staff attended a webinar on the Affirmatively Furthering Fair Housing ("AFFH") Rule. The training included information on integrated assessment and planning approaches to examine patterns of disinvestment and barriers to opportunity. Presentations included methods to foster the alignment of investments in transportation, housing, job centers and economic development that fosters access to opportunity.

Action Step ID **190 Solicited Feedback from the Disability Advisory Workgroup ("DAW") on the Reasonable Accommodation Rule**

Begin Date: 8/2/2016 COMPLETED - 9/2/2016

Agency Wide

H

Summary TDHCA staff met with the Disability Advisory Workgroup ("DAW") on September 2, 2016 and solicited feedback on the proposed amendments to 10 TAC §1.204 Reasonable Accommodation. The DAW provides ongoing guidance on how the Department's programs can most effectively serve persons with disabilities. Feedback was considered and incorporated into the proposed amendments to the rule taken to the October 13, 2016, board meeting.

Action Step ID **192 Emergency Solutions Grants ("ESG") Request for HUD Waiver to Exceed Fair Market Rents ("FMR") in Specific Markets**

Begin Date: 7/1/2016 COMPLETED - 11/21/2016

Single Family

H

Summary On July 29, 2016, the Department requested a waiver from HUD of 24 CFR § 576.106(d) of FMR rent to allow 2016 TDHCA's subrecipients to adopt a payment standard for ESG ("Emergency Solutions Grant") rapid re-housing and homelessness prevention for housing units with rents exceeding HUD's FMR in areas where the Public Housing Authority ("PHA") has adopted a payment standard that is greater than HUD's FMR. The waiver request is for ESG subrecipients operating in Houston, Harris County, and Austin County. In addition the Department requested a waiver for subrecipients in the Dallas Metropolitan Fair Market Rent Area ("MFMRA") and Laredo to use the small area FMRs for Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall, and Webb counties. HUD approved the waiver requests for all counties listed in this paragraph, except for Laredo. Laredo was excepted because the small area FMR was expiring. The waiver is in effect from November 21, 2016, to November 21, 2017.

Action Step ID **193 Analysis of Limited English Proficiency Populations within the Section 8 Program Service Areas**

Begin Date: 8/1/2016 COMPLETED - 3/2/2017

Single Family

H

Summary Staff conducted an analysis of the language access needs for persons with limited English proficiency for both Section 8's statewide program and the 34 county service area. Staff will use the analysis to ensure application materials and marketing are done to attract the least likely to apply and ensure equal access. Language access plans assist with fair housing barriers based on national origin.

Action Step ID **194 Creation of a Language Assistance Webpage**

Begin Date: 6/1/2016 COMPLETED - 9/29/2016

Agency Wide

H

Summary The Language Assistance Webpage was created. The webpage details how persons who are not able to speak, read, write or understand the English language may request translation assistance with documents, events or other information from the Texas Department of Housing and Community Affairs. The webpage includes translations for the top 25 languages spoken by income-eligible households with limited English Proficiency in Texas. For assistance households may call the agency's language service and utilize an interpreter to speak with TDHCA staff. A link to languages is available on critical pages for beneficiaries such as Help for Texans, Public Comment Center, Public Complaint Process, Fair Housing pages, Disaster Relief Resources, Income and Rent Limits, Section 8, Texas Homeownership, and Section 811.

Action Step ID **195 Presentation at the Texas Municipal League 2016 Conference**

Begin Date: 8/1/2016 COMPLETED - 10/5/2016

Agency Wide

H

Summary TDHCA's Executive Director presented at the 2016 Texas Municipal League Conference on a panel entitled Affordable Housing as Economic Development. The presentation included information on job creation, positive fiscal impacts for government, improved worker retention, and affordable housing as an investment in children, safe neighborhoods, working families, and opportunity for Texans. The Texas Municipal League serves 1,152 cities across Texas.

Action Step ID **196 Expanded Homeownership Opportunities through New Master Servicer**

Begin Date: 10/1/2016 COMPLETED - 10/1/2016

Single Family

Summary Effective October 1, 2016, the Department is utilizing Idaho Housing and Finance Association ("Idaho HFA") as master servicer for the Texas First Time Homebuyer Program, the My First Texas Home Program, and other first-time homebuyer programs that may be implemented by the Department. The Department's previous master servicer contract expired on September 30, 2016. The Department offers expanded homeownership opportunities and increased lending options for households at risk for predatory and high cost loans. The Department now has reduced credit score requirements, decreased debt to income ratio, and the availability of manual underwriting. The Department currently provides financing, including down payment and closing cost assistance, to low and moderate-income first-time homebuyers through the My First Texas Home Program ("TMP-79") and through the issuance of single family mortgage revenue bonds.

Action Step ID **197 Analyze and Modify Section 8 Fair Market Rents – 2017**

Begin Date: 9/1/2016 COMPLETED - 12/17/2016

Single Family

H

Summary Staff examined county fair market rents (“FMRs”), small area fair market rents (“FMRs”) and hypothetical small area fair market rents by zip code to determine if FMRs in the Department’s Section 8 service area needed to be adjusted to expand tenant housing choice. The Department’s Public Housing Authority (“PHA”) may establish payment standards between 90 and 110 percent of the FMR. The establishment of the standard is important because it essentially determines whether a household will be able to find a unit they can afford with the voucher the Department issues. In areas where market rents are high and there is high demand for rental units it can be challenging for a voucher holder to find a unit. Increased FMRs aid in areas where voucher holders have difficulty in finding acceptable units or affording units in more desirable areas. Higher FMRs provide additional choices and opportunities to tenants in highly competitive rental markets. Payment standards were approved at TDHCA’s November 10, 2016 Board meeting. On November 16, 2016 HUD released a Notice of Final Rulemaking regarding the use of Small Area FMRs in certain metropolitan areas for the Housing Choice Voucher Program. TDHCA staff revised the FMRs under the new guidance and received Board approval on December 17, 2016 for the 2017 Payment Standards.

Action Step ID **198 Attend Webinar, Ensuring Fair Housing for People with Criminal Records**

Begin Date: 10/26/2016 COMPLETED - 10/26/2016

Agency Wide

H

Summary Fair housing staff attended a webinar with the Shriver Center and officials from the U.S. Department of Housing and Urban Development (“HUD”) addressing HUD’s recent guidance ensuring fair housing for people with criminal records. Criminal records can be a barrier to accessing housing for millions of Americans. HUD’s guidance states that admission denials, evictions, and other adverse housing decisions based on a person’s criminal record may constitute racial discrimination under the Fair Housing Act. The webinar included a sample policy from the New Orleans Housing Authority.

Action Step ID **199 Submit Second Round of Comments on HUD’s Assessment of Fair Housing Tools for States, Local Governments, and Public Housing Authorities**

Begin Date: 9/1/2016 COMPLETED - 10/28/2016

Agency Wide

H

Summary TDHCA submitted comments during the second public comment period for the US Department of Housing and Urban Development’s (“HUD”) proposed Assessment of Fair Housing (“AFH”) tool for states and insular areas, local governments, and public housing authorities. TDHCA commented that applying HUD’s proposed tool to the housing tax credit program and state-administered programs are outside HUD’s statutory authority given to it by Congress. Comments also expressed concerns that the tool promotes race based decision-making by recipients of HUD funds in violation of the Equal Protection Clause of the U.S. Constitution. TDHCA received feedback from the Fair Housing Workgroup in submitting comments (see also step #185).

Action Step ID **200 Revised 2017 Section 8 Payment Standards for the Housing Choice Voucher Program (“HCVP”) for Certain Counties**

Begin Date: 11/16/2016 COMPLETED - 1/1/2017 Single Family H

Summary November 16, 2016 the U.S. Department of Housing and Urban Development (“HUD”) released a final rule in the Federal Register providing that for certain specific areas Small Area Fair Market Rents (“SAFMRs”) must be utilized. SAFMRs were created by HUD, in response to increasing demand for more localized measures of rents, and are published at the ZIP code level for all metropolitan areas. SAFMRs, by being more localized seek to provide clients with access to a broader range of neighborhoods, thus allowing them to move into areas with more employment, transportation and educational opportunities. This rule affects seven counties in the Department’s HCVP jurisdiction, Bandera, Comal, Denton, Ellis, Guadalupe, Johnson, and Wilson counties. These new payment standards were approved by the Board at the December 15, 2016 TDHCA board meeting. The standards became effective on January 1, 2017.

Action Step ID **201 Fair Housing Considerations for Rule Writers Presentation**

Begin Date: 10/7/2016 COMPLETED - 12/7/2016 Agency Wide H

Summary Legal and fair housing staff created a brown bag lunch and learn presentation, fair housing considerations for rule writers on December 7, 2016. The presentation covered fair housing laws and guidance, disparate impact, and various rule writing examples. Information was presented on considerations when writing rules – applicable rules, protected classes under the rules, and possible disparate impacts for those protected classes. All rule writing staff for the Department were invited.

Action Step ID **202 Agency Wide Biennial Fair Housing Training**

Begin Date: 11/1/2016 IN PROGRESS Agency Wide H

Summary Effective April 2017, all TDHCA staff will complete a fair housing training module biennially. New hires will complete the training within the first 90 days of employment. TDHCA’s human resources manual was updated to include this training requirement; this will be monitored by the human resources division. The HUD-approved training is provided online, at no cost through the Texas Workforce Commission, Civil Rights Division.

Action Step ID **203 Loan Agreement with WoodForest National Bank, Expanding Financing Options Available to Lower Income Homebuyers**

Begin Date: 9/1/2016 IN PROGRESS Single Family

Summary On September 28, 2016, TDHCA entered a \$10 million loan agreement with WoodForest National Bank. The loan agreement allows the agency to leverage existing funds and expand financing options available to lower income homebuyers in Texas, including reducing the agency's first mortgage loan rate by approximately .375 percent, a tremendous savings to homebuyers. The loan agreement will fund down payment and closing cost assistance in conjunction with approximately \$250 million in first lien mortgage loans and \$10 million in 30-year, zero interest, second lien mortgage loans that are due on the earlier of sale, refinance, or maturity of the first lien mortgage loan. Since October 1, 2016, TDHCA has seen more than twice the amount of average daily reservations for homebuyer assistance funds compared to the most recent 12 months of activity. TDHCA expects that the funds will be fully utilized by August 1, 2017.

Action Step ID **204 Continuum of Care Local Competition Award Model**

Begin Date: 1/15/2015 IN PROGRESS Single Family **H**

Summary In order to foster local decision making, ESG has been working with Continuum of Care ("CoC") lead agencies to administer a local competition on behalf of TDHCA for ESG funds. The lead agencies adjust the notice of funding availability ("NOFA"), and elements of competitive scoring to consider elements such as past performance and future target outcomes. This model assists the program area in better evaluating barriers, impediments, and program metrics by leveraging the CoC local capacity and expertise. A pilot local competition was run in 2015 resulting in more local connections and coordination. In 2016, TDHCA expanded the pilot program for local competitions from two CoC Lead Agencies to five CoC Lead Agencies. In 2017, TDHCA is working with four CoC Lead Agencies to run a local competition for ESG funds.

Action Step ID **205 Waiver Request, Extension of Fair Market Rents**

Begin Date: 2/21/2017 IN PROGRESS Single Family **H**

Summary TDHCA plans to request an extension of HUD's waiver of Fair Market Rents ("FMRs") in certain counties for 2016 Emergency Solutions Grant ("ESG") Subrecipients from November 21, 2017, to August 3, 2018. An extension of the waiver would affect 1) 2016 ESG Subrecipients that receive a contract extension from August 31, 2017, to December 31, 2017, and 2) 2016 ESG Subrecipients that receive reallocated funds from de-obligated funds from 2016 contracts. August 3, 2018, is the expenditure deadline for 2016 ESG funds. With the extension of the waiver, all 2016 ESG Subrecipients would receive the benefit of the waiver throughout the length of their contracts with TDHCA.

Action Step ID **206 Fair Housing Webinar Series 2017: Webinar One – Fair Housing Overview**

Begin Date: 12/15/2016 IN PROGRESS Agency Wide **H**

Summary Implementation of a two part webinar series in coordination with the Texas Workforce Commission Civil Rights Division. The presentation will cover the basics of fair housing in Texas and a review of case scenarios, including an overview of fair housing testing. Trainings are geared towards city, county, and local governments, housing providers, housing consumers and other fair housing partners.

Action Step ID **207 Fair Housing Webinar Series 2017: Webinar Two - Reasonable Accommodations and Accessibility**

Begin Date: 12/15/2016 IN PROGRESS Agency Wide **H**

Summary Implementation of a two part webinar series in coordination with the Texas Workforce Commission Civil Rights Division. The presentation will cover reasonable accommodations and accessibility including information on service and assistance animals. Trainings are geared towards city, county, and local governments, housing providers, housing consumers and other fair housing partners.

3a

BOARD ACTION REQUEST

EXECUTIVE

MARCH 23, 2017

Presentation, discussion, and possible action to adopt additional clarifying guidance on Resolution 02-056 separating the policy-making functions of the Board and the management responsibilities of staff

RECOMMENDED ACTION

WHEREAS, as required by TEX. GOV'T CODE §2306.051, this Board has previously adopted Resolution 02-056, regarding the separation of the Board's policy-making responsibilities and the staff's management responsibilities, and

WHEREAS, the Board finds that additional guidance is desirable

NOW, therefore, it is hereby

RESOLVED, that the additional guidance set forth under "Background," below, is hereby adopted to provide further clarification on Resolution 02-056 and

FURTHER RESOLVED, that Resolution 02-056, as clarified, remains in full force and effect.

BACKGROUND

TEX. GOV'T CODE §2306.051 provides "The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and staff of the department." To address this requirement the Governing Board ("Board") of the Texas Department of Housing and Community Affairs (the "Department") adopted resolution 02-056 on November 14, 2002, to address this requirement of law, which was new at the time. The staff of the Department has identified the need to update and clarify this resolution. To that end the staff offers to the Board a recommendation that it adopt the clarification set forth herein (with such changes as the board may wish to make) or provide direction to staff as to how it desires to have these matters addressed. This will further particularize the direction given by Resolution 02-056.

The nature of the activities in which the Department engages can be broadly characterized as either:

- Activities that have been assigned by law specifically to the Board;
- Activities that have been assigned by law to the Board but which present one or more aspects that may be appropriately delegated to management to effectuate Board policy; and
- Activities that are managerial or operational in nature, involve no establishment of policy, and are properly assigned, delegated, or left to the staff to effectuate.

It is the responsibility and authority of the executive director to assign and delegate work to his or her staff in a manner consistent with laws, rules, regulations policies, internal controls and operating procedures, and

the policy direction given by this Board. Any reference to matters to be addressed by staff encompass, unless specified otherwise, the assignment of responsibility to the executive director to carry out directly or through the use of such staff assignments and delegations. Nothing herein gives the executive director any authority to direct or superintend the work of the internal audit function, which reports to this Board and its Audit Committee, but the staff is expected to coordinate work with the Internal Audit Division and draw on its resources in a lawful and appropriate manner.

There are matters enumerated in statutes and in federal regulations that require Board action, and it is the expectation of this Board that the staff will timely present those matters to this Board for consideration and action in a manner that complies with Texas Open Meetings laws (TEX. GOV'T CODE Chap. 551) and other applicable legal requirements.

Staff should present to the Board for its consideration and possible action any matter which is reserved to the Board by state or federal statute, rule, or regulation. The Board's principal means for enunciating its establishment of policy are the adoption of rules and the adoption of strategic plans, budgets, and similar documents. The Board may also, within legal constraints, establish limited policy direction through its interpretation of its own rules and application to facts presented to it at public meetings via action items. Finally, the Board may, when properly presented, express non-binding policy direction to staff on given issues or matters, but the actual establishment of policy is typically constrained to promulgation of rules, adoption of governing documents (such as plans or budgets), or (limited to the particular facts and circumstances presented in the action item) action taken on particular matters brought before the Board at its public meetings.

When staff presents a matter to the Board that requires additional work to effectuate the Board's policy, the Board may assign additional duties to the staff, and these are not a delegation of the authority to make policy decisions but merely a way to ensure that the Board-established policy is timely effectuated. The actions that staff takes in this regard should be reported to the Board or, as warranted, brought to the Board for ratification. Common examples of items that would be brought back for ratification might be the Board's decision to make awards subject to satisfactory completion of underwriting or subject to completion of previous participation review by the Executive Award Review Advisory Committee.

It is acknowledged that the delays involved in posting items for Board action may pose problems for the staff and for awardees. The Board expresses its support for staff moving those matters along as quickly as possible, including taking action subject to Board ratification, provided that the actions taken are consistent with Board-established policy.

Procurement activity presents a special set of concerns as undue delay in the procurement process is disruptive to the Department's business. Procurement is generally a management or staff responsibility and does not involve coming to the Board for policy direction except when either the procurement is to perform a new service or activity that the Department has not previously utilized or the procurement is of such significance that the Board needs to be made aware of it on the front end to ensure that it is comfortable with proceeding. Re-procuring for goods or services is a routine matter and requires no prior board action. However, staff is directed to report to the Board periodically on all procurement activity.

Finally, staff has limited flexibility in interpreting rules. Where instances arise in which the staff has strictly interpreted and applied the rules but third parties disagree with the application, the appropriate next step is for the matter to be brought to the Board, as appropriate to the facts at hand: by appeal, waiver request, or proposed rule change. In considering appeals the executive director should reverse staff only when he or

she is firmly convinced and supported in this regard by Department counsel, that staff misinterpreted or misapplied the rule to the facts at hand and supporting the staff position is simply incorrect or improper as a result.

3b

**TO BE POSTED NOT LATER THAN THE
THIRD DAY BEFORE THE DATE OF
THE MEETING**

4

BOARD REPORT
MULTIFAMILY FINANCE DIVISION
MARCH 23, 2017

Report on Tenant Survey

TDHCA did not host a QAP Roundtable in February 2017, due to the imminent March 1, 2017, application deadline for 9% Housing Tax Credits. A roundtable meeting will be held on March 22, 2017 to discuss market concerns; a report on the outcome of that meeting will be presented at the April Board Meeting. In the interim, staff has begun a project that could provide a useful resource in planning future iterations of the Qualified Allocation Plan (“QAP”) and Uniform Multifamily Rules (“Rules”).

The QAP and the Rules incentivize a variety of things including services, site and neighborhood amenities, and certain location characteristics for multifamily developments, and also require additional scrutiny and the possibility of ineligibility for the development of multifamily housing in areas with certain negative features.

The households served by TDHCA Developments hold a wealth of information as to what they desire in terms of the unit and development features, the social services offered by the Development, and the neighborhood where the Development is located. Each of these is considered by the Department as it creates policy and writes its rules, and staff believes that a survey of these households could be valuable.

A survey of this magnitude and scope has not been conducted in the past. The goal is to develop a repository of data—both quantitative and qualitative—that reflects the opinions, experiences, and preferences of households currently residing in TDHCA administered Developments. This dataset will reflect the demographic and geographic diversity of the many households across the state of Texas. The data and the outcome of the study may be considered in the development of scoring items in the future Qualified Allocation Plan and threshold measures in the Multifamily Uniform Rules that affect the location, amenities, and requirements of all Developments financed by housing tax credits, private activity bonds, multifamily loans, and any other multifamily finance tool provided by TDHCA.

The geographic, demographic, and socio-economic characteristics included in the survey will be jointly determined by the Department and the Interagency Partner as this project develops. TDHCA has the resources to determine most of these characteristics, allowing the Partner to design a sound and thorough representative sample. A specified team of TDHCA staff will work with the Partner to provide this background information.

TDHCA intends to secure an Interagency Partner in the coming months. The survey is planned for the summer of 2017, and the data collected will be analyzed in the fall of 2017. While the results of the survey may influence some aspects of the upcoming 2018 QAP and Rules, they will probably be discussed in more detail during the 2018 spring QAP roundtables and will therefore have a larger impact on the 2019 QAP and Rules.

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**TO BE POSTED NOT LATER THAN THE
THIRD DAY BEFORE THE DATE OF
THE MEETING**