

**SUPPLEMENTAL
BOARD BOOK OF JULY 13, 2017**



**Leslie Bingham Escareño, Vice-Chair
Paul Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, III, Member**

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

**A G E N D A
9 AM
July 13, 2017**

**John H. Reagan Building
JHR 140, 105 W 15th Street
Austin, Texas 78701**

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.

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 Tex. Gov't 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:

HOME AND HOMELESS PROGRAMS

- a) Presentation, discussion, and possible action on awards for the 2017 HOME Investment Partnerships Program (“HOME”) Single Family Programs Single Family Development (“SFD”) Open Cycle Notice of Funding Availability (“NOFA”)
- b) Presentation, discussion, and possible action on awards for the 2017 HOME Investment Partnerships Program (“HOME”) Single Family Programs Homebuyer Assistance (“HBA”) and Tenant-Based Rental Assistance (“TBRA”) Open Cycle Notice of Funding Availability (“NOFA”)
- c) Presentation, discussion, and possible action on State Fiscal Year 2018 Homeless Housing and Services Program awards

Jennifer Molinari
Director

ACTION ITEMS

ITEM 2: REPORTS

Report of Third Party Requests for Administrative Deficiency under 10 TAC §11.10 of the 2017 Qualified Allocation Plan received prior to the deadline:

17007	Magnolia Station	Winnie
17281	The Residence at Arbor Grove	Arlington
17288	Forest Trails	Lindale
17305	Payton Senior	Killeen
17322	Provision at Wilcrest	Houston
17356	The Acacia	San Antonio
17368	Cielo	McAllen
17372	Sunset Trails	Bullard
17376	The Bristol	San Antonio

Marni Holloway
Director

17388 West Pecan Village
17390 Las Palomas

McAllen
McAllen

ITEM 3: RULES

Presentation, discussion, and possible action on Orders repealing all sections of 10 TAC Chapter 23, Single Family HOME Program, and Orders adopting new 10 TAC Chapter 23, Single Family HOME Program (“HOME Rule”), concerning HOME single family activities, and directing their publication in the *Texas Register*

Jennifer Molinari
Director, Home and
Homeless Programs

ITEM 4: MULTIFAMILY FINANCE

- a) Presentation, Discussion, and Possible Action regarding exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Applications:

17259 Mistletoe Station

Fort Worth

17322 Provision at Wilcrest

Houston

17368 Cielo

McAllen

- b) Presentation, discussion, and possible action regarding awards of Direct Loan funds from the 2017-1 Multifamily Direct Loan Notice of Funding Availability

17501 Live Oak Trails

Austin

17502 Freedom’s Path at Kerrville

Kerrville

- c) Presentation, discussion, and possible action on timely filed appeals under 10 TAC §10.901(13) of the Department’s Multifamily Program Rules relating to Fee Schedule, Appeals and other Provisions

17007 Magnolia Station

Winnie

17028 Vineyard on Lancaster

Fort Worth

17064 Chaparral Apartments

Midland

17097 Holly Oak Seniors

Houston

17170 Star of Texas Seniors

Montgomery

17194 Oaks Apartments

Quitman

17199 Santa Fe Place

Temple

17203 Park Estates Apartments

Quitman

17247 Western Springs Apartments

Dripping Springs

17251 Pine Terrace Apartments

Mount Pleasant

17267 Industrial Lofts

McAllen

17283 Avanti Manor

Harker Heights

17297 Kountze Pioneer Crossing

Kountze

17305 Payton Senior

Killeen

17322 Provision at Wilcrest

Houston

17323 Skyway Gardens

Alpine

17327 Legacy Trails of Lindale

Lindale

17331 Westwind of Killeen

Killeen

17356 The Acacia

San Antonio

17376 The Bristol

San Antonio

17388 West Pecan Village

McAllen

17390 Las Palomas

McAllen

17741 Gateway Residences

Raymondville

- d) Presentation, Discussion, and Possible Action regarding amenities used for scoring points under 10 TAC 11.9(c)(4) related to Opportunity Index for Application #17327, Legacy Trails of Lindale, Lindale

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

Leslie Bingham Escareño
Vice-Chair

- 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.

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 Annette Cornier, 512-475-3803, 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 Annette Cornier, al siguiente número 512-475-3803 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

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Supplement to
17259
Mistletoe Station



Tyler F. Wallach
Assistant City Attorney

(817) 392-7607
tyler.wallach@fortworthtexas.gov

July 10, 2017

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

Re: Mistletoe Station, TDHCA App. # 17259
Fort Worth, Texas
Mistletoe Heights Addition, Block B
Frisco Addition, Block 3R

To Whom it May Concern:

This letter is to confirm that the project referenced above complies with the City of Fort Worth's Comprehensive Zoning Ordinance ("Zoning Ordinance"), as evidenced by the attached letter dated February 10, 2017 from Laura Voltman, a Senior Planner with the City of Fort Worth. The above-referenced property is located in the City's NS-T5 zoning district, which allows for multi-family dwellings. Section 4.1305 of the Zoning Ordinance, which governs NS-T5 districts, contains no setback requirements from the railroad. Thus, development adjacent to the railroad is permissible.

Sincerely,

Tyler F. Wallach
Assistant City Attorney

Cc: Avis Chaisson
Vicki Ganske
Paige Mebane

Enclosures



OFFICE OF THE CITY ATTORNEY
The City of Fort Worth ★ 200 Texas Street ★ Fort Worth, Texas 76102
817-392-7600 ★ Fax 817-392-8359



February 10, 2017

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

Re: Mistletoe Station, TDHCA App # 17259
Fort Worth, Texas
Mistletoe Heights Addition, Block B
Frisco Addition, Block 3R

To Whom it May Concern:

This letter is to confirm that pursuant to City of Fort Worth ordinances that multifamily buildings and accessory uses are permitted with zero (0) setback from the railroad right of way immediately adjacent to the west of Mistletoe Heights Addition, Block B. This site is on the edge of the City of Fort Worth's Near Southside Development District. The Development District was developed after an extensive program of community participation and professional analysis reviewing all aspects of context for development in the district, including setbacks, uses and building form. Railroad adjacency was considered, and a decision was made to implement façade standards for railroad adjacent property without imposing an additional setback for residential or other uses.

Accordingly, the proposed multifamily use without additional setback from the railroad right of way is consistent with the designation for this site under the Near Southside Development Standards adopted by City Council Ordinance for the Near Southside Development District, representing the zoning for the property. The use also conforms with the 2016 City of Fort Worth Comprehensive Plan adopted by City Council ordinance within the last year, and the Near Southside Redevelopment Plan adopted in 2015 by Fort Worth Southside Development District, Inc., the nonprofit administering the Tax Increment

PLANNING AND DEVELOPMENT DEPARTMENT

THE CITY OF FORT WORTH ★ 200 TEXAS STREET ★ FORT WORTH, TEXAS 76102-6311
CUSTOMER SERVICE 817-392-7820 ★ FAX 817-392-8116



Financing and Project Plan adopted by City Council ordinance for City of Fort Worth TIF District # 4.

The City of Fort Worth was developed as a railroad hub. There are 193 railroad crossings in the downtown Fort Worth Area. The downtown area is experiencing a surge of multifamily residential development, including twelve stories of luxury residential condominiums directly above the Texas & Pacific Railroad Terminal. Following the successful conversion of the old Montgomery Ward's warehouse immediately adjacent to a Fort Worth & Western Railroad line, new high end high density multifamily residences are also springing up in the City's West 7th area, probably the hottest, most desirable market in the City for new apartments in a dense pedestrian pattern that would have been impossible if the City had required residences to be set back from rail line right of way. Consistent with our obligation to HUD to affirmatively further fair housing, the City can't require setbacks from rail lines for workforce and affordable housing when market rate housing has been so successful in these areas.

The developer of the proposed Mistletoe Station project has informed us that it will take affirmative measures to abate sound in the design and construction of the project as well as provide appropriate safety measures such as fencing. In addition, consistent with the City's plan for this area, the City and the adjacent neighborhood are well into the process of creating a Railroad Quiet Zone that includes the Mistletoe intersection. This process was initiated over a year ago.

Given these considerations, the City of Fort Worth would allow multifamily development in the proposed location if all site plan requirements are met.

Sincerely,

Senior Planner

PLANNING AND DEVELOPMENT DEPARTMENT

THE CITY OF FORT WORTH * 200 TEXAS STREET * FORT WORTH, TEXAS 76102-6311
CUSTOMER SERVICE 817-392-7820 * FAX 817-392-8116

July 10, 2017

Dear TDHCA Board Members,

It is my pleasure to write a letter in support of Mistletoe Station's request for Housing Tax Credit funding from the Texas Department of Housing and Community Affairs, application number 17259.

The Baylor Scott & White All Saints Medical Center - Fort Worth ("Baylor") campus has held this land for several years with the specific intent for the property to be used for Multi-Family housing. Baylor is actively seeking buyers for the property in order to develop affordable multi-family residential housing. The tax credits are critical for this project to be viable.

Needless to say we were very disappointed in the recent TDHCA staff recommendation that the development is ineligible for funding due to the proximity of the property to the railroad. The City of Fort Worth zoning ordinance specifically allows for this type of development, and the City Council went so far as to pass a specific resolution in support of that fact.

Development of affordable housing near the Fort Worth Medical District is critical to the ongoing growth of the area and it's supporting businesses. Many times, hospitals located in urban environments do not have nearby affordable housing for hospital employee staff. Along with other local hospitals, Baylor employs a large variety of professional support staff who would benefit from affordable housing a short walk or bus ride to work.

In conclusion, Baylor fully supports the efforts of Mistletoe Station as they seek TDHCA's support for this new project. We ask that the TDHCA board overrule staff's recommendation of ineligibility. Any avenue that creates affordable housing in the heart of the Fort Worth Medical District is essential to the continued recruitment of quality employees and the continued growth of the district as a whole.

Sincerely,



Mike Sanborn
President

Supplement to

17322

Provision at Wilcrest



1001 FANNIN STREET, SUITE 2450
HOUSTON, TEXAS 77002-6707
713-437-1800
FAX 713-437-1810
www.joneswalker.com

Antoinette "Toni" Jackson
Direct Dial: 713-437-1888
Direct Fax: 713-437-1938
tjackson@joneswalker.com

July 10, 2017

VIA ELECTRONIC TRANSMITTAL

Mr. Timothy Irvine
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Provision at Wilcrest, HTC #17322
Response to Third Party Request for Administrative Deficiency

Dear Mr. Irvine:

This letter is in response to the Third Party Request for Administrative Deficiency ("RFAD") dated July 5, 2017 for the above referenced application which proposes the development of Provision at Wilcrest ("Development"). This RFAD questions whether the applicant, Provision at Wilcrest, LP ("Applicant") properly disclosed the presence of a heavy industrial facility near the property which is an Undesirable Site Feature as defined by the Qualified Allocation Plan and Multifamily Rules ("QAP"). It is our contention that the facility that is in question does not meet the definition set out in the QAP and is therefore, not an Undesirable Site Feature subject to disclosure by the Applicant.

Background

On June 1, 2017 the Applicant was copied on an email submitted by a third party to TDHCA with regard to the Development's proximity to a "heavy industrial facility". On June 12, 2017, the Applicant received a "9% HTC Notice of Request for Application Deficiency" raising the issue of the Applicant's failure to disclose its proximity to a heavy industrial facility and requesting the submission of evidence why the Southern Crushed Concrete Plant ("Recycling Facility") should not be considered a heavy industrial facility." The Applicant responded to this request timely on June 17, 2017. All of the issues brought to the Department's attention in the RFAD were addressed and the Applicant believed this matter had been satisfactorily resolved.

{HD087915.2}

JONES WALKER LLP

ALABAMA · ARIZONA · CALIFORNIA · DISTRICT OF COLUMBIA · FLORIDA · GEORGIA · LOUISIANA · MISSISSIPPI · NEW YORK · OHIO · TEXAS

On July 5, 2017, the Applicant received a letter regarding the RFAD and was notified that the staff had discovered during its review that the concrete recycling plant was a municipal solid waste processing plant. However, this item was placed on the July 13 Board agenda with no formal notification to the Applicant when staff decided the Development was ineligible under the Undesirable Site Features, 10 TAC §10.101(a)(2)(B), because the site is located “within 300 feet of a solid waste or sanitary landfill.”

The only indication the Applicant received regarding this issue is the RFAD letter dated July 5, 2017, even though the subject of a “landfill” was not raised in the original RFAD submitted to TDHCA on June 1 or in the deficiency notice issued to the Applicant on June 12. In a phone conversation with Ms. Marni Holloway, she indicated that the Applicant could submit documentation to be included with the July 13 Board book by July 10— which was only two working days after receipt of the RFAD letter. The Applicant’s concern is that the process that has been followed by staff on this issue does not follow the process nor timeframes outlined in the QAP.

The determination by staff that there was a separate and new site issue should have resulted in a new deficiency being issued to the Applicant which outlines the Department’s concerns and allows the Applicant the required five days to respond. The process set out in the QAP further provides that in the event that the item is not resolved, the exact reason for the determination would be made clear to the Applicant, at which time the Applicant may appeal to the Executive Director and Board. None of these steps have been followed in this case.

The issue in question is indisputably new to both the Applicant and staff. The Applicant believes this issue should have been handled as an initial administrative deficiency to determine the facts. Not only has the Applicant not been given the ability to discuss and cure the issue, the Applicant has been given only two days to try to interpret the issue and present a case to the Board.

Rule Language

The language in the Undesirable Site Features provision that is in question and seems to be problematic is the following:

(B) Development Sites located within 300 feet of a solid waste *OR* sanitary landfills
(*emphasis added*);

Applicant believes that basic grammar dictates a single interpretation of its meaning—that the site must be within 300 feet of a solid waste or sanitary landfill for it to be considered an Undesirable Site Feature. Staff’s interpretation is that this sentence contains two distinctly

separate clauses; however, it is missing significant language for such an interpretation. If this sentence is to refer to anything other than the noun “landfills,” it should say within 300 feet of a solid waste “facility” or “processing plant” for the adjective “solid waste” to modify a noun other than “landfills.”

When it comes to QAP interpretation, an Applicant can only rely on what is written. If each is to be a separate clause, then each clause would have to be able to stand on its own and make sense independently. For example:

Development Sites located within 300 feet of a solid waste.

Development Sites located within 300 feet of sanitary landfills.

This is obviously problematic as (1) the first sentence makes no sense and is clearly not a complete sentence, and (2) it implies that there would have to be more than one sanitary landfill within proximity for there to be an Undesirable Site Feature.

The only reasonable interpretation is that “solid waste” and “sanitary” are two adjectives to describe specific types of landfills. In other words, “landfills” is the subject of the sentence and therefore the item of concern for this Rule. In fact, this has been the historical interpretation of the language.

History of the Rule and Interpretation

The exact language concerning landfills was implemented by TDHCA in the 2004 QAP. In 2004, the QAP added “Proximity of Site to Amenities” and “Negative Site Features” to the QAP scoring criteria, where developments located adjacent to or within 300 feet of a solid waste or sanitary landfills would have 1 point deducted from their score.

While the sentence construction concerning landfills has a singular “a” and a plural “landfills,” the application forms from this scoring item correct the language discrepancy so that the language was clearly only concerning landfills. (*See attached documentation from the 2009 HTC Application, when the application was in Microsoft Word format and the 2010 HTC Application, when the application was migrated to the Microsoft Excel format.*) Both applications state that “Developments located adjacent to or within 300 feet of a solid waste or sanitary landfill will have 1 point deducted from their score.” There is simply no way this sentence can be interpreted to conclude that “solid waste” is a separate item describing anything other than the type of landfill.

In the 2011 QAP, the “Negative Site Features” section moved from a scoring item to an ineligibility item, but the actual language and sentence construction concerning landfills did not change. The 2017 QAP and Rules continues to use the same sentence, and there has been no language change nor roundtable discussion that would prompt a change in interpretation.

The historic interpretation of this item has only concerned landfills. In 2004, when this item was first implemented, the TDHCA Compliance Division while conducting site evaluations observed in their January 2004 newsletter “Some of the conditions that could make a site undesirable include close proximity to junk yards, active train tracks, high voltage lines, heavy industrial areas, interstate highways, solid waste/sanitary landfills, and potential flood zones.” The phrase “solid waste/sanitary landfills” with the use of the forward slash between “solid waste” and “sanitary” cannot be interpreted as anything other than descriptors of landfills.

Furthermore, in instances when specific questions regarding this item have been directed to staff, there has been no mention whatsoever of this item pertaining to anything other than landfills. The attached emails from in 2012 and 2013 addressed facilities that handled solid waste with questions about whether they rose to the level of “solid waste or sanitary landfills.” In response to the questions, at no time did staff consider a “solid waste only” interpretation and instead focused on whether they had characteristics of “solid waste and sanitary landfills.” It should be noted that both facilities referenced in the emails have the same MSW permit designation as the recycling facility in question.

Recycling Facility Characteristics

The Recycling Facility located within 300 feet of the Provision at Wilcrest development site is operating with a MSW-NOI 5RR authorization. This 5RR permit allows the facility to operate as a municipal solid waste recycling facility only and it does not and cannot operate as a Solid Waste or Sanitary Landfill. The additional attached documentation confirms that Landfills operate with MSW Type 1, 1AE, 2, 3, 4, and 4AE permits only. A 5RR permit is specifically a “Notice of Intent to Operate a Recycling Facility.” (*See attached list of operating landfills in Texas as of March 2017 and note that the Recycling Facility is not listed.*) Please further note that facilities such as Goodwill Stores and computer parts retailers hold MSW permits, and we do not believe the intent or language of the Rule is to prevent proximity to such businesses, but they would be prevented under Staff’s current interpretation.

AEI Consultants, which conducted the Phase I ESA for this Development, has confirmed that the Recycling Facility’s operations include collecting and recycling concrete into aggregate materials, as well as the sale of aggregate materials, with no concrete manufacturing or mining on site. Notably, AEI concludes that there are “no immediate health or safety hazards associated

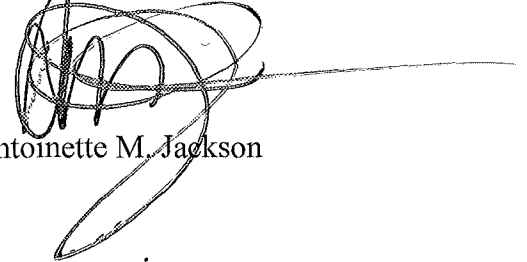
with the activities being performed at this facility that would affect the subject property.” A Noise Monitoring Study also confirms that there is no excessive noise being generated from the facility. Finally, the Doucet and Associates Engineers confirms that the facility also does not meet the TDHCA definition of “heavy industrial.”

Conclusion

In conclusion, the language of the QAP is constructed such that the item concerns landfills only. The Recycling Facility located within 300 feet of the Provision at Wilcrest development site is unequivocally not a landfill. Furthermore, there are no health or safety hazards or excessive noise associated with the facility that would affect the development.

We ask that staff be instructed to allow the Applicant due process and an opportunity for discussion regarding this item with Staff. If this item is to proceed on the July 13 agenda, we respectfully ask that the Board rule that this site is eligible under the 2017 QAP and Rules.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Antoinette M. Jackson', with a long horizontal line extending to the right.

Antoinette M. Jackson

RFAD letter



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, *Member*
Asusena Reséndiz, *Member*
Sharon Thomason, *Member*
Leo Vasquez, *Member*

July 5, 2017

Writer's direct phone # (512) 475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. Jervon D. Harris
Provision at Wilcrest, LP
4803 National Ave, Ste 200
Springfield, MO 65810

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17322 PROVISION AT WILCREST

Dear Mr. Harris:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of a Third Party Request for Administrative Deficiency ("RFAD") requesting that the Department review the application above to determine whether it properly disclosed the presence of a heavy industrial facility, in reference to Southern Crushed Concrete plant, and whether the Application appropriately addressed the 100-year floodplain. The response stated that the Applicant has been contacted by the underwriters regarding the floodplain issues, and staff will allow any outstanding floodplain issues to be resolved by that division.

Regarding the concrete recycling plant, it was discovered during review that the Texas Commission on Environmental Quality ("TCEQ") considers this company a municipal solid waste processing plant. Pursuant to 10 TAC §10.101(a)(2)(B):

(2) Undesirable Site Features. Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s). ...

... (B) Development Sites located within 300 feet of a solid waste or sanitary landfills;

Because the Application did not disclose the presence of the solid waste facility, staff will request a determination from the Department's Governing Board that the Development Site be found ineligible.

The assessment of the Development Site and neighborhood will be presented to the Board with a recommendation with respect to the eligibility of the Development Site. Factors to be considered by the Board, despite the existence of the undesirable site characteristics, are identified in 10 TAC §10.101(a)(3)(E). Please note under this rule that the new construction of high quality affordable housing units, alone, does not present a compelling reason to support a conclusion of eligibility. Should



REQUEST FOR ADMINISTRATIVE DEFICIENCY


July 5, 2017

Page 2

the Board make a determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is not subject to appeal.

If you have any questions or concerns, please contact me at (512) 475-1676 or by email at marni.holloway@tdhca.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', with a long horizontal stroke extending to the right.

Marni Holloway
Multifamily Division Director

Cc: Les Kilday



RFAD Deficiency

ajcarpen . <ajcarpen@gmail.com>

Fwd: 17322 - 9% HTC Notice of Request for Application Deficiency - TIME SENSITIVE- Please reply immediately acknowledging receipt.

Jervon Harris <jharris@gardnercapital.com>

Mon, Jun 12, 2017 at 4:51 PM

To: Alyssa Carpenter <ajcarpen@gmail.com>, Sarah Anderson <sarah@sarahandersonconsulting.com>

Cc: Kit Sarai <kit@sarahandersonconsulting.com>, Ruben Esqueda <resqueda@gardnercapital.com>

Please see below.

Jervon Harris

Begin forwarded message:

From: "Sharon Gamble" <sharon.gamble@tdhca.state.tx.us>

To: "Jervon Harris" <jharris@gardnercapital.com>

Cc: "Ruben Esqueda" <resqueda@gardnercapital.com>

Subject: RE: 17322 - 9% HTC Notice of Request for Application Deficiency - TIME SENSITIVE- Please reply immediately acknowledging receipt.

I forgot to attach the request.

Regards,

Sharon D. Gamble MSW, PMP

Competitive Housing Tax Credit Program Administrator

Texas Department of Housing and Community Affairs

(512) 936-7834

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)).

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

From: Sharon Gamble
Sent: Monday, June 12, 2017 10:53 AM
To: jharris@gardnercapital.com
Cc: 'resqueda@gardnercapital.com'
Subject: 17322 - 9% HTC Notice of Request for Application Deficiency - TIME SENSITIVE- Please reply immediately acknowledging receipt.

****All deficiencies must be corrected or clarified by 5 pm Austin local time on JUNE 19, 2017.****

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17322 Provision at Wilcrest**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please review the attached.

1. The requester attests that the Application failed to disclose the presence of a heavy industrial facility. Submit evidence from a third party explaining why the Southern Crushed Concrete Plant should not be considered a heavy industrial facility.
2. The requester attests that the Application does not address the fact that the entire Development Site is within the 100-year floodplain. Please address why the site plan indicates that the site is "outside of flood zone" and does not delineate the flood plain boundary or describe how flood mitigation or any other required mitigation will be accomplished.
3. Establish how the Application and the Development meet the requirements of §10.302(g)(1) related to Floodplains.
4. Submit evidence that the nearest boundary of the Development Site is 100 feet or more from the nearest boundary of the utility easement; or submit evidence that the distance should not be a consideration.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

Regards,

Sharon D. Gamble MSW, PMP

Competitive Housing Tax Credit Program Administrator

Texas Department of Housing and Community Affairs

(512) 936-7834

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)).

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

2 attachments

 **17322 - Third Party Request for Admin Deficiency.pdf**
7474K

 **ATT00001.htm**
1K

Subchapter B – Site and Development Requirements and Restrictions**§10.101.Site and Development Requirements and Restrictions.**

(a) Site Requirements and Restrictions. The purpose of this section is to identify specific requirements and restrictions related to a Development Site seeking multifamily funding or assistance from the Department.

(1) Floodplain. New Construction or Reconstruction Developments located within a one-hundred (100) year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements. The Applicant will have to use floodplain maps and comply with regulation as they exist at the time of commencement of construction. Even if not required by such provisions, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain. If there are more stringent local requirements they must also be met. If no FEMA Flood Insurance Rate Maps are available for the proposed Development Site, flood zone documentation must be provided from the local government with jurisdiction identifying the one-hundred (100) year floodplain. Rehabilitation (excluding Reconstruction) Developments with existing and ongoing federal funding assistance from the U.S. Department of Housing and Urban Development (HUD) or U.S. Department of Agriculture (USDA) are exempt from this requirement. However, where existing and ongoing federal assistance is not applicable such Rehabilitation (excluding Reconstruction) Developments will be allowed in the one-hundred (100) year floodplain provided the local government has undertaken and can substantiate sufficient mitigation efforts and such documentation is submitted in the Application or the existing structures meet the requirements that are applicable for New Construction or Reconstruction Developments, as certified to by a Third Party engineer.

(2) Undesirable Site Features. Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s). Rehabilitation (excluding Reconstruction) Developments with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (“VA”) may be granted an exemption by the Board. Such an exemption must be requested at the time of or prior to the filing of an Application. Historic Developments that would otherwise qualify under §11.9(e)(6) of this title (relating to the Qualified Allocation Plan) may be granted an exemption by the Board, and such exemption must be requested at the time of or prior to the filing of an Application. The distances are to be measured from the nearest boundary of the Development Site to the nearest boundary of the property or easement containing the undesirable feature, unless otherwise noted below. Where there is a local ordinance that regulates the proximity of such undesirable feature to a multifamily development that has smaller distances than the minimum distances noted below, then such smaller distances may be used and documentation such as a copy of the local ordinance identifying such distances relative to the Development Site must be included

in the Application. In addition to these limitations, a Development Owner must ensure that the proposed Development Site and all construction thereon comply with all applicable state and federal requirements regarding separation for safety purposes. If Department staff identifies what it believes would constitute an undesirable site feature not listed in this paragraph or covered under subparagraph (K) of this paragraph, staff may request a determination from the Board as to whether such feature is acceptable or not. If the Board determines such feature is not acceptable and that, accordingly, the Site is ineligible, the Application shall be terminated and such determination of Site ineligibility and termination of the Application cannot be appealed.

(A) Development Sites located within 300 feet of junkyards. For purposes of this paragraph, a junkyard shall be defined as stated in Transportation Code, §396.001;

(B) Development Sites located within 300 feet of a solid waste or sanitary landfills;

(C) Development Sites located within 300 feet of a sexually-oriented business. For purposes of this paragraph, a sexually-oriented business shall be defined in Local Government Code, §243.002, or as zoned, licensed and regulated as such by the local municipality;

(D) Development Sites in which the buildings are located within 100 feet of the nearest line or structural element of any overhead high voltage transmission line, support structures for high voltage transmission lines, or other similar structures. This does not apply to local service electric lines and poles;

(E) Development Sites located within 500 feet of active railroad tracks, measured from the closest rail to the boundary of the Development Site, unless the Applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail;

(F) Development Sites located within 500 feet of heavy industrial (i.e. facilities that require extensive capital investment in land and machinery, are not easily relocated and produce high levels of external noise such as manufacturing plants, fuel storage facilities (excluding gas stations) etc.);

(G) Development Sites located within 10 miles of a nuclear plant;

(H) Development Sites in which the buildings are located within the accident zones or clear zones of any airport;

(I) Development Sites that contain one or more pipelines, situated underground or aboveground, which carry highly volatile liquids. Development Sites located adjacent to a pipeline easement (for a pipeline carrying highly volatile liquids), the Application must include a plan for developing near the pipeline(s) and mitigation, if any, in accordance with a report conforming to the Pipelines and Informed Planning Alliance (“PIPA”);

(J) Development Sites located within 2 miles of refineries capable of refining more than 100,000 barrels of oil daily; or

(K) Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents and which cannot be adequately mitigated.

(3) Undesirable Neighborhood Characteristics.

(A) If the Development Site has any of the characteristics described in subparagraph (B) of this paragraph, the Applicant must disclose the presence of such characteristics in the Application submitted to the Department. An Applicant may choose to disclose the presence of such characteristics at the time the pre-application (if applicable) is submitted to the Department. Requests for pre-determinations of Site eligibility prior to pre-application or Application submission will not be binding on full Applications submitted at a later date. For Tax-Exempt Bond Developments where the Department is the Issuer, the Applicant may submit the documentation described under subparagraphs (C) and (D) of this paragraph at pre-application or for Tax-Exempt Bond Developments utilizing a local issuer such documentation may be submitted with the request for a pre-determination and staff may perform an assessment of the Development Site to determine Site eligibility. The Applicant understands that any determination made by staff or the Board at that point in time regarding Site eligibility based on the documentation presented, is preliminary in nature. Should additional information related to any of the undesirable neighborhood characteristics become available while the full Application is under review, or the information by which the original determination was made changes in a way that could affect eligibility, then such information will be re-evaluated and presented to the Board. Should staff determine that the Development Site has any of the characteristics described in subparagraph (B) of this paragraph and such characteristics were not disclosed, the Application may be subject to termination. Termination due to non-disclosure may be appealed pursuant to §10.902 of this chapter (relating to Appeals Process (§2306.0321; §2306.6715)). The presence of any characteristics listed in subparagraph (B) of this paragraph will prompt staff to perform an assessment of the Development Site and neighborhood, which may include a site visit, and include, where applicable, a review as described in subparagraph (C) of this paragraph. The assessment of the Development Site and neighborhood will be presented to the Board with a recommendation with respect to the eligibility of the Development Site. Factors to be considered by the Board, despite the existence of the undesirable neighborhood characteristics are identified in subparagraph (E) of this paragraph. Preservation of affordable units alone does not present a compelling reason to support a conclusion of eligibility. Should the Board make a determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is not subject to appeal.

(B) The undesirable neighborhood characteristics include those noted in clauses (i) – (iv) of this subparagraph and additional information as applicable to the undesirable neighborhood characteristic(s) disclosed as provided in subparagraphs (C) and (D) of this paragraph must be submitted in the Application. If an Application for a

Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.

(G) the Development is located in an incorporated city that is not a Rural Area but has a population no greater than 100,000 based on the most current available information published by the United States Bureau of the Census as of October 1 of the year preceding the applicable program year. The Development can not exceed 100 Units to qualify for these points. (7 points)

(4) Site Location Characteristics. Sites will be evaluated based on proximity to amenities, the presence of positive site features and the absence of negative site features. Sites will be rated based on the criteria below.

(A) Proximity of site to amenities. Developments located on sites within a one mile radius (two-mile radius for Developments competing for a Rural Regional Allocation) of at least three services appropriate to the target population will receive five points. A site located within one-quarter mile of public transportation or located within a community that has "on demand" transportation, or specialized elderly transportation for Qualified Elderly Developments, will receive full points regardless of the proximity to amenities, as long as the Applicant provides appropriate evidence of the transportation services used to satisfy this requirement. If a Qualified Elderly Development is providing its own specialized van service, then this will be a requirement of the LURA. Only one service of each type listed below will count towards the points. A map must be included identifying the development site and the location of the services, as well as written directions from the site to each service. The services must be identified by name on the map and in the written directions. If the services are not identified by name, points will not be awarded. All services must exist or, if under construction, must be at least 50% complete by the date the Application is submitted. (5 points)

- (i) Full service grocery store or supermarket
- (ii) Pharmacy
- (iii) Convenience Store/Mini-market
- (iv) Department or Retail Merchandise Store
- (v) Bank/Credit Union
- (vi) Restaurant (including fast food)
- (vii) Indoor public recreation facilities, such as civic centers, community centers, and libraries
- (viii) Outdoor public recreation facilities such as parks, golf courses, and swimming pools
- (ix) Hospital/medical clinic
- (x) Doctor's offices (medical, dentistry, optometry)
- (xi) Public Schools (only eligible for Developments that are not Qualified Elderly Developments)
- (xii) Senior Center (only eligible for Qualified Elderly Developments)

(B) Negative Site Features. Sites with the following negative characteristics will have points deducted from their score. For purpose of this exhibit, the term 'adjacent' is interpreted as sharing a boundary with the Development site. The distances are to be measured from all boundaries of the Development site. Applicants must indicate on a map the location of any negative site feature, with the exception of slope which must be documented with an engineer's certificate to ensure that points are not deducted. If an Applicant negligently fails to note a negative feature, double points will be deducted from the score or the Application may be terminated. If none of these negative features exist, the Applicant must sign a certification to that effect. (-7 points)

(i) Developments located adjacent to or within 300 feet of junkyards will have 1 point deducted from their score.

(ii) Developments located adjacent to or within 300 feet of active railroad tracks will have 1 point deducted from their score. Rural Developments funded through TX-USDA-RHS are exempt from this point deduction.

(iii) Developments located adjacent to or within 300 feet of an Interstate Highway including frontage and service roads will have 1 point deducted from their score.

(iv) Developments located adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants will have 1 point deducted from their score.

(v) Developments located adjacent to or within 300 feet of a solid waste or sanitary landfills will have 1 point deducted from their score.

~~(vi) Developments located adjacent to or within 100 feet of high voltage transmission power lines will have 1 point deducted from their score.~~

(5) Housing Needs Characteristics. Each Application, dependent on the city or county where the Development is located, will yield a score based on the Uniform Housing Needs Scoring Component. If a Development is in an incorporated city, the city score will be used. If a Development is outside the boundaries of

Part B. Negative Site Features

Applicants may receive up to -6 points under this exhibit. Select either Option A or B, as appropriate:

Negative Site Features. Development Sites with the following negative characteristics will have points deducted from their score. For purposes of this exhibit, the term 'adjacent' is interpreted as sharing a boundary with the Development Site. The distances are to be measured from all boundaries of the Development Site to all boundaries of the property containing the negative site feature.

Option A: I certify that the items selected below are the only negative site features for this Development Site. If it is determined that this Application has failed to note any negative features, double points will be deducted from the score or the Application may be terminated depending on the circumstances (**Select all those site features that are applicable.**)

Developments located adjacent to or within 300 feet of junkyards will have a 1 point deducted from their score.

Developments located adjacent to or within 300 feet of active railroad tracks will have 1 point deducted from their score, unless the Applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail. Rural Developments funded through TRDO-USDA are exempt from this point deduction.

Developments located adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants will have 1 point deducted from their score.

Developments located adjacent to or within 300 feet of a solid waste or sanitary landfill will have 1 point deducted from their score.

Developments where the buildings are located within the fall line of high voltage transmission power lines will have 1 point deducted from their score.

Developments where buildings are located within the accident zones or clear zones for commercial or military airports will have 1 point deducted from their score.

or

Option B: I certify that none of the negative site features listed above exist for this Development Site. If it is determined that this Application has failed to note any negative features, double points will be deducted from the score or the Application may be terminated, depending on the circumstances.

PROXIMITY OF SITE TO AMENITIES (§50.9(i)(23)(A) and (B))

Applicants may qualify for up to 4 points for qualifying under this exhibit. Select the appropriate box for points requested:

(Select All That Apply)

- A site located within one-quarter mile of public transportation that is accessible to all residents including Persons with Disabilities. A map must be provided that shows the location of the public transportation stop and a one-quarter mile radius around the Development Site (4 points), OR
- A Development Site located within a community that has “on demand” transportation that is special transit service (for family applications), or specialized elderly transportation for Qualified Elderly Developments. The “on demand” transportation must be available to all residents including Persons With Disabilities. If a Development is providing its own specialized van or on demand service, then this will be a requirement of the LURA (4 points), OR
- Development Sites located within a one mile radius (two-mile radius for Developments competing for a Rural Regional Allocation) of at least three services appropriate to the target population will receive four points. Only one service of each type listed below will count towards the points. **A map must be included identifying the one or two-mile radius, the Development Site and the location of the services.** The services must be identified by name on the map. If the services are not identified by name, points will not be awarded. By checking the boxes below, the Applicant certifies that all services currently exist or, if under construction, are at least 50% complete by the date the Application is submitted. (4 points).
 - Full service grocery store or supermarket
 - Pharmacy
 - Convenience Store/Mini-market
 - Department or Retail Merchandise Store
 - Bank/Credit Union
 - Restaurant (including fast food)
 - Indoor public recreation facilities, such as civic centers, community centers, and libraries
 - Outdoor public recreation facilities such as parks, golf courses, and swimming pools
 - Hospital/medical clinic
 - Medical offices (physician, dentistry, optometry)
 - Public Schools (only eligible for Developments that are not Qualified Elderly Developments)
 - Senior Center
 - Dry cleaners
 - Family video rental (Blockbuster, Hollywood Video, Movie Gallery)

Applicants may receive up to -6 points under this exhibit. Select either Option A or B, as appropriate:

Negative Site Features. Development Sites with the following negative characteristics will have points deducted from their score. For purposes of this exhibit, the term ‘adjacent’ is interpreted as sharing a boundary with the Development Site. The distances are to be measured from all boundaries of the Development Site to all boundaries of the property containing the negative site feature.

- Option A:** I certify that the items selected below are the only negative site features for this Development Site. If it is determined that this Application has failed to note any negative features, double points will be deducted from the score or the Application may be terminated depending on the circumstances (**Select all those site features that are applicable.**)
 - Developments located adjacent to or within 300 feet of junkyards will have a 1 point deducted from their score.
 - Developments located adjacent to or within 300 feet of active railroad tracks will have 1 point deducted from their score, unless the Applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail. Rural Developments funded through TRDO-USDA are exempt from this point deduction.
 - Developments located adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants will have 1 point deducted from their score.

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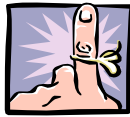
Volume 3, Tab 22

PROXIMITY OF SITE TO AMENITIES (§50.9(i)(23)(A) and (B))

- Developments located adjacent to or within 300 feet of a solid waste or sanitary landfill will have 1 point deducted from their score.
- Developments where the buildings are located within the fall line of high voltage transmission power lines will have 1 point deducted from their score.
- Developments where buildings are located within the accident zones or clear zones for commercial or military airports will have 1 point deducted from their score.

OR

- Option B:** I certify that none of the negative site features listed above exist for this Development Site. If it is determined that this Application has failed to note any negative features, double points will be deducted from the score or the Application may be terminated, depending on the circumstances.



REMEMBER TO SUBMIT YOUR EVIDENCE BEHIND THIS FORM

Compliance Monitoring Policies and Procedures

By Sara Newsom



This year the Department updated and approved rules for housing programs administered by the Department. Housing Tax Credits, Housing Trust Fund, HOME and the Tax Exempt Bond programs all have administrative rules covering Department policy and procedural rules that also include requirements set by the Texas legislature. These administrative rules are requirements in addition to the program's federal or state regulations. This massive update of rules consolidated the compliance procedures from each program into one set of rules under Section 60.1 of the Texas Administrative Code titled Compliance Monitoring Policies and Procedures. The compliance monitoring rules are available on the Department's web site at:

<http://www.tdhca.state.tx.us/pdf/comp/03-RulesBlackline-030915.pdf>.

The Compliance Monitoring Rules standardize processes across all housing programs. The consolidation created changes for some of the rental developments monitored by the Department.

All housing programs are now required to submit the Fair Housing Sponsor Report. Section 2306.0724 requires owners of each housing development receiving financial assistance (including Housing Tax Credits) from the Department to submit the Fair Housing Sponsor Report annually. The report is due March 1 of each year and contains four sections.

- Part A Owner's Certification of Program Compliance. Each housing program requirements are individually addressed in specific areas of the certification.

- Part B Unit Status Report. The USR conveys tenant information to the Department. This is the first year to report tenant data. This year, you have the option to submit the data electronically or in hard copy. The Department prefers that you submit the data electronically. Next year tenant data must be submitted electronically.
- Part C Tenant Services Provided Report. Section 2306.254 requires the Department to report services offered residents in developments administered by the Department.
- Part D Owner's Financial Certification. Each housing program requires rental developments to annually submit audited financial information. This report is due April 30th each year to allow time for audit.

Section 1.11 of Texas Administrative Code contains the penalties for failure to submit the Fair Housing Sponsor Report which include:

- Written reprimands for the Executive Director;
- Administrative penalty of \$1,000 for each violation;
- Denial of future requests for Departmental Funding or other assistance and
- Score for the violation under the compliance status system.

The Compliance Monitoring Rules contain additional requirements including:

- Reserve Deposits requirements
- Inspections during the construction period
- Compliance history assessment prior to approval of any project application
- Extends the Compliance Status System scoring methodology to all programs.

Changes to the Tenant Income Certification

By Michael Scherlen

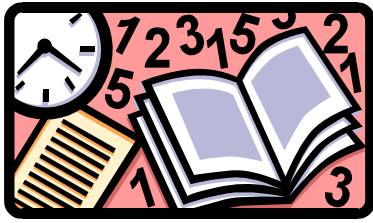
The form is now entitled "Income Certification". The name change is an effort to consolidate forms used by the different Departmental programs.

Ethnic and racial codes have been changed to match HUD reporting requirements. The change has been adopted Department wide for data collection and reporting. **BOTH** ethnic **and** racial codes must be entered for each household member. Ethnic is identified as simply Hispanic or Not Hispanic.

Racial codes now allow either single or multi-race selections. In addition to ethnic and racial categories,

there are "Other Designation" codes which will help us in representing who our programs serve.

The "Other" column is available to note if household member are elderly and/or disabled. These "Other" codes are completed only to characterize the household for the purpose of data collection. Owners should answer yes in the column "Designated Special Needs" if they are required to lease some units to special needs households and have the necessary backup documentation. Please review the third page of the Income Certification to become familiar with the new codes.



Fair Housing Sponsor Report

By Jo En Taylor

Sections 2306.072 and 2306.0724 of Texas Government Code require owners of Developments that received financial

assistance, including Housing Tax Credits, from the Department to submit an annual Fair Housing Sponsor Report. RTC Affordable Housing Program Developments are required under the provision of the Developments Land Use Restriction Agreement (LURA) to submit an annual Certification. The Fair Housing Sponsor Report, Parts A, B and C, are due no later than March first of each year. Part A – Owner’s Certification of Program Compliance is required to be completed for all programs administered by the Department. The Report certifies that Developments met specific program requirements for the preceding 12 month period. The Fair Housing Sponsor Report, Part D – Owner’s Financial Certification is due no later than April 30th of each year. The 2003 Fair Housing Sponsor Report is posted to the Department website at www.tdhca.state.tx.us.

If the Fair Housing Sponsor report is not received, received past due, or if the report is incomplete, improperly completed, or not signed by the owner, the Development will be considered out of compliance with the Department’s Monitoring Policies and Procedures. Failure to submit the Fair Housing Sponsor Report will result in the following specific sanctions from the Department pursuant to Texas Administrative Code, Title 10, Part 1, Chapter 1, Subchapter A, Rule §1.11. For first time violations, the Department will issue a written warning. Continued failure to submit the report could then lead to administrative penalties in an amount equal to \$1,000 for each violation. Multiple, consistent and/or repeated violations for failure to submit the Fair Housing Sponsor Report will result in the denial of future request for Departmental funding. In accordance with §42 of the Internal Revenue Code, Housing Tax Credit Developments that fail to submit the Fair Housing Sponsor report will also be reported to the IRS on Form 8823, Low Income Housing Credit Agencies Report of Non Compliance. In addition to these sanctions, failure to submit the Fair Housing Sponsor Report will result in a compliance score as stated in Texas Administrative Code, Title 10, Part 1, Chapter 60 - Compliance Monitoring Policies and Procedures.

REMINDER:

Notifying the PHA

By Wendy Quackenbush

Housing Tax Credit (HTC) developments that received funds after August 10, 1993 are required annually, during the first quarter of each year, to communicate in writing to the Director of each Section 8 program that has jurisdiction in the property’s geographical area. The communication should include information on the property’s unit characteristics, the rent amounts, and that the property accepts Section 8 vouchers and certificate holders and will treat referrals in a fair and equal manner. A copy of the document is required to be available at the Department’s request and during on-site monitoring reviews.

A copy of the Agency’s Section 8 policy adopted in 2000 is available at www.tdhca.state.tx.us. The article title is Recommendations of Section 8 Task Force to TDHCA on July 18, 2000.



STAFF CHANGES

By Dolores Jones

The Compliance Monitoring (CM) Section of the Portfolio Management & Compliance Division welcomed the following new team members in 2003.

Dolores Jones became a member of the CM team in March. Dolores’ career with TDHCA began in 2001 and her background includes experience as a HTC Planner and HOME Program Coordinator. Dolores was previously employed as an Occupancy Specialist with a HUD Contract Administrator. Dolores is a veteran in State Government putting 10 years with the State Comptrollers Office and another 14 years with the State of California as an analyst.

Michael Garrett joined TDHCA and the Compliance Division in April 2003. He was formerly employed as an Asset Manager with a HUD contract administrator, a change made after a long career in retail management. In addition to property monitoring, Mike is helping facilitate the implementation of the Compliance Monitoring Tracking System (CMTS).

Sylvia Mendez is the newest addition. Sylvia spent the majority of her career (27 years) working for the San Antonio Housing Authority in the Section 8 and HOPE IV Programs, in addition to the Admissions & Occupancy office. Sylvia is a certified Public Housing Manager and has an Associates Degree in Public Administration.

HUD Changes

By Patricia Murphy

In June 2003, HUD released changes to their 4350.3 handbook. This is the "Bible" for determining eligibility under various housing programs including the Housing Tax Credit, HOME, Tax-Exempt Bond, Affordable Housing Disposition and Housing Trust Fund Programs. Owners and managers need to be aware of the changes and implement them accordingly.

Readers of the new manual need to keep in mind that although our housing programs use the 4350.3 for determining what counts as income and assets and for guidance in other areas, not all areas of the manual are relevant to Department programs.

For example, the new HUD handbook suggests that there is more than one method for annualizing household income. The handbook allows managers to annualize current circumstances *only*, even when there is a known change and then, complete an interim certification when the change occurs. While this makes sense for the Section 8 program, TDHCA programs do not have interim certifications; therefore, it is not an appropriate or acceptable method for annualizing income. **TDHCA will continue to annualize income based on current circumstances unless there is documentation of a change.**

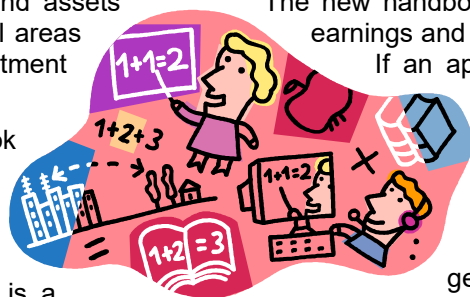
One notable change to the HUD 4350.3 concerns income from assets. The new HUD 4350.3 includes as

income regular and periodic withdrawals from retirement, annuity and other investment accounts in a new way. The handbook instructs us to **count regular, periodic withdrawals from these types of accounts as income only after the applicant/tenant has withdrawn all of their original investment.** However, if the applicant or resident cannot provide documentation of the amount originally invested, you must count the regular periodic withdrawals as income.

The new handbook excludes from income incremental earnings and benefits earned in **training programs.**

If an applicant or household member is in a training program, either through a government or private training program, do not count as income their wages earned during the training period. The program must have clearly defined goals and generally should not exceed one year.

The HUD handbook continues to require third party verification of income and suggests that first hand documentation of income cannot be used until all attempts to obtain first hand documentation have been exhausted. TDHCA sees many benefits of first hand documentation, such as check stubs and does not require owners to first attempt to obtain third party written verifications. **Both check stubs and employment verification forms are acceptable verifications of income. However, there are times when check stubs are preferable.**



Applicant Income and Child Support

By Michael Garrett



One of the more misunderstood compliance issues seen in recent monitoring is how and when child support is counted in an applicant's qualifying income. The revised HUD Manual 4350.3 clarifies verification and calculation of child support income: chapter 5, Section 6-E discusses income from alimony or child support and acceptable forms of verification are listed in Appendix 3.

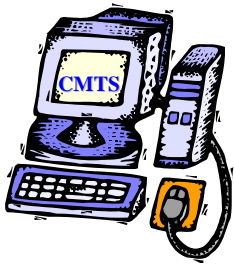
Child support amounts are counted as income when determining eligibility and must be verified. Be sure to include both the awarded amount of support and any additional court ordered payments for amounts in arrears. Acceptable forms of verification to document support payments include a copy of a separation or divorce decree or

other court document indicating type, amount and payment schedule of child support awarded or a written statement by the non custodial parent indicating type, amount, and payment schedule. If written verification is not possible, documented telephone or in-person contact with the non-custodial parent to determine the amount, and payment schedule for support is acceptable. In the case of last resort, a notarized statement or self affidavit from the party receiving support may be used.

Court ordered child support must be counted as income whether or not the payments are being received unless the applicant certifies that payments are not being made AND that all reasonable legal actions to collect amounts due have been taken, including filing with appropriate courts or agencies

responsible for enforcing payments. Verification of the applicant's efforts to collect awarded child support may be a written statement from the court, attorney, or the appropriate enforcement agency specifying that the custodial parent is making attempt to collect amounts due. The statement should also include the anticipated date of resumption of payments. If third party written verification cannot be obtained, a notarized statement or affidavit from the applicant stating payments are not received and describing collection efforts (which must include filing with courts or agencies responsible for enforcing payments) may be used.

In Texas, the Attorney General is responsible for child support collection. Information on services available is on the web at www.oag.state.tx.us.



Compliance Monitoring and Tracking System (CMTS)

By James Roper

TDHCA is proud to announce the deployment of the new on line reporting system to all of the programs that TDHCA administers. Soon on line reporting will become a requirement, so properties and owners that have not signed up to report online need to register and get setup. To register for online reporting simply go to the TDHCA web site www.tdhca.state.tx.us. Under the PM & Compliance tab on the screen choose online reporting. Under the heading "Set up to Report Online" you will see the required steps. There are two forms that require an original owner's signature: The Electronic Compliance Reporting Filing Agreement and Owner's Designation of Administrator of Accounts. There is also a one time setup procedure requirement that involves filling out a spreadsheet with information about the units on your property and electronically sending that to TDHCA via email. The spreadsheet is in a certain format required by TDHCA and is available for download at the TDHCA site. When completing this task, be sure and download the spreadsheet to your local personal computer and fill it out there. Do not attempt to open the spreadsheet from the web site and email it because it will not be in the right format. Please be very detailed and accurate with the information that you load into this spreadsheet. This will be used to setup the system with unit information for you to begin reporting households online. Detailed written step by step instructions on how to fill out and send the information to TDHCA is available on the website. If you have any questions about this process contact James Roper at 512-475-3907.



Site Evaluations & 8609 Inspections

By Bobbie Grier & Stuart Pace

As part of the agency reorganization that took place last year, the Compliance Monitoring Section of the Compliance Division is now responsible for performing 8609 inspections and Site Evaluations.

Site Evaluations: Whenever the Department receives an application to build or rehabilitate any type of rental housing, a representative from the Compliance Division must visit the site and make an assessment. The Department makes this evaluation based upon certain criteria. Some of the criteria include site appearance; the surrounding neighborhood; proximity to retail shopping, recreational areas, educational facilities, medical facilities; and accessibility to public transportation.

Some of the conditions that could make a site undesirable include close proximity to junk yards, active train tracks, high voltage lines, heavy industrial areas, interstate highways, solid waste/sanitary landfills, and potential flood zones. Other negative characteristics include environmental hazards, contaminated soil, and noxious odors.

8609 Inspections are performed at the same time as the first onsite monitoring visit, for both new construction and rehabilitation of a Housing Tax Credit Developments. The inspection is a necessary step in the Cost Certification process which enables the Department to release the IRS Tax Form 8609 to Owners of the Development.

The 8609 inspection confirms that items committed at the time of application have been provided. Some examples of amenities promised at application include 24 hour pay phones, energy saving devices, computer facilities, swimming pools, day care facilities, dishwashers, ceiling fans in every room and garbage disposals. The Department representative may also photograph many of the construction specifications. The 8609 inspection will be performed in conjunction with the routine physical inspection of the property. It may be helpful to have a staff person present knowledgeable of the property construction in order to assist the Department representative if questions arise.

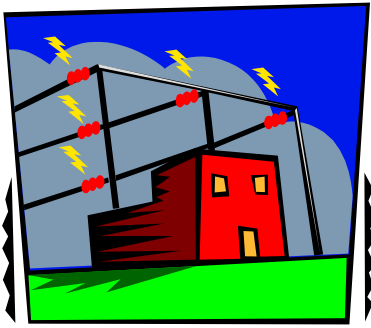
Changes to the Compliance Division

By Jo En Taylor



The Texas Department of Housing and Community Affairs (TDHCA) went through a reorganization process which was implemented in the Spring of 2003. As a result we now have a new name "Portfolio Management and Compliance" (PMC) and a few new duties. PMC is

now responsible for conducting inspections during construction, site inspections, 8609 inspections, reviewing Land Use Restriction Agreements (LURA) and for ensuring that Housing Tax Credit Developments met Commencement of Substantial Construction. PMC looks forward to the new duties and responsibilities.



When determining the maximum rent that an owner may charge, most affordable housing programs require a utility allowance to be taken into consideration. Housing Tax Credit, Tax Exempt Bond, Housing Trust Fund, and HOME Development must account for a utility allowance unless the Development is all bills paid. (RTC Affordable Housing Program Developments do not use a utility allowance.)

Utility allowances are estimates associated with the different types of utilities and their uses. The utilities included for allowances are; electricity, natural gas, propane, fuel oil, wood or coal, water and sewage service, as well as garbage collection. Utility allowances do not include telephone service. Many public housing authorities also list a "base charge" for water, electric or gas. If the resident is responsible for providing the utility, be sure to add any "base charges".

Section 42 of the tax code provides some guidance for obtaining an acceptable utility allowance. Developments that participate in both the section 515 Rural

Utility Allowances

By Patricia Murphy & Ramona Dever

Development and Housing Tax Credit programs must determine the utility allowance in accordance with the 515 program. Similarly, properties that participate in HUD project based programs and the Housing Tax Credit program must use the allowance from HUD. All other developments can either use the utility allowance provided by the local public housing authority or obtain an estimate from the local utility provider.

Several areas of the State have more than one Public Housing Authority that services the area and publish varying utility allowances. In such a case, the utility allowance selected must be the one that most closely reflects the actual utility costs in the development area. Documentation from the local utility provider supporting the selection must be provided.

Some areas of the State do not have a local Housing Authority. In that case, the TDHCA Section 8 program can provide a utility allowance.

A Housing Tax Credit development may also elect to obtain an estimate from a utility provider. However, a word of caution with selecting this method: the estimate must actually be the estimation of the utility company. A utility company agreeing with your estimation is not

the same thing! An estimate from a consultant is not an acceptable utility allowance under this section of the tax code. Also keep in mind that the utility allowance must be updated annually and the IRS did not intend for owners to switch back and forth between local estimates and Public Housing Authority estimates. If you opt for a local estimate, be aware that you must get annual updates.

Utility Allowances play a vital role in establishing the correct amount of rent that may be charged for program units. To correctly establish the maximum amount of rent allowable for a unit; one must always subtract the correct utility allowance amount by unit size from the appropriate rent limit. The result is the maximum amount that may be charged as rent. Should the calculated utility allowance not be a whole dollar amount, it is a wise practice to always round **up** to the next highest dollar before subtracting from the published rent limits. Rounding down when charging the maximum allowable rent could result in overcharging rents by a small amount each month.

Whichever method your property decides to use, be sure that the utility allowance documentation is available for review during onsite monitoring visits. If you have any questions concerning utility allowances, please contact Patricia Murphy at (512) 475-3140.



COMPLIANCE COMEDY

By Patricia Murphy

Compliance monitoring is a laugh a minute, Right? Well, not always, but we do come across some pretty funny things in our jobs.....

While reviewing a resident file I noticed that an applicant listed his job as a preacher at a local church. In the spot on the application for supervisor's name he wrote "Jesus".

During a physical inspection, I came across a resident that did not speak English. I incorrectly assumed that she spoke Spanish and tried to communicate with my limited español. The manager explained to me that the resident spoke Russian. So, the 2 of us stood there and kept trying to explain that we were here for an inspection. After a few minutes, she smiled and invited us in, rolling up her sleeve for her injection. Apparently the property offered flu shots as part of their social services program!

UNIT VACANCY RULE

By Julie Cantu



All Tax Exempt Bond and Housing Tax Credit (HTC) developments must comply with the Unit Vacancy Rule. If a low-income resident moves out, owners/managers may continue to count the vacated unit towards the set aside as long as the property is actively marketing their units to low-income households. Some examples of appropriate marketing include:

- Adopting and implementing an affirmative marketing plan;
- A resident referral program;
- Contacting the public housing authority and request referrals;
- Rent Concessions and Incentives;
- Open Houses;
- Outreach to Community Organizations for referrals;
- Advertising in print, radio or internet.

To comply with the Unit Vacancy Rule and maintain the property's low-income occupancy, it is imperative that all Housing Tax Credit and Bond properties continuously and actively market their developments to low-income households and:

- Always maintain the required number of low income units. Never lease more market units that allowed.
- Qualify a unit that is not currently a low income unit but is occupied by a low income resident; or
- Fill another vacant unit of comparable or smaller size with a low income resident.

The Department requires that Property staff maintain documentation of all advertising and marketing in some type of notebook, which must be available for review by Department staff during onsite visits.

Note that 100% Housing Tax Credit developments should always lease all of their vacancies to low-income households.

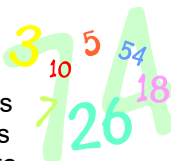
If a Housing Tax Credit or Tax Exempt Bond development has low-income vacancies and fails to market to low-income households, they run the risk of violating the Unit Vacancy Rule. If such a development leases an available unit of comparable or smaller size to an ineligible household, their low-income vacancies may no longer qualify under the program set aside requirements.

Compliance Status Scoring

By Jo En Taylor

The Department has made some scoring changes which have increased the score of some Developments and decreased the score of others. Developments which have received an allocation of housing tax credits or participate in any of the Departmental housing programs are scored according to the type and number of non-compliance events. The majority of non-compliance events are a result of findings associated with an on-site audit; however, non-compliance events can also be related to other issues such as defaulting on payments of Departmental loans, not providing amenities for which points were received by an applicant or failing to submit the annual Fair Housing Sponsor Report.

Outstanding (uncorrected) non-compliance issues carry a higher score than corrected issues. Corrected events remain as a scoring item for three years after the corrected date. This year failing to submit the annual Fair Housing Sponsor Report will



result in an uncorrected score of 10 and corrected score of 3 points.

A Development with a compliance score of 30 or above is considered in "Material Non-Compliance". The Department will disqualify any future applications for funding if the Applicant, Development Owner, General Contractor, or any affiliate of the Applicant, Development Owner or General Contractor is active party in the ownership or has a controlling interest in a low income housing Development located in or outside of the State of Texas that is determined by the Department to be in "Material Non-Compliance". Currently, there are 154 Developments in the Department's Compliance Status System with a score of 30 or above.

Refer to Section 60.1 of Texas Administrative Code - Compliance Monitoring Policies and Procedures for further information regarding Material Non-Compliance and values assigned to issues of non-compliance.

2004 Compliance Training Schedule

By Jo En Taylor



The 2004 Compliance Training Schedule is available on the web at www.tdhca.state.tx.us under the "What's New" section of the main page. The training is open to owners, management staff and on-site personnel responsible for ensuring compliance with the rules and regulations of the Department's housing programs. The Compliance Monitoring Section offers training in "key" cities in Texas for the Housing Tax Credit (HTC), RTC Affordable Housing Program (AHP) and the HOME Investment Partnership Program. In addition, compliance training for BOND Developments which received TDHCA funding is available. The website offers the convenience of registering on-line for HTC, AHP and HOME training classes. The registration for BOND training is handled directly with TDHCA BOND Developments.

New Compliance Training Policies were implemented in the Fall of 2003, the most significant change is that substitutions are not longer accepted. A complete review of the Policies is available on the TDHCA website.

Additional HTC Compliance Training Classes are available through the Texas Apartment Association (TAA). TAA sponsored a couple of our 2003 HTC Classes and has offered to sponsor a few more in 2004 (tentative dates in March, June and July). Classes are conducted by the TDHCA training staff and cover the same information presented in a TDHCA Compliance Training Class. For information on the availability of the training classes and registration, visit www.taa.org. The Compliance Monitoring Section would like to **THANK** TAA for being a sponsor.



Staff Information

Below is a complete listing of the Compliance Monitoring staff with telephone numbers and email addresses. As always, staff is available to answer your questions. However, please keep in mind the responsibility of the Compliance Division is to monitor the long-term compliance regulations and provide information, in addition to training for the various housing programs administered by the TDHCA.

Compliance Monitors are tasked with ensuring that tenants are income eligible and the rents comply with limits established according to the specific housing funding programs, i.e. Housing Tax Credit, HOME, Tax Exempt Multifamily, Housing Trust Fund and Affordable Housing Disposition Program.

TDHCA and the Compliance Division do not have the authority to address landlord or tenant issues which are outside the scope of our responsibility. The below information is for internal use only and not for publication or distribution to residents.

**CM STAFF TELEPHONE (512 Area Code) & EMAIL ADDRESSES
or toll free in Texas at (800) 643-8204**

Bobbie Grier	475-2573	bobbie.grier@tdhca.state.tx.us
Dolores Jones	475-4603	dolores.jones@tdhca.state.tx.us
Doris Ballard	475-3936	doris.ballard@tdhca.state.tx.us
Jo En Taylor	475-4972	jo.taylor@tdhca.state.tx.us
James Roper	475-3907	james.roper@tdhca.state.tx.us
Julie Cantu	475-0430	julia.cantu@tdhca.state.tx.us
Lora Lange	475-0036	lora.lange@tdhca.state.tx.us
Melinda Badgley	475-3868	melinda.badgley@tdhca.state.tx.us
Michael Garrett	475-3847	michael.garrett@tdhca.state.tx.us
Michael Scherlen	475-3812	michael.scherlen@tdhca.state.tx.us
Patricia Murphy	475-3140	patricia.murphy@tdhca.state.tx.us
Ramona Dever	475-4608	ramona.dever@tdhca.state.tx.us
Sara Carr Newsom	475-0407	sara.newsom@tdhca.state.tx.us
Stuart Pace	475-4515	stuart.pace@tdhca.state.tx.us
Sylvia Mendez	475-1971	sylvia.mendez@tdhca.state.tx.us
Ty Myrick	475-3821	ty.myrick@tdhca.state.tx.us
Wendy Quackenbush	305-8860	wendy.quackenbush@tdhca.state.tx.us



2012 Email

Alyssa Carpenter <ajcarpen@gmail.com>

Undesirable feature questions

Jean Latsha <jean.latsha@tdhca.state.tx.us>

Mon, Nov 26, 2012 at 1:57 PM

To: Alyssa Carpenter <ajcarpen@gmail.com>, Cameron Dorsey <cameron.dorsey@tdhca.state.tx.us>, Jean Latsha <Jean.Latsha@tdhca.state.tx.us>

Cc: Sarah Anderson <sarah@sarahandersonconsulting.com>

Of course I hesitate to make any formal determinations regarding a site at this point (with no rules formally in place), especially without seeing the particulars. That being said, it sounds like from your email that this is neither a landfill nor a heavy industrial site and would not be ineligible under 10.101(a)(3)(A) or (C). However, it sounds like it's possible that the site could be found unacceptable under 10.101(a)(3)(H) of the proposed rules. As soon as the application acceptance period opens we will be able to give more formal determinations regarding any possible unacceptable site features.

Hope that helps,

Jean

From: Alyssa Carpenter [mailto:ajcarpen@gmail.com]**Sent:** Monday, November 26, 2012 10:49 AM**To:** Cameron Dorsey; Jean Latsha**Cc:** Sarah Anderson**Subject:** Undesirable feature questions

Hi, Cameron and Jean:

I have a question about a possible undesirable feature. There was an application last year that was fairly close to a city transfer station, which is a place where people can pay to drop off trash; however, it isn't a landfill. According to the website, they don't accept hazardous materials (among other things) and I am assuming that the trash is sorted at this facility and then trucked to the landfill (people can also drop off trash there too, but it's farther out of town). The facility is in the middle of town and across the street from a Walmart on one side and a Kohls on another.

The Undesirable Site Features says that you can't have a site within 300 ft of "a solid waste or sanitary landfills." Even though it is not expressly a landfill, would a transfer station fall under this definition?

Undesirable Area Features now says that "heavy industrial use" must be disclosed within 1000 ft. Would this transfer station be considered heavy industrial according to TDHCA? The city zoning for the site is light industrial.

Thanks!

Regards,

Alyssa Carpenter



2013 Email

Alyssa Carpenter <ajcarpen@gmail.com>

undesirable area feature question

Jean Latsha <jean.latsha@tdhca.state.tx.us>

Wed, Nov 13, 2013 at 4:58 PM

To: Alyssa Carpenter <ajcarpen@gmail.com>, Jean Latsha <Jean.Latsha@tdhca.state.tx.us>, Cameron Dorsey <cameron.dorsey@tdhca.state.tx.us>

After just a small amount of digging it does look like there is a clear distinction between this type of landfill and a solid waste landfill, but I also pretty quickly came across a report on the EPA website that states the following:

C&D debris also contains wastes that may be hazardous. The source documents identify a number of wastes that are referred to using such terms as "hazardous," "excluded," "unacceptable," "problem," "potentially toxic," or "illegal." It is not necessarily true that all of these wastes meet the definition of "hazardous" under Subtitle C of RCRA, but they provide an indication of the types of hazardous wastes that may be present in the C&D waste stream.

They can be divided into four categories: Excess materials used in construction, and their containers. Examples: adhesives and adhesive containers, leftover paint and paint containers, excess roofing cement and roofing cement cans;

Waste oils, grease, and fluids. Examples: machinery lubricants, brake fluid, form oil, engine oil;

Other discrete items. Examples: batteries, fluorescent bulbs, appliances; and

Inseparable constituents of bulk items. Examples: formaldehyde present in carpet, treated or coated wood.

This at minimum would seem to invite a challenge and would prompt me to discuss it a little more with Cameron and Tim before making a determination. If you decide to pursue it, let me know and I'll give it some additional time.

-----Original Message-----

From: Alyssa Carpenter [mailto:ajcarpen@gmail.com]

Sent: Wednesday, November 13, 2013 2:39 PM

To: Jean Latsha; Cameron Dorsey

Subject: undesirable area feature question

Hi, Jean and Cameron:

I am looking at a site that somewhat backs to a construction and demolition landfill. For the undesirable area feature that states, "Developments located adjacent to or within 300 feet of a solid waste or sanitary landfills," does a construction and demolition landfill meet this definition? It doesn't appear to take household trash or hazardous waste, so I wasn't sure. I don't know the difference between landfills.

Here is a link to the landfill in question:

<http://www.sprintcos.com/landfill/>.

Regards,

Alyssa Carpenter

Concrete Facility
with 5RR permit

899	MSW-NOI	LIVING EARTH	100448	5RR	ACKNOWLEDGED	06/08/2016	ACTIVE	RN100576974	HARRIS	REGION 12 - HOUSTON	10310 BEAUMONT HWY	HOUSTON	TX	77078	4912
900	MSW-NOI	CHRISMAN YARD	100455	5RR	ACKNOWLEDGED	09/22/2016	ACTIVE	RN103728242	HARRIS	REGION 12 - HOUSTON	14329 CHRISMAN RD	HOUSTON	TX	77039	1508
901	MSW-NOI	LOCKWOOD YARD	100456	5RR	ACKNOWLEDGED	10/12/2016	ACTIVE	RN106274624	HARRIS	REGION 12 - HOUSTON	600 LOCKWOOD DR	HOUSTON	TX	77011	1012
902	MSW-NOI	TANNER YARD	100457	5RR	ACKNOWLEDGED	10/13/2016	ACTIVE	RN102913233	HARRIS	REGION 12 - HOUSTON	10360 TANNER RD	HOUSTON	TX	77041	7402
903	MSW-NOI	WILCREST YARD	100458	5RR	ACKNOWLEDGED	10/12/2016	ACTIVE	RN105620025	HARRIS	REGION 12 - HOUSTON	3901 WILCREST	HOUSTON	TX	77072	
904	MSW-NOI	SAN LEON YARD	100459	5RR	ACKNOWLEDGED	10/12/2016	ACTIVE	RN107753972	GALVESTON	REGION 12 - HOUSTON	5200 27TH STREET	SAN LEON	TX	77539	
905	MSW-NOI	SOUTH MAIN CONCRETE PLANT	100460	5RR	ACKNOWLEDGED	10/03/2016	ACTIVE	RN101858355	HARRIS	REGION 12 - HOUSTON	5001 GASMER DR	HOUSTON	TX	77035	5711
906	MSW-NOI	LIBERTY YARD	100461	5RR	ACKNOWLEDGED	10/03/2016	ACTIVE	RN102643939	HARRIS	REGION 12 - HOUSTON	6519 LIBERTY RD	HOUSTON	TX	77028	5805
907	MSW-NOI	QUALITY MATERIALS	100462	5RR	ACKNOWLEDGED	09/20/2016	ACTIVE	RN106223977	MONTGOME	REGION 12 - HOUSTON	20 SHERBROOK CIR	CONROE	TX	77385	7730
908	MSW-NOI	CHANNELVIEW YARD	100463	5RR	ACKNOWLEDGED	10/03/2016	ACTIVE	RN102742954	HARRIS	REGION 12 - HOUSTON	15015 EAST FWY	CHANNELVIEW	TX	77530	4101
909	MSW-NOI	EAST ALMEDA FACILITY	100464	5RR	ACKNOWLEDGED	10/03/2016	ACTIVE	RN105147862	HARRIS	REGION 12 - HOUSTON	2350 BELLFORT ST	HOUSTON	TX	77051	1172

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Central Registry

The Customer Name displayed may be different than the Customer Name associated to the Additional IDs related to the customer. This name may be different due to ownership changes, legal name changes, or other administrative changes.

Detail of: **Municipal Solid Waste Processing Registration 100458**

For: **WILCREST YARD (RN105620025)**

3901 WILCREST, HOUSTON

Registration Status: **ACTIVE**

Held by: **SOUTHERN CRUSHED CONCRETE LLC (CN603079401)** [View 'Issued To'](#)

History

N/A Since 11/20/2001 [View Compliance History](#)

Mailing Address: 9303 NEW TRAILS DR STE 200 THE WOODLANDS, TX 77381 -5020

Legal	Description	Start Date	End Date	Type	Status	Status Date
100458	MSW NOI	07/21/2016		NOTIFICATION	ACKNOWLEDGED	10/12/2016

Tracking No.	Type	Value	Start Date	End Date
20741201	PROJECT MANAGER	TANJUM	07/21/2016	

Physical	Description	Start Date	Type	Status	Status Date
WILCREST YARD		07/21/2016	5RR	ACTIVE	10/12/2016

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Explanation of Municipal Solid Waste Data Fields




TCEQ Municipal Solid Waste Permits Section
Revised September 2015

Introduction

This document explains the data fields that appear in municipal solid waste (MSW) data files available for download from the TCEQ website at:

Data on Municipal Solid Waste Facilities in Texas
<http://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw-data>

The data files that are currently available are:

- [msw-facilities-texas.xls](#)  — A spreadsheet listing issued permits and other authorizations as well as pending applications for **MSW landfills and processing facilities that are active, inactive, or not yet constructed**. Data fields include facility name and type; permit, registration, or notification number; authorization status; facility physical status; and location information.
- [msw-closed-facilities-texas.xls](#)  — A spreadsheet listing issued and revoked permits and other authorizations for **MSW landfills and processing facilities that have closed, and applications that were withdrawn or denied**. Data fields include facility name and type; permit, registration, or notification number; authorization status; facility physical status; and location information.
- [msw-unum-texas.xls](#)  — A spreadsheet of historical information listing **old, closed unnumbered MSW landfills** that were operated before permits were required, as well as unauthorized landfills and miscellaneous illegal dumps and disposal sites. See our [Inventory of Closed Municipal Solid Waste Landfills](#) page for information about why this information was collected and how it is used.

Explanation of Data Fields

Explanations of data fields in MSW data files are provided in tables below.

Table 1. Data fields in files *msw-facilities-texas.xls* and *msw-closed-facilities-texas.xls* (fields are listed in the order that they appear in the data files).

Field Name	Explanation
Program	Value is "MSW" or "MSW-NOI" for municipal solid waste
Site Name	The name of the facility

Field Name	Explanation																																								
Additional ID	<p>The MSW authorization number. Authorization numbers are assigned according to the facility type. MSW facility types are described in rule in 30 TAC §330.5 (in MSW rules, permits, and other formal documents, facility types are identified using roman numerals).</p> <table border="1" data-bbox="472 302 1511 1860"> <thead> <tr> <th data-bbox="505 323 737 359">Number Range</th> <th data-bbox="769 323 1463 359">Facility Type</th> </tr> </thead> <tbody> <tr> <td data-bbox="586 369 737 401">1 - 8999</td> <td data-bbox="769 369 1479 485">Landfill Facility (Type 1, 1AE, 2, 3, 4, and 4AE; "AE" designates an arid-exempt facility; landfill Types 2 and 3 are historical types that were required to upgrade to Type 1 standards, or to close and install final cover)</td> </tr> <tr> <td data-bbox="537 789 737 821">9000 - 9999</td> <td data-bbox="769 506 1479 842">Permitted Medical Waste Processing Facility with Autoclave Type 5AC Permitted Liquid Waste Processing Facility (Type 5GG) Permitted Medical Waste Processing Facility (Type 5MW) Permitted Composting Facility (Type 5RC) Permitted Transfer Station (Type 5TS) Medical Waste Processing Facility with an Incinerator (Type 5WI) (facility may also have autoclave) Landfill Permit by Rule for Demolition Waste from Nuisance or Abandoned Buildings ("Monofill")</td> </tr> <tr> <td data-bbox="521 852 737 884">40000 - 41999</td> <td data-bbox="769 852 1479 915">Registered Transfer Station (Type 5TS) Liquid Transfer Station (Type 5TL)</td> </tr> <tr> <td data-bbox="521 1062 737 1094">42000 - 42999</td> <td data-bbox="769 926 1479 1083">Medical Waste Processing Facility with Autoclave Type 5AC Medical Waste Processing Facility (Type 5MW) Medical Waste Processing Facility with an Incinerator (Type 5WI) (facility may also have autoclave) Registered Composting Facility (Type 5RC)</td> </tr> <tr> <td data-bbox="521 1104 737 1136">43000 - 43999</td> <td data-bbox="769 1104 1430 1136">Registered Liquid Waste Processing Facility (Type 5GG)</td> </tr> <tr> <td data-bbox="521 1146 737 1178">47000 - 47999</td> <td data-bbox="769 1146 1349 1199">Notice of Intent to Operate A Composting Facility (Type 5RC)</td> </tr> <tr> <td data-bbox="521 1209 737 1241">48000 - 49999</td> <td data-bbox="769 1209 1430 1241">Registered Beneficial Gas Recovery Facility (Type 9GR)</td> </tr> <tr> <td data-bbox="521 1251 737 1283">61000 - 61999</td> <td data-bbox="769 1251 1430 1283">Registered Mobile Liquid Waste Processors (Type 5GM)</td> </tr> <tr> <td data-bbox="521 1293 737 1325">62000 - 62999</td> <td data-bbox="769 1293 1430 1325">Enclosed Structure Over Closed Landfill, Permitted (CP)</td> </tr> <tr> <td data-bbox="521 1335 737 1367">65000 - 65100</td> <td data-bbox="769 1335 1446 1367">Enclosed Structure Over Closed Landfill, Registered (CR)</td> </tr> <tr> <td data-bbox="505 1377 737 1409">100000 -</td> <td data-bbox="769 1377 1463 1430">Notice of Intent to Operate a Recycling Facility (Type 5RC and 5RR)</td> </tr> <tr> <td data-bbox="505 1440 737 1472">110000 -</td> <td data-bbox="769 1440 1479 1493">Notice of Intent to Operate a Low-Volume Transfer Station (Type 5LV)</td> </tr> <tr> <td data-bbox="505 1503 737 1535">120000 -</td> <td data-bbox="769 1503 1430 1556">Notice of Intent to Operate a Citizens Collection Station (Type 5CC)</td> </tr> <tr> <td data-bbox="505 1566 737 1598">130000s -</td> <td data-bbox="769 1566 1187 1598">Registered Scrap Tire Transporters</td> </tr> <tr> <td data-bbox="505 1608 737 1640">140000s -</td> <td data-bbox="769 1608 1170 1640">Registered Scrap Tire Generators</td> </tr> <tr> <td data-bbox="505 1650 737 1682">150000s -</td> <td data-bbox="769 1650 1300 1682">Registered Scrap Tire Transportation Facility</td> </tr> <tr> <td data-bbox="505 1692 737 1724">160000s -</td> <td data-bbox="769 1692 1187 1724">Registered Scrap Tire Storage Site</td> </tr> <tr> <td data-bbox="505 1734 737 1787">170000s -</td> <td data-bbox="769 1734 1463 1787">Registered Scrap Tire Facility (includes processor, recycler and energy recovery facility)</td> </tr> <tr> <td data-bbox="505 1797 737 1850">180000s - 999999</td> <td data-bbox="769 1797 1463 1850">Land Reclamation Project Using Tires (LRPUT) Notification Miscellaneous Communications</td> </tr> </tbody> </table>	Number Range	Facility Type	1 - 8999	Landfill Facility (Type 1, 1AE, 2, 3, 4, and 4AE; 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Physical Type	MSW facility type, explained further in the explanation of the Additional ID field. MSW facility types are described in rule in 30 TAC §330.5 .																																								

Field Name	Explanation
Legal Status	Status of the MSW authorization. May be Issued, Pending, Revoked, Withdrawn, or Denied
Physical Site Status	Facility operational status May be Active, Inactive, Not Constructed, Closed, or Post Closure
RN	Regulated Entity Reference Number assigned to a facility by TCEQ
County	Name of the county in which a facility is located. If a facility is in more than one county, the database will indicate the name of the county in which the facility entrance is located.
Region	TCEQ Region. For more information about TCEQ regions, see our Region Directory <www.tceq.texas.gov/goto/region>.
Phys Addr. Line 1	Physical address of the facility
Phys Addr Line 2	Physical address of the facility
Phys Addr City	Physical address of the facility
Phys Addr State	Physical address of the facility
Phys Addr Zip	Physical address of the facility
Phys Addr Zip+4	Physical address of the facility
Near Phys Loc Txt	Generalized description of the facility location
Near Phys Loc City	Name of city nearest the facility
Near Phys Loc State	State in which nearest city is located
Near Phys Loc Zip	Zip code for city nearest the facility
Latitude	Latitude in decimal degrees of facility (may be for site permanent benchmark, gate, facility centroid, or other point)
Longitude	Longitude in decimal degrees of facility (may be for site permanent benchmark, gate, facility centroid, or other point)

Table 2. Data fields in file *msw-unum-texas.xls* (fields are listed in alphabetical order).

Field Name	Explanation
ACCURACY	Code for landfill coordinate source: 1 - TNRCC files; 2 - Geocoded at Southwest Texas State University (SWTSU) from good location information, high confidence level; 3 - Geocoded at SWTSU from very general location information, low confidence level; 4 - no coordinates available
AGRICULTUR	If Y, facility accepted agricultural waste
BRUSH	If Y, facility accepted brush
CNTY_NAME	Texas county name where site is located
COG	Texas Council of Government code
COMMENTS	General comments about the facility
CONST_DEMO	If Y, facility accepted waste from construction demolition
COOR_CD	Code used to identify the source of the coordinate data
DATE_CLOSE	Date landfill closed
DATE_OPEN	Date landfill opened
DEPTH_CD	Code used to identify the source of the maximum depth data

Field Name	Explanation
FINAL_COV	If Y, final cover has been applied
HAZ_CERT	If Y, certain that hazardous waste was accepted
HAZ_PROB	If Y, probable that hazardous waste was accepted
HAZ_UNLIKE	If Y, unlikely that hazardous waste was accepted
HOUSEHOLD	If Y, facility accepted household waste
INDUSTRIAL	If Y, facility accepted industrial waste
INSPECTION	Last date of inspection, inspection comments
LATIT_DD	Landfill latitude in decimal degrees
LATIT_DEG	Landfill latitude in degrees-minutes format, degree portion
LATIT_MIN	Landfill latitude in degrees-minutes format, minute portion
LEGAL	If Y, landfill is (or was) a permitted facility
LOCATION	Physical location or address of unauthorized facility
LONGI_DD	Landfill longitude in decimal degrees
LONGI_DEG_	Landfill longitude in degrees-minutes format, degree portion
LONGI_MIN	Landfill longitude in degrees-minutes format, minute portion
MAX_DEPTH	Maximum depth of the landfill
MIN_THICK	Minimum thickness of final cover
OTHER	If Y, facility accepted other types of wastes
OTHER_DES	Description of other types of wastes accepted
OWN_CD	Code used to identify the site owner
OWN_NAME	Land owner name or contact for application
PARTIES	Parties (areas, cities) served by the landfill
REVIEWER	Researchers notes
SITE_NAME1	Name of unauthorized landfill site
SITE_NAME2	Alternate or local name of unauthorized landfill site
SIZE_ACRES	Landfill size in acres
SIZE_CUYDS	Landfill size in cubic yards
SOURCE	Source of information
TIRES	If Y, facility accepted tires
TWC_DIST	Texas Water Commission district code
UNAUTHOR	If Y, landfill is unauthorized
UNUM	Site number assigned at SWTSU for tracking unauthorized landfill sites
UPDATE	Code used to indicate changes that were made to the data as a result of site review and verification process: 0 - no changes; 1 - change to attribute; 2 - change to location; 3 - change to location and attribute; 4 - new record; 5 - contested site; 6 - ?; 7 - ?; 8 - military data
USE	If Y, the land is available for reuse

Active Municipal Solid Waste Landfills in Texas

Type I landfills are authorized to accept municipal solid wastes. Type IV landfills may only accept brush, construction and demolition debris, and rubbish. Type IV landfills may not accept putrescible wastes, conditionally exempt small-quantity generator waste, or household wastes.

Landfills with the designation "AE" in the landfill type are "arid exempt" facilities. AE landfills normally are limited in the amount of waste they are authorized to accept during a year. However, in disaster situations, AE landfills may obtain authorization from the TCEQ to accept amounts greater than the annual limit.

The table below lists active municipal solid waste landfills by county. To find the location of a landfill, conduct a search in TCEQ's [Central Registry](#) system using the facility's *Permit No.* in the *Program ID* field of the search form, and select *Municipal Solid Waste Disposal* in the *Program* field. Available location information will appear in the *Regulated Entity Information* section at the top of the search results page.

Table 1. Active municipal solid waste landfills in Texas, March 2017.

County	Permit No.	Name	Type
ANDREWS	171	CITY OF ANDREWS LANDFILL	1AE & 4AE
ANGELINA	2105A	ANGELINA COUNTY LANDFILL	1
ARMSTRONG	414	ARMSTRONG COUNTY LANDFILL	4AE
BAILEY	2291	CITY OF MULESHOE LANDFILL	1AE
BAILEY	564	CITY OF MULESHOE LANDFILL	4AE
BELL	692A	CITY OF TEMPLE LANDFILL	1
BEXAR	1410C	TESSMAN ROAD LANDFILL	1
BEXAR	2093B	COVEL GARDENS LANDFILL	1
BOWIE	576C	NEW BOSTON LANDFILL	1
BRAZORIA	1539A	SEABREEZE ENVIRONMENTAL LANDFILL	1
BRAZORIA	1708	DIXIE FARM ROAD LANDFILL	4
BREWSTER	1276	PANTHER J LANDFILL	1AE
BREWSTER	2197	CITY OF ALPINE LANDFILL	1AE
BROOKS	379	BROOKS COUNTY LANDFILL	4AE
BROWN	1562A	REGIONAL LANDFILL OF BROWNWOOD	1
CAMERON	1273A	CITY OF BROWNSVILLE LANDFILL	1
CARSON	1164	CITY OF PANHANDLE MUNICIPAL SOLID WASTE LANDFILL	1AE

County	Permit No.	Name	Type
CASTRO	445A	CITY OF DIMMITT MUNICIPAL SOLID WASTE LANDFILL	1AE
CHAMBERS	1502A	CHAMBERS COUNTY LANDFILL	1
CHAMBERS	1535B	BAYTOWN LANDFILL FACILITY	1
CHEROKEE	1614A	ROYAL OAKS LANDFILL	1
CHILDRESS	2263	CITY OF CHILDRESS MUNICIPAL SOLID WASTE LANDFILL	1AE & 4AE
COCHRAN	2268	MORTON MUNICIPAL SOLID WASTE LANDFILL	4AE
COLEMAN	1302	CITY OF COLEMAN LANDFILL	4AE
COLLIN	2294	121 REGIONAL DISPOSAL LANDFILL	1
COLLINGSWORTH	955	CITY OF WELLINGTON LANDFILL	1AE
COLORADO	203A	ALTAIR DISPOSAL SERVICES LLC LANDFILL	1
COMAL	66B	MESQUITE CREEK LANDFILL	1
CORYELL	1866	FORT HOOD LANDFILL	1
CRANE	427	CITY OF CRANE LANDFILL	1AE & 4AE
DALLAM	1038A	CITY OF DALHART LANDFILL	1AE & 4AE
DALLAS	1394B	HUNTER FERRELL LANDFILL	1
DALLAS	1895A	CHARLES M HINTON JR REGIONAL LANDFILL	1
DALLAS	62	MCCOMMAS BLUFF LANDFILL	1
DALLAS	996C	CITY OF GRAND PRAIRIE LANDFILL	1
DAWSON	517A	CITY OF LAMESA LANDFILL	1
DEAF SMITH	215A	CITY OF HEREFORD MUNICIPAL SOLID WASTE LANDFILL	4AE
DENTON	1025B	DFW RECYCLING AND DISPOSAL FACILITY	1
DENTON	1312A	CAMELOT LANDFILL	1
DENTON	1590A	CITY OF DENTON LANDFILL	1
DENTON	1749B	LEWISVILLE LANDFILL	4
DIMITT	2225	CITY OF CARRIZO SPRINGS LANDFILL	1AE
DUVAL	1481	DUVAL COUNTY LANDFILL	4AE
ECTOR	2158	ODESSA LANDFILL	1
EL PASO	1422	FORT BLISS LANDFILL	1
EL PASO	2284	GREATER EL PASO LANDFILL	1
EL PASO	729B	MCCOMBS LANDFILL	1

County	Permit No.	Name	Type
ELLIS	1209B	CSC DISPOSAL AND LANDFILL	1
ELLIS	1745B	ECD LANDFILL	1
ELLIS	42D	SKYLINE LANDFLL & RECYCLING FACILITY	1
ERATH	664	CITY OF STEPHENVILLE LANDFILL	4
FLOYD	2207	CITY OF FLOYDADA LANDFILL	1AE & 4AE
FORT BEND	1505A	BLUE RIDGE LANDFILL	1
FORT BEND	2270	FORT BEND REGIONAL LANDFILL	1
FORT BEND	1797A	FORT BEND COUNTY LANDFILL	4
GAINES	39	CITY OF SEMINOLE LANDFILL	1AE & 4AE
GALVESTON	1149B	GALVESTON COUNTY LANDFILL TX LP	1
GALVESTON	1721A	COASTAL PLAINS RECYCLING AND LANDFILL FACILITY	1
GALVESTON	1849B	NORTH COUNTY LANDFILL	4
GARZA	2227	CITY OF POST LANDFILL	1AE & 4AE
GILLESPIE	1995	CITY OF FREDERICKSBURG LANDFILL	1
GLASSCOCK	2154	GLASSCOCK COUNTY LANDFILL	1AE
GRAY	2238	CITY OF PAMPA LANDFILL	1
GRAY	570	CITY OF MCLEAN LANDFILL	1AE
GRAY	589A	CITY OF PAMPA LANDFILL	4AE
GRAYSON	2290	TASWA SOLID WASTE DISPOSAL AND RECYCLING FACILITY	1
GRAYSON	523B	HILLSIDE LANDFILL AND RECYCLING CENTER	1
GREGG	1327B	PINE HILL FARMS LANDFILL TX LP	1
GRIMES	2292	TWIN OAKS LANDFILL	1
GUADALUPE	1848	BECK LANDFILL NIDO LTD	4
HALE	2157	CITY OF PLAINVIEW LANDFILL	1
HALL	2266	CITY OF MEMPHIS LANDFILL	1AE
HANSFORD	2352	CITY OF SPEARMAN MUNICIPAL SOLID WASTE LANDFILL	1AE
HARDIN	2214A	HARDIN COUNTY LANDFILL	1
HARRIS	1193	WHISPERING PINES LANDFILL	1
HARRIS	1307D	WM ATASCOCITA RECYCLING DISPOSAL FACILITY	1

County	Permit No.	Name	Type
HARRIS	261B	MCCARTY ROAD LANDFILL	1
HARRIS	1301	ADDICKS FAIRBANKS LANDFILL	4
HARRIS	1403	CASCO HAULING AND EXCAVATION LANDFILL	4
HARRIS	1540A	GREENSHADOW LANDFILL	4
HARRIS	1565B	FAIRBANKS LANDFILL	4
HARRIS	1586A	WCT/GREENBELT LANDFILL	4
HARRIS	1599A	GREENHOUSE ROAD LANDFILL	4
HARRIS	1921A	COUGAR LANDFILL	4
HARRIS	2185	HAWTHORNE PARK LANDFILL	4
HARRIS	2240A	RALSTON ROAD LANDFILL	4
HARRIS	2304	TALL PINES DISPOSAL FACILITY	4
HARRIS	2344	DELTA WASTE LANDFILL	4
HASKELL	1604B	CITY OF HASKELL LANDFILL	1AE
HIDALGO	2348	LA GLORIA RANCH LANDFILL	1
HIDALGO	956B	CITY OF EDINBURG LANDFILL	1
HIDALGO	2302	CITY OF EDINBURG TYPE IV LANDFILL	4
HIDALGO	1727A	PENITAS LANDFILL	1AE
HILL	241D	ITASCA LANDFILL	1
HOCKLEY	1733	CITY OF SUNDOWN LANDFILL	4AE
HOCKLEY	2369	CITY OF LEVELLAND	1AE & 4AE
HOWARD	288A	CITY OF BIG SPRING LANDFILL	1
HUDSPETH	495	HUDSPETH COUNTY LANDFILL	1AE & 4AE
HUDSPETH	957A	SIERRA BLANCA LANDFILL	1AE & 4AE
HUNT	1195A	REPUBLIC MALOY LANDFILL	1
JEFFERSON	1486B	CITY OF BEAUMONT LANDFILL	1
JEFFERSON	1815A	CITY OF PORT ARTHUR LANDFILL	1
JEFFERSON	2027	GOLDEN TRIANGLE LANDFILL	1
JIM WELLS	262C	CITY OF ALICE LANDFILL	1
JOHNSON	1417B	TURKEY CREEK LANDFILL	1
JOHNSON	534	CITY OF CLEBURNE LANDFILL	1

County	Permit No.	Name	Type
JONES	1469A	ABILENE LANDFILL TX LP	1
JONES	2325	ABILENE ENVIRONMENTAL LANDFILL INC	1
KERR	1506A	CITY OF KERRVILLE LANDFILL	1
KIMBLE	26B	CITY OF JUNCTION LANDFILL	4AE
KINNEY	2354	FORT CLARK SPRINGS ASSOCIATION INC LANDFILL	1AE
KLEBERG	235B	CITY OF KINGSVILLE LANDFILL	1
LAMAR	2358	BLOSSOM PRAIRIE LANDFILL	1
LAMB	2274	LITTLEFIELD MUNICIPAL LANDFILL	1AE & 4AE
LAMB	583A	CITY OF OLTON LANDFILL	1AE
LAMB	1298	CITY OF LITTLEFIELD LANDFILL	4AE
LAMB	363A	CITY OF AMHERST LANDFILL	4AE
LIMESTONE	1558A	MEXIA LANDFILL	1
LIPSCOMB	1943	CITY OF BOOKER LANDFILL	1AE
LUBBOCK	2252	WEST TEXAS REGIONAL DISPOSAL LANDFILL	1
LUBBOCK	69	CITY OF LUBBOCK LANDFILL	1
LUBBOCK	2323	ZAHN ENTERPRISES	4
LYNN	2328A	CITY OF TAHOKA	1AE
MARTIN	2189	CITY OF STANTON LANDFILL	1AE
MASON	195	CITY OF MASON LANDFILL	1AE
MAVERICK	2316	MAVERICK COUNTY EL INDIO MSW LANDFILL	1
MAVERICK	1918	CITY OF EAGLE PASS AND MAVERICK LANDFILL	4AE
MCCULLOCH	1732	CITY OF BRADY LANDFILL	1AE & 4AE
MCLENNAN	1646A	LACY-LAKEVIEW RECYCLING AND DISPOSAL FACILITY	1
MCLENNAN	948A	CITY OF WACO LANDFILL	1
MCMULLEN	571	MCMULLEN COUNTY LANDFILL	1AE
MENARD	1404	CITY OF MENARD LANDFILL	4AE
MIDLAND	1605B	CITY OF MIDLAND LANDFILL	1
MITCHELL	420A	CITY OF COLORADO CITY LANDFILL	1AE & 4AE
MONTGOMERY	1752B	SECURITY RECYCLING AND DISPOSAL FACILITY	1
MOORE	2279	CITY OF DUMAS LANDFILL	1

County	Permit No.	Name	Type
MOORE	2285	CITY OF DUMAS LANDFILL	4AE
MOTLEY	549A	CITY OF MATADOR LANDFILL	1AE
NACOGDOCHES	720	CITY OF NACOGDOCHES LANDFILL	1
NAVARRO	2190	CITY OF CORSICANA LANDFILL	1
NEWTON	2242A	NEWTON COUNTY REGIONAL SOLID WASTE COMPLEX	1
NOLAN	50B	CITY OF SWEETWATER TYPE IV-AE LANDFILL	4AE
NUECES	2267	EL CENTRO LANDFILL	1
NUECES	2269	CITY OF CORPUS CHRISTI LANDFILL	1
NUECES	2349	GULLEY-HURST LLC	4
OCHILTREE	876A	PERRYTON MUNICIPAL SOLID WASTE LANDFILL	1AE
OLDHAM	791	CAL FARLEYS BOYS RANCH LANDFILL	4AE
PARKER	47A	CITY OF WEATHERFORD LANDFILL	1
PECOS	976	CITY OF FORT STOCKTON LANDFILL	1AE & 4AE
POLK	1384A	POLK COUNTY LANDFILL	1
POTTER	73A	CITY OF AMARILLO LANDFILL	1
PRESIDIO	1737A	CITY OF PRESIDIO LANDFILL	1AE
RANDALL	1663B	SOUTHWEST LANDFILL TX LP	1
REAGAN	86B	CITY OF BIG LAKE LANDFILL	1AE
REEVES	2120	CITY OF PECOS LANDFILL	1AE & 4AE
RUSK	1249B	IESI EAST TEXAS REGIONAL LANDFILL	1
SCHLEICHER	2264	CITY OF ELDORADO LANDFILL	1AE
SCHLEICHER	349	CITY OF ELDORADO LANDFILL	4AE
SCURRY	1463B	CITY OF SNYDER LANDFILL	1
SMITH	1972A	GREENWOOD FARMS LANDFILL	1
STARR	954	CITY OF ROMA LANDFILL	1AE
SWISHER	1009A	CITY OF TULIA MUNICIPAL SOLID WASTE LANDFILL	1AE & 4AE
TARRANT	218C	CITY OF FORT WORTH SE LANDFILL	1
TARRANT	358B	CITY OF ARLINGTON LANDFILL	1
TARRANT	1983C	IESI FORT WORTH C AND D LANDFILL	4
TERRELL	673	TERRELL COUNTY LANDFILL	4AE

County	Permit No.	Name	Type
TERRY	2170	CITY OF BROWNFIELD LANDFILL	1
TERRY	2293	CITY OF MEADOW LANDFILL	1AE
TITUS	797B	PLEASANT OAKS LANDFILL	1
TOM GREEN	79	CITY OF SAN ANGELO LANDFILL	1
TRAVIS	2123	TEXAS DISPOSAL SYSTEMS LANDFILL	1
TRAVIS	249D	WASTE MANAGEMENT OF TEXAS AUSTIN COMMUNITY RECYCLING & DISPOSAL FACILITY	1
TRAVIS	1841A	TRAVIS COUNTY LANDFILL	4
UPTON	566	CITY OF MCCAMEY LANDFILL	4AE
UPTON	691	UPTON COUNTY LANDFILL	4AE
UVALDE	1725	CITY OF UVALDE LANDFILL	1
VAL VERDE	207A	CITY OF DEL RIO LANDFILL	1
VICTORIA	1522A	CITY OF VICTORIA LANDFILL	1
WARD	772	CITY OF MONAHANS LANDFILL	1AE
WEBB	1693B	CITY OF LAREDO LANDFILL	1
WEBB	2286	PONDEROSA REGIONAL LANDFILL	1
WHEELER	2281	CITY OF SHAMROCK MUNICIPAL LANDFILL	1AE
WICHITA	1428A	CITY OF WICHITA FALLS LANDFILL	1
WICHITA	1571A	BUFFALO CREEK LANDFILL	1
WILLIAMSON	1405B	WILLIAMSON COUNTY RECYCLING AND DISPOSAL FACILITY LANDFILL	1
YOAKUM	2217	YOAKUM COUNTY LANDFILL	1AE & 4AE
ZAPATA	783A	ZAPATA COUNTY LANDFILL	1AE & 4AE
ZAVALA	1308A	CITY OF CRYSTAL CITY LANDFILL	1AE
ZAVALA	2303	ZAVALA COUNTY MSWF LANDFILL	1AE

Goodwill MSW permits

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Detail of: ~~Municipal Solid Waste Processing Permit 100278~~

For: **GOODWILL INDUSTRIES OF CENTRAL TEXAS COMPUTER WORK**

(RN104461553)

1015 NORWOOD PARK BLVD, AUSTIN

Permit Status: **ACTIVE**

Held by: **Goodwill Industries of Central Texas (CN602745572)** [View 'Issued To'](#)

[History](#)

N/A Since 08/21/2006 [View Compliance History](#)

Mailing Address: 1015 NORWOOD PARK BLVD AUSTIN, TX 78753 -6608

Legal	Description	Start Date	End Date	Type	Status	Status Date
100278	MSW NOI	07/23/2010		NOTIFICATION	ACKNOWLEDGED	10/12/2010

Tracking No.	Type	Value	Start Date	End Date
14463883	PROJECT MANAGER	ESLONE	07/23/2010	

Physical	Description	Start Date	Type	Status	Status Date
GOODWILL INDUSTRIES OF CENTRAL TX		07/23/2010	5RR	ACTIVE	10/12/2010

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Detail of: ~~Municipal Solid Waste Processing Registration 100490~~

For: **GOODWILL INDUSTRIES OF SAN ANTONIO (RN106793433)**

4810 EISENHAUER RD STE 240, SAN ANTONIO

Registration Status: **PENDING**

Held by: **GOODWILL INDUSTRIES OF SAN ANTONIO (CN600780639)** [View 'Issued To' History](#)

N/A Since 05/11/2017

Mailing Address: 406 W COMMERCE ST SAN ANTONIO, TX 78207 -3102

Legal	Description	Start Date	End Date	Type	Status	Status Date
100490	MSW NOI	05/11/2017		NOTIFICATION	PENDING	05/11/2017

Tracking No.	Type	Value	Start Date	End Date
21673101	PROJECT MANAGER	MBALDE	05/10/2017	

Physical	Description	Start Date	Type	Status	Status Date
GOODWILL INDUSTRIES OF SAN ANTONIO		05/11/2017	5RR	NOT CONSTRUCTED	05/10/2017

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Central Registry

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Detail of: **Municipal Solid Waste Processing Registration 100490**

For: **GOODWILL INDUSTRIES OF SAN ANTONIO (RN106793433)**
 4810 EISENHAUER RD STE 240, SAN ANTONIO

Registration Status: **PENDING**

Held by: **GOODWILL INDUSTRIES OF SAN ANTONIO (CN600780639)** [View 'Issued To' History](#)
OPERATOR Since 05/11/2017

Mailing Address: 406 W COMMERCE ST SAN ANTONIO, TX 78207 -3102

Correspondence Tracking - Detail

Tracking No.	Received/Sent	Direction	Type	Subject	Due Date	End Date	Document Date	Method
21673102	05/11/2017	INCOMING	NEW NOTIFICATION APPLICATION	NOI TO OPERATE A RECYCLING FACILITY	08/09/2017		05/11/2017	USPS

Correspondence Actions

Action Tracking No.	Action	Start Date	End Date
21673103	1 APPLICATION RECEIVED	05/11/2017	
21673104	4 TECHNICAL REVIEW	05/11/2017	

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**Computer Store
MSW permit**

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Detail of: **Municipal Solid Waste Processing Permit 100259**

For: **BASS COMPUTERS (RN105955744)**
10558 BISSONNET ST, HOUSTON

Permit Status: **ACTIVE**

Held by: **Bass Computers, Inc. (CN603693243)** [View 'Issued To' History](#)
N/A [View Compliance History](#)

Now Known As: **Bass Computers Inc.**

Mailing Address: 10558 BISSONNET ST HOUSTON, TX 77099 -2146

Legal	Description	Start Date	End Date	Type	Status	Status Date
100259	MSW NOI	05/24/2010		NOTIFICATION	ACKNOWLEDGED	07/12/2010

Tracking No.	Type	Value	Start Date	End Date
13123914	PROJECT MANAGER	KMCGRUDE	05/24/2010	

Physical	Description	Start Date	Type	Status	Status Date
BASS COMPUTERS INC		05/24/2010	5RR	ACTIVE	07/12/2010

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www.BassComputerRecycling.com

Founded on January 7, 1991, by Mel Hall and Jim Campbell, Bass Computers began as a 2 person company operating in a 100 square foot office. With the loyalty of our customers and the dedication of our team, Bass Computers has greatly expanded throughout the past two decades. Twenty-four years later, our 80+ employees now perform many services in a 56,000 square foot facility.

Bass Computers focuses on providing a positive experience for all of our customers. Our well-trained sales staff and highly-skilled technical team ensure that customers receive the products and support they need and deserve.

And while our commitment to customer satisfaction has remained constant over the years, many other things have changed at Bass Computers. In addition to distribution of computer components, we now offer many other quality products and services.

In 2003, Bass Computers launched our BCI line of computers, servers, and security products. The systems are built at our facility and have a 3 year warranty, giving customers the opportunity to custom-design systems to their specifications. BCI products are quality solutions at competitive prices designed for any application.

Our experience in technology and our new product line paved the way for the creation of our security department. As the security industry continued to grow, Bass Computers began working with many camera and system manufacturers to offer a variety of CCTV products to our customers. In 2011, we began offering our own video management software compatible with most cameras called the BCIVMS.

Recognizing that as technology changes, a sustainable solution is necessary for the obsolete equipment, Bass Computers also invested in the IT asset disposal market in 2007. Bass Computers recycles and refurbishes electronics in an environmentally responsible and secure manner, including servers, notebooks, cables, desktops, electronic parts, memory, hard drives and much more. Our team works with organizations to design a comprehensive solution that maximizes an organizations' return on its IT investment.

We also realize that a great deal of the equipment we pick-up still holds value. Instead of de-manufacturing working equipment, our technicians clean, test, refurbish, and repackage the electronics for resale. Refurbished equipment is a great alternative for our customers to purchase quality technology for 30%-50% less than new equipment. Bass Computers takes pre-owned computers, notebooks, and servers, refurbishes them, and installs genuine Microsoft® software.

In an exciting beginning to 2012, Bass Computers acquired a hard drive shredder! With the vast amount of sensitive information stored on systems today, customers expressed a need for complete destruction of hard drives. We answered and are now excited to be able to provide this secure service to our customers.

For more information regarding our recycling services, please visit our dedicated website at www.BassComputerRecycling.com. You will find a great deal of valuable information regarding our services, our security, and our recycling procedures. To arrange an assessment or discuss our services, please contact our IT Asset Disposal Specialists at 281.776.6762.

Besides providing quality products and services, Bass Computers continues to offer exciting events and promotions for the benefit of our customers. The Bass BBQ is a staple of the Bass experience and continues to be a successful event for our employees, customers, and vendors. We hosted the first Bass BBQ in 1995 for over 100 of our good customers. Many years later, we consistently host almost 1000 people, helping to connect our customers with our vendors. In between the Bi-Annual BBQs, we host webinars presented by our vendors discussing product launches,

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At Bass Computers, we are committed to helping our customers grow their business. We know how important our customers are. When they succeed, we succeed. That is why we are continuously exploring new avenues and activities for the benefit of all of our customers.

Bass Computers has evolved in many ways over the years, but our customers have always come first. That's why after 26 years, we are still "hooked on customer satisfaction."

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June 14, 2017

Mr. Ruben Esqueda
Provision at Wilcrest, LP
2501 North Harwood, Suite 200
Dallas, Texas 75201

Re: **FOLLOW-UP LETTER: PHASE I ENVIRONMENTAL SITE ASSESSMENT**
Northwest Corner of Westpark Tollway and Wilcrest Drive
Houston, Texas 77082
AEI Project No. 368084
Client Reference: Provision at Wilcrest, LP

Dear Mr. Esqueda:

On February 15, 2017, AEI issued a *Phase I Environmental Site Assessment* for the above-referenced property. On June 14, 2017, AEI was contacted by Provision at Wilcrest, LP (client) for additional information regarding the operations being conducted by the east adjacent property, Wilcrest Yard, which is further discussed below.

As discussed in the initial *Phase I Environmental Site Assessment*, the adjacent property to the east is listed as "Wilcrest Yard" and "Southern Crushed Concrete". This is a concrete recycling facility, in which operations and activities on site include collecting and recycling concrete into aggregate materials, as well as the sale of aggregate materials, with no concrete manufacturing or mining on site.

Based on the adjacent facility's operations, as previously discussed in AEI's Phase I ESA prepared on February 15, 2017, the east adjacent property located at 3601 Wilcrest Drive is not expected to represent any significant environmental concern at this time. After a review of the regulatory database and based on observations made during the original site reconnaissance in February 2017, there appear to be no immediate health or safety hazards associated with the activities being performed at this facility that would affect the subject property.

Project No. 368084
Page 2
June 14, 2017



Please contact me at (214) 393-5810 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads 'Raul Kubicki'.

Rachel Kirkpatrick
Senior Author

16 June 2017

MEMORANDUM No. M-1023-0

CSTI Job No. 6553

To: Provision at Wilcrest, LP

From: Arno Bommer & Edgar Olvera, CSTI acoustics

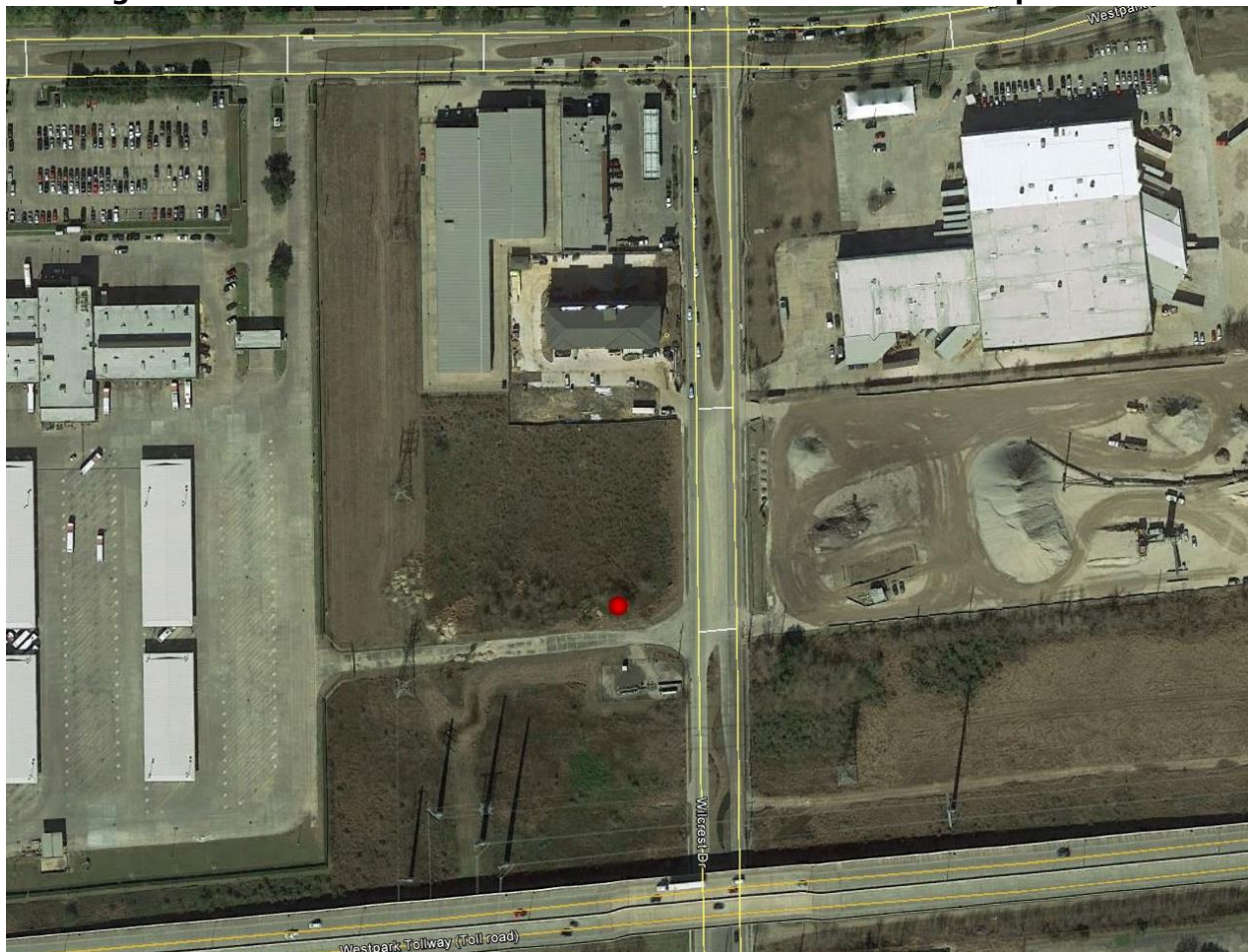
Subject: Noise Monitoring for Provision at Wilcrest HUD Study

Monitor Info

CSTI placed a noise monitor at the proposed site of the Provision at Wilcrest multifamily housing project. This monitor measured the sound levels from 3:30 pm on Tuesday, June 13th 2017 until 1:50 pm on Thursday, June 15th 2017. The purpose of the sound monitoring was to assess sound levels at the site. Although traffic noise can be modeled using the HUD noise model, noise from the concrete processing facility on the east side of Wilcrest across from the site can be assessed only with direct sound measurements.

Figure 1 shows the location of the noise monitor as a red dot on the aerial view of the proposed residential site. The sound monitor was chained to a tree with the microphone attached to a tree branch at approximate ear level above the ground.

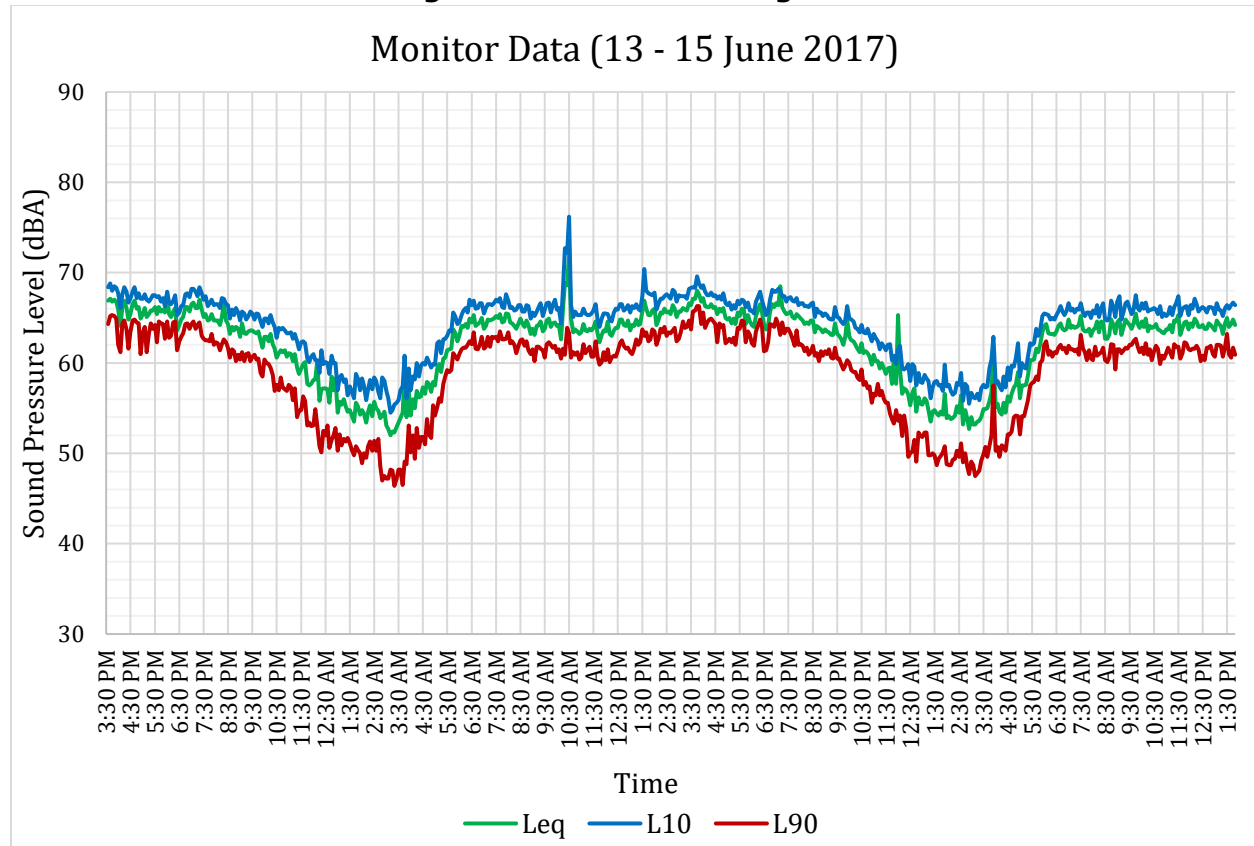
Figure 1. Noise Monitor Location near Southeast Corner of Proposed Site



Summary of Noise Monitoring Data

The noise monitor measured A-weighted sound levels continuously with 5-minute samples. Figure 2 presents the noise data measured over the entire time period. The data is presented as Leq, L10, and L90 sound pressure levels.

Figure 2. Noise Monitoring Data



Leq is the equivalent sound level, a type of average. It is used by HUD when calculating the 24-hour DNL and averages the sound energy over the entire 5-minute sampling period.

The L10 is the sound level that is exceeded for 10% of the time during the sampling period. The sound level will be higher than this value for a total of 30 seconds out of each 5-minute sample

The L90 is the sound level that is exceeded for 90% of the time during the sampling period. The sound level will be lower than this value for a total of 30 seconds out of each 5-minute sample.

The DNL used by HUD is calculated by energy averaging the Leqs over an entire 24-hour period with a 10-dBA penalty added to sound levels between 10 pm and 7 am to address most people’s increased sensitivity to noise at night. For our sound measurements, the DNL was 67.5.

As shown, the sound levels follow a pattern that corresponds primarily with traffic on the adjacent roads, picking up in the morning and falling off in the evening. This pattern is common whenever traffic is the primary sound source in an area.

There are several spikes in the graph that represent brief loud sounds. When we listened to audio recordings of these events, they were primarily from unusually loud traffic such as trucks or motorcycles, possibly with deficient mufflers. One of the spikes was caused by a bird calling near the microphone.

We did not notice any particular sounds on the recordings that were directly related to the operations at the concrete processing facility across the street. The site is quite deep, east to west, and some operations take place behind tall piles on the site.

While we were at the site setting up and picking up the sound monitor, we did not hear any loud sounds from the concrete processing facility. We did notice one truck exiting the facility, and we would expect slightly more truck traffic on Wilcrest due to the facility. We also noticed medium trucks going to and from the Bel Furniture Distribution Center just north of the concrete processing facility.

The measured sound levels show that the noise at the site is primarily traffic related. The measured DNL is very close to the sound levels that we modeled at about the same location using the HUD noise model. This indicates that the noise modeling data is sufficient for assessing noise impacts at the site.



7401B Highway 71 West, Suite 160
Austin, TX 78735
Office: 512.583.2600
Fax: 512.583.2601

Doucetengineers.com

TDHCA
221 E. 11th Street
Austin, TX 78701
Attn: Sharon Gamble

Re: 17322 – Provision at Wilcrest

Dear Ms. Gamble:

We have reviewed the Provision at Wilcrest development site and the surrounding uses and determined that there are not “heavy industrial” uses per TDHCA’s definition. The City of Houston does not have a zoning ordinance and therefore we relied on the TDHCA definition of “heavy industrial.” There is a concrete facility near the development site; however, it does not meet the TDHCA definition. A concrete recycling facility does not require “extensive capital investment in land and machinery” because there are no permanent buildings or fixtures on the site. Additionally, a concrete facility may be easily relocated or removed because there are no permanent structures. Finally, while there is occasional truck traffic, there is not a high level of external noise produced by the facility. Furthermore, a noise analysis prepared by AEI (environmental consultant) in accordance with HUD Noise Guidebook concluded that noise levels were within a “normally acceptable” range.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grady Prestage', is written over the word 'Sincerely,'.

Grady Prestage, P.E.

Doucet & Associates, Inc.

TBPE Firm # 3937

State of Texas Surveying Firm Certification # 10105800

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BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, discussion, and possible action on timely filed appeals under 10 TAC §10.901(13) of the Department’s Multifamily Program Rules relating to Fee Schedule, Appeals and other Provisions.

17007	Magnolia Station	Winnie
17028	Vineyard on Lancaster	Fort Worth
17064	Chaparral Apartments	Midland
17097	Holly Oak Seniors	Houston
17170	Star of Texas Seniors	Montgomery
17194	Oaks Apartments	Quitman
17199	Santa Fe Place	Temple
17203	Park Estates Apartments	Quitman
17247	Western Springs Apartments	Dripping Springs
17251	Pine Terrace Apartments	Mount Pleasant
17267	Industrial Lofts	McAllen
17283	Avanti Manor	Harker Heights
17297	Kountze Pioneer Crossing	Kountze
17305	Payton Senior	Killeen
17322	Provision at Wilcrest	Houston
17323	Skyway Gardens	Alpine
17327	Legacy Trails of Lindale	Lindale
17331	Westwind of Killeen	Killeen
17356	The Acacia	San Antonio
17376	The Bristol	San Antonio
17388	West Pecan Village	McAllen
17390	Las Palomas	McAllen
17741	Gateway Residences	Raymondville

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov’t Code, Chapter 2306, §42 of the Internal Revenue Code (“the Code”), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

Pursuant to §10.201(7), Administrative Deficiency Process, staff sends a deficiency notice via e-mail to the Applicant requesting the Applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the

Application. The five business day time period for responding to a deficiency notice commences on the first business day following the deficiency notice date.

Responses are required to be submitted electronically as a PDF or multiple PDF files. Final determinations regarding the sufficiency of documentation submitted to cure an Administrative Deficiency as well as the distinction between material and non-material missing information are reserved for the Director of Multifamily Finance, Executive Director, and Board. Per §10.201(7)(A), unless an extension has been timely requested and granted, if an Administrative Deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then (5 points) shall be deducted from the selection criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not resolved by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated.

Attached are details concerning each appeal. Staff recommends denial of each of them.

17007 Magnolia Station

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

17028 Vineyard on Lancaster

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, Discussion, and Possible Action on Timely Filed Scoring Notice Appeals for Applications 17064 Chaparral Apartments under the Department's Multifamily Program Rules

RECOMMENDED ACTION

WHEREAS, a 9% Housing Tax Credit Application for Chaparral Apartments was submitted to the Department by the Full Application Delivery Date;

WHEREAS, staff has determined that the Application does not qualify for 10 points under 10 TAC §11.9(d)(3) related to Declared Disaster Area, and is therefore not eligible for six points under 10 TAC §11.9(e)(3), related to Pre-application Participation;

WHEREAS, the Applicant appealed to the Executive Director; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Application 17064 Chaparral Apartments is denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the "Code"), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

Pursuant to 10 TAC §11.10 of the Qualified Allocation Plan related to Third party Request for Administrative Deficiency, staff reviewed the Application to determine whether it qualified for 10 points under 10 TAC §11.9(d)(3) related to Declared Disaster Area. Staff determined that the Application did not qualify for the 10 points, and is therefore not eligible for six points under 10 TAC §11.9(e)(3) related to Pre-application Participation. Staff had reviewed that tie-breaker through a separate deficiency notice. A scoring notice was issued to the Applicant, and the Applicant appealed staff's decision on June 28, 2017. The Executive Director approved the appeal for the tie-breaker and denied the appeal for points. The Applicant is appealing the scoring result.

§11.9(d)(3) Declared Disaster Area (§2306.6710(b)(1)(H))

An Application may receive ten (10) points if at the time of Application submission or at any time within the two-year period preceding the date of submission, the Development Site is located in an area declared to be a disaster area under the Tex Gov't Code, §418.014.

The appeal asserts that the Applicant was misled as Midland County was included on the list of eligible counties from 2016. The appeal states:

“The Applicant did not research the disaster proclamations under Tex. Gov’t Code §418.014 directly, but instead researched the listing of disaster areas that had been accepted by the TDHCA within the last two years.”

Pursuant to 10 TAC §11.1(b) related to Due Diligence and Applicant Responsibility:

Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP or may be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application ... In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application.

Further, the appeal referred to the list posted from the 2016 program year. The list of eligible counties for the 2017 program year was posted to the Department’s website on or about December 13, 2017. The Applicant had plenty of time prior to filing the full Application to contact staff to determine why Midland County was no longer included on the list but did not do so.

The Executive Director evaluated the merits of appeal and determined that, based on the response; the Application does not qualify for 10 points under Declared Disaster Area, and therefore does not qualify for six points under Pre-application Participation.

Staff recommends the Board deny the appeal.

17064
Chaparral Apartments

17064

Scoring Notice and
Documentation



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Lauren Jensen

Phone #: (713) 955-6439

Email: ljensen@themichaelsorg.com

Date: June 27, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2017 Competitive Housing Tax Credit (HTC) Application for Chaparral Apartments, TDHCA
Number: 17064**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
 Housing Tax Credit Program - REVISED 2017 Application Round
 Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17064, Chaparral Apartments

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	120
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	104
Difference between Requested and Awarded:	16

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
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Section 4:

Final Score Awarded to Application by Department staff:	137
--	------------

Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

§11.9(d)(3) Declared Disaster Area. The Application requested ten points but is not eligible as Midland County has not had a disaster declaration from the Governor within two years prior to the Application Submission Date. (Requested 10, Awarded 0).

§11.9(e)(3) Pre-application Participation. The Application requested 6 points but is not eligible for points under this item because the Application final score (inclusive of only scoring items reflected on the self score form) varies by more than six (6) points from what was reflected in the preapplication self score. (Requested 6, Awarded 0)

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. No evidence of an accessible route to public transportation was provided. (Items Selected 7, Items Qualified 6)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Wednesday, July 5, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

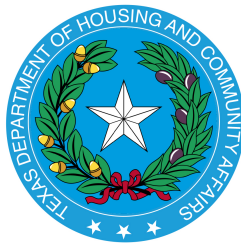
Sincerely,

Sharon Gamble



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Sharon Gamble
9% Competitive HTC Program Administrator



2017 Declared Disaster Areas

§11.9(d)(3) of the 2017 QAP

Angelina	Coleman	Gaines	Irion	McLennan	Shackelford
Archer	Collin	Galveston	Jack	Medina	Shelby
Armstrong	Collingsworth	Garza	Jackson	Milam	Sherman
Atascosa	Colorado	Gillespie	Jasper	Mills	Smith
Austin	Comal	Gonzales	Jefferson	Montague	Somervell
Bailey	Comanche	Gray	Jim Wells	Montgomery	Starr
Bandera	Cooke	Grayson	Johnson	Moore	Stephens
Bastrop	Coryell	Gregg	Jones	Motley	Stonewall
Baylor	Cottle	Grimes	Karnes	Nacogdoches	Sutton
Bell	Crosby	Guadalupe	Kaufman	Navarro	Tarrant
Bexar	Dallam	Hale	Kendall	Newton	Terry
Blanco	Dallas	Hall	Kent	Nueces	Throckmorton
Bosque	Deaf Smith	Hamilton	Kerr	Ochiltree	Titus
Bowie	Delta	Hansford	Kimble	Oldham	Tom Green
Brazoria	Denton	Hardeman	King	Orange	Travis
Brazos	De Witt	Hardin	Kleberg	Palo Pinto	Trinity
Briscoe	Dickens	Harris	Knox	Parker	Tyler
Brown	Donley	Harrison	Lamar	Parmer	Uvalde
Burleson	Duval	Hartley	Lamb	Polk	Val Verde
Burnet	Eastland	Haskell	Lampasas	Potter	Van Zandt
Caldwell	Edwards	Hays	Lee	Rains	Victoria
Calhoun	Ellis	Hemphill	Leon	Real	Walker
Callahan	El Paso	Henderson	Liberty	Red River	Waller
Cameron	Erath	Hidalgo	Lipscomb	Refugio	Washington
Carson	Falls	Hill	Llano	Roberts	Wharton
Cass	Fannin	Hockley	Lubbock	Robertson	Wheeler
Castro	Fayette	Hood	Lynn	Rockwall	Wichita
Chambers	Floyd	Hopkins	Madison	Rusk	Wilbarger
Cherokee	Foard	Houston	Marion	Sabine	Willacy
Childress	Fort Bend	Hudspeth	Mason	San Augustine	Williamson
Clay	Franklin	Hunt	Matagorda	San Jacinto	Wilson
Cochran	Frio	Hutchinson	McCulloch	San Saba	Wise
					Young
					Zavala

<http://gov.texas.gov/news/proclamation>

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS



221 E. 11th St., Austin, TX 78701 Main Number: 512-475-3800 Email: Info@tdhca.state.tx.us
P.O. Box 13941, Austin, TX 78711 Toll Free: 800-525-0657 Web: www.tdhca.state.tx.us

Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.
Relay Texas: 800-735-2989 (TTY) and 711 (Voice).



DINERO EN EFECTIVO:

Adultos (19-59) \$1.25
 Jovenes (6-18) \$ 1.00
 Tercera Edad (60 años y más) \$.60
 Niños (menos de 5 años) GRATIS
 Incapacitados (con identificación válida) \$.60
 Estudiante (con identificación válida) \$ 1.00
 (Universidad, Colegio de la Comunidad,
 (Tecnológico ó Escuela Vocacional)
 Tarjetas de "MEDICARE" serán aceptadas para
 recibir el costo reducido.
TARIFAS (PASES) MENSUALES:
 Adultos \$37.00
 Jovenes/Estudiantes \$28.00
 Tercera Edad/Incapacitados \$19.00
 Los pases son buenos para el uso de todos los
 camiones sin tiempo limitable durante el mes designado.

¡Bienvenidos!

Nuestra meta es proporcionarle seguridad, servicio
 fiable y amable. Gracias por usar nuestro servicio de camiones
 de camiones ¡EZ RIDER!

Puede planear su viaje por teléfono:

Llame al (432) 561-9990. Tenemos empleados para
 su asistencia, lunes a viernes de las 8am a las 5pm.,
 dispuestos a ayudarlo con su viaje personal, ó asistirle
 con información para obtener un pase para
 camión u obtener un folleto con horarios y rutas
 de camiones.

Consejos para viajar en camión:

- Estar por lo menos 5 minutos antes de la parada
 mas cercana de camión, para asegurarse de no
 perder el camión.
- Tenga el pase, boleto ó cambio exacto cuando
 suba al camión. El chofer del camión no tendrá, ni
 dará cambio.
- Si necesita transbordar camiones paracompletar
 su viaje, favor de pedirle al chofer un boleto de
 cambio de camion (transfer ticket) en cuanto
 suba al camión.
- Una cuadra antes de que quiera usted bajar el
 camión deberá de jalar el cordón para darle la
 indicación al chofer de detener el camión en la
 siguiente esquina.
- Favor de permanecer sentado hasta que el
 camión este detenido completamente.
- Dígale al chofer si necesita que descargar su
 bicicleta del portaequipaje de bicicletas.
- Siempre cruce la calle cruce de peatones.
- Solamente puede traer objetos al autobús que
 pueda razonablemente cargar en sus brazos o
 que puedan caber en un pequeño
 compartimiento.

NOTA: EZ RIDER satisface los requerimientos de
 (ADA) ó personas con incapacidades físicas.
 TTY: (432) 561-8059

CASH:

Adult (19-59) \$1.25
 Youth (6-18) \$ 1.00
 Senior (60 and over) \$.60
 Child (5 and under) FREE
 Disabled (with valid I.D.) \$.60
 Student (with valid I.D.) \$ 1.00
 (University, Community College, Technical/
 (Vocational School)
 MEDICARE cards are accepted for the reduced fare.
MONTHLY PASSES:
 Adult \$37.00
 Youth/Student \$28.00
 Senior/Disabled \$19.00
 Passes are good for unlimited rides on all routes
 during the designated month.
 Ticket Locations: Midland College, City Hall, HEB

Welcome Aboard!

Our goal is to provide you with safe, dependable and
 friendly service. Thank you for riding with EZ-Rider

Plan Your Ride by Phone:

Call (432) 561-9990. Our customer service staff is
 available on weekdays, from 8:00 a.m. to 5:00 p.m.,
 to provide you with personalized trip information,
 or the locations where you can purchase bus
 passes or obtain route and schedule information.

Bus Riding Tips:

- Be at the nearest bus stop at least 5 minutes
 before the bus is due to arrive so you are sure
 not to miss it.
- Have the exact change, a ticket, or pass ready
 when boarding the bus. Bus operators do not
 make change.
- If you need to transfer to another bus to
 complete your trip, ask the operator for a
 Transfer as soon as you board the bus.
- About one block before your stop, pull the cord
 to let the operator know you want off the bus.
- Remain seated until the bus comes to a
 complete stop.
- Tell the operator if you need to unload your
 bicycle from the bicycle rack.
- Always cross the street at the nearest crosswalk.
- You may only bring items on the bus that you
 can reasonably carry in your arms or that fit in a
 small cart.
- It is suggested that you arrive at the scheduled
 stop five minutes in advance and have your fare
 ready.

NOTE: EZ RIDER meets Americans With
 Disabilities Act (ADA) requirements.
 TTY: (432) 561-8059



Route 4 Midland

:15

Outbound Location
 Transfer Texas Street
 Center Front Street

:31

Outbound Location
 Bus Stop Wadley Avenue
 Illinios Avenue

:45

Outbound Location
 Bus Stop Midland Park Mall
 Loop 250 Service Road
 Mall Parking Lot

:51

Inbound Location
 Bus Stop Midkiff Street
 Cuthbert Street

:02

Inbound Location
 Bus Stop Andrews Highway (191)
 Illinios Avenue

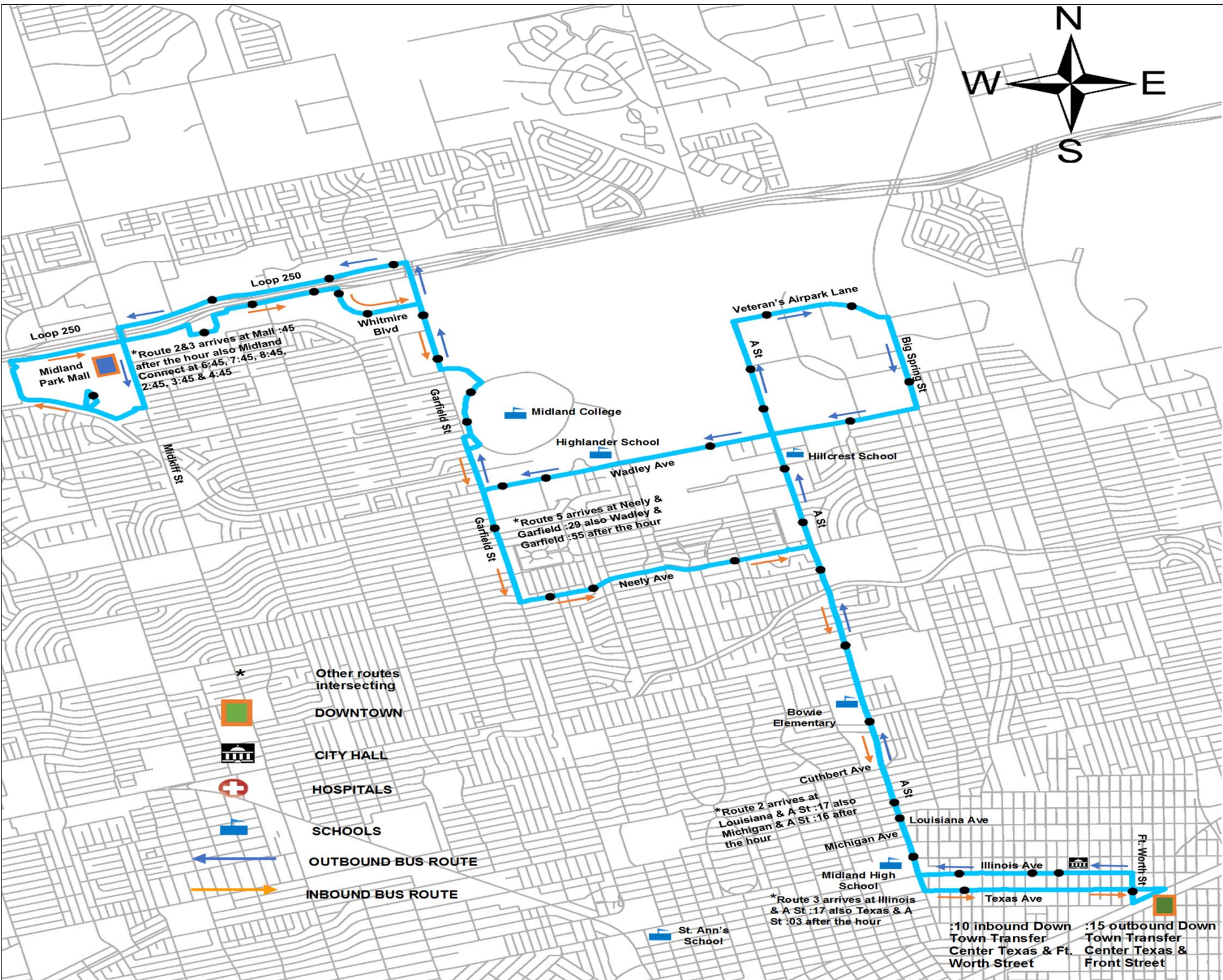
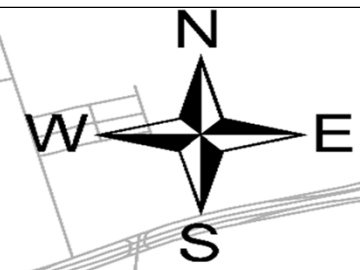
:10

Inbound Location
 Transfer Texas Street
 Center Front Street

All times are subject to change in an uncontrollable
 event such as traffic, weather, etc.

Los tiempos cambiaran en eventos incontrolable
 tal como el trafico, o el mal tiempo, etc.





MIDLAND ROUTE FOUR BUS STOPS

ROUTE	STOP	SHARED ROUTE	TIME	OUT OR IN-BOUND FOR DOWN TOWN PLAZA	ROUTE STREET	CROSS STREET	SIDE OF CROSS STREET	AMENITIES	LAND MARK/NOTES
M4		1,2,3,5,6	:15	DOWN TOWN	FT. WORTH	TEXAS		SHELTER	DOWN TOWN PLAZA
M4	1	3,5		OUT-BOUND	ILLINOIS AVE	MAIN STREET	FAR		MIDLAND CITY HALL
M4	2	3,5		OUT-BOUND	ILLINOIS AVE	COLORADO	FAR		
M4	3	3		OUT-BOUND	ILLINOIS AVE	PECOS STREET	FAR		CONCHO BUILDING
M4	4			OUT-BOUND	"A" STREET	TENNESSEE	NEAR	SHELTER	EASTSIDE OF MIDLAND HIGH SCHOOL
M4	5			OUT-BOUND	"A" STREET	KANSAS	NEAR		RESIDENTIAL AREA
M4			:21	OUT-BOUND	"A" STREET	CUTHBERT			
M4	6			OUT-BOUND	"A" STREET	NOBLES	NEAR		IDAJO MOORE PARK
M4	7			OUT-BOUND	"A" STREET	BOYD	NEAR		VILLAGE SQUARE APARTMENTS
M4	8			OUT-BOUND	"A" STREET	OSAGE	NEAR		ACROSS STREET FROM THORNWOOD APARTMENTS
M4	9			OUT-BOUND	"A" STREET	DENGAR AVE.	NEAR		REGENCY PARTMENTS
M4	10			OUT-BOUND	"A" STREET	WADLEY AVE.	FAR		ONE PETROLEUM CENTER- BUILDING FIVE
M4	11			OUT-BOUND	"A" STREET	DESTA DRIVE	NEAR	BENCH	CLAYDESTA CENTER
M4	12			OUT-BOUND	VETERANS AIR PARK RD.	SMITH RD NORTH	FAR		ACROSS FROM THE UNITED STATES POST OFFICE
M4	13			OUT-BOUND	VETERANS AIR PARK RD.	NO CROSS STREET			IN FRONT OF THE VFW BUILDING
M4			:26	OUT-BOUND	VETERANS AIR PARK RD.	BIG SPRING STREET			
M4	14			OUT-BOUND	BIG SPRING STREET	SMITH RD. EAST	FAR		WEST TEXAS NATIONAL BANK
M4	15			OUT-BOUND	WADLEY AVE.	DESTA DRIVE	FAR		TEXAS BURGER
M4	16			OUT-BOUND	WADLEY AVE.	WINDLANDS PARK			ACROSS THE STREET FROM WINDLAND PARK EMPTY PASTURE
M4	17			OUT-BOUND	WADLEY AVE.	NO CROSS STREET		BENCH	COLE THEATER
M4	18			OUT-BOUND	WADLEY AVE.	GARFIELD STREET	NEAR		IN FRONT OF PIZZA HUT
M4			:31	OUT-BOUND	WADLEY AVE.	GARFIELD STREET			
M4	19			OUT-BOUND	GARFIELD STREET	NO CROSS STREET		SHELTER	SCHARBAUER STUDENT CENTER MIDLAND COLLEGE
M4	20			OUT-BOUND	GARFIELD STREET	FOUNDATION	FAR	BENCH	ACROSS THE STREET FROM CHAPARRAL APARTMENTS
M4	21			OUT-BOUND	GARFIELD STREET	WHITMIRE	NEAR		ACROSS THE STREET FROM THE FOUNTAIN APARTMENTS
M4			:37	OUT-BOUND	GARFIELD STREET	LOOP 250 RD.			
M4	22			OUT-BOUND	LOOP 250 SVC RD.	NO CROSS STREET	FAR	SHELTER	IN FRONT OF OFFICE DEPOT
M4	23			OUT-BOUND	LOOP 250 SVC RD.	ENTRANCE	N/A	BENCH	AVIARE PLACE APARTMENTS
M4	24			OUT-BOUND	LOOP 250 SVC RD.	NO CROSS STREET	N/A		THE COMMONS NORTH PARK SHOPPING CENTER
M4	25		:45	TRANSFER	MIDLAND PARK MALL	BEALLS STORE	N/A	BENCH	MIDLAND PARK MALL BY BEALLS STORE ENTRANCE
M4	26			IN-BOUND	LOOP 250 SVC RD.	NO CROSS STREET	NEAR		BED, BATH AND BEYOND STORE
M4	27			IN-BOUND	LOOP 250 SVC RD.	WARD STREET			HAWTHORNE HOUSE APARTMENTS
M4	28			IN-BOUND	LOOP 250 SVC RD.	NO CROSS STREET		SHELTER	MIDPARK VILLAGE SHOPPING CENTER/ BEST BUY
M4			:52	IN-BOUND	LOOP 250 SVC RD.	WHITMIRE			
M4	29			IN-BOUND	WHITMIRE	NO CROSS STREET			EASTSIDE OF IHOP ACROSS FROM SILVER CREEK APARTMENTS
M4	30			IN-BOUND	WHITMIRE	NO CROSS STREET			IN FRONT OF MIDLAND VILLAGE APARTMENTS
M4	31			IN-BOUND	GARFIELD STREET	NO CROSS STREET		BENCH	IN FRONT OF THE FOUNTAINS APARTMENTS
M4	32			IN-BOUND	GARFIELD STREET	NO CROSS STREET			IN FRONT OF THE CHAPARRAL APARTMENTS
M4	33			IN-BOUND	MIDLAND COLLEGE RD.	NO CROSS STREET	N/A	SHELTER	SCHARBAUER STUDENT CENTER MIDLAND COLLEGE
M4			:57	IN-BOUND	GARFIELD STREET	WADLEY AVE.			
M4	34			IN-BOUND	GARFIELD STREET	DENGAR STREET	NEAR		BEFORE THE SCHOOL ZONE OF FANNIN ELEMENTARY
M4	35			IN-BOUND	NEELY	"N" STREET	NEAR		RESIDENTIAL AREA
M4	36			IN-BOUND	NEELY	"L" STREET	FAR		ALLEY
M4	37			IN-BOUND	NEELY	"D" STREET	NEAR		TOWNHOME ADDITION
M4			:00	IN-BOUND	NEELY	"A" STREET			
M4	38			IN-BOUND	"A" STREET	STANOLIND STREET	FAR		ALLEY ACROSS FROM THE MIDLAND COUNTY ANNEX
M4	39			IN-BOUND	"A" STREET	BOYD STREET	NEAR		ACROSS FROM THE VILLAGE SQUARE APARTMENTS
M4	40			IN-BOUND	"A" STREET	HARWARD STREET	NEAR		
M4			:05	IN-BOUND	"A" STREET	CU STREET			
M4	41			IN-BOUND	"A" STREET	LOUISIANA	NEAR		ACROSS FROM THE COMMUNITY NATIONAL BANK
M4	42			IN-BOUND	"A" STREET	TENNESSEE	FAR		EASTSIDE OF MIDLAND HIGH SCHOOL
M4	43			IN-BOUND	TEXAS STREET	PECOS STREET	NEAR		OFFICE BUILDING
M4			:10	DOWN TOWN	FT. WORTH	TEXAS		SHELTER	DOWN TOWN PLAZA

17064

Applicant Appeal to
Executive Director

COATS | ROSE

A Professional Corporation

TAMBA A. DULA
OF COUNSEL

tdula@coatsrose.com
Direct Dial
(713) 653-7322
Direct Fax
(713) 890-3918

June 28, 2017

By Electronic Delivery to tim.irvine@tdhca.state.tx.us
Mr. Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
211 East 11th Street
Austin, Texas 78701-2410

RE: #17064 – Chaparral Apartments, Midland, Midland County, Texas (“Application”);
Appeal of Scoring Notice – Loss of 10 Points for Site Location in Disaster Area.

Dear Mr. Irvine:

Our law firm represents The Michaels Development Company I, L.P. and Midland Chaparral Associates, LP, its single purpose entity applicant (collectively, the “Applicant”) in connection with appealing Staff’s rescission of ten (10) points previously granted for the site’s location in a Declared Disaster Area, and resultant rescission of six (6) points for Pre-Application Participation. The Scoring Notice also indicated that the Applicant had failed to provide evidence of an accessible route to public transportation, and therefore was not eligible to claim that as a Tie- Break Factor under §11.7 of the 2017 QAP.

Ten Points for Declared Disaster Area.

On May 17, 2017, Nicole Fisher sent a Deficiency Notice on this application, asking:

Tab 9, Section 6, Declared Disaster Area: Please explain how this application is in a Declared Disaster Area.

The Applicant responded on May 18, 2017 (note response letter was erroneously dated May 12, 2017) that the Development Site is located in an area shown on the 2016 List of Declared Disaster Areas, which is within the two-year period preceding the date of submission, as required by §11.9(d)(3) of the QAP, which states:

(3) Declared Disaster Area. (§2306.6710(b)(1)(H)) An Application may receive ten (10) points if at the time of Application submission or at any time within the two-year period preceding the date of submission, the Development Site is located in an area declared to be a disaster area under the Tex Gov’t Code, §418.014.

As evidence of the Development Site’s qualification for the points, the Applicant provided a copy of the 2016 List of Declared Disaster Areas which was published on the TDHCA’s website.

9 Greenway Plaza, Suite 1100 | Houston, Texas 77046
Phone: 713-651-0111 | Fax: 713-651-0220
Web: www.coatsrose.com

HOUSTON | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS

This evidence was accepted by Staff and a Scoring Notice was subsequently issued showing that the ten (10) points had been awarded. (Please see Exhibit A). After a Third Party Request for Administrative Deficiency (“TPRAD”) a subsequent Scoring Notice was issued on June 27, 2017, denying the Disaster Points, also denying six (6) Pre-Application Participation Points and indicating that the Application did not qualify for the Tie-Break Factor for having an accessible route to public transportation.

The Applicant does not recall whether the 2017 List of Declared Disaster Areas was published when the Development Site was evaluated for points. Applicant went to the TDHCA 9% Tax Credit Archives to determine whether the area had been declared to be a disaster area within the preceding two-year period. The Applicant did not research the disaster proclamations under Tex Gov't Code, §418.014 directly, but instead researched the listing of disaster areas that had been accepted by the TDHCA within the last two years. We respectfully point out that the 2016 List of Declared Disaster Areas (please see Exhibit B attached), does not indicate over what period the disasters were declared. It only indicates that the listing is of “2016 Declared Disaster Areas” and that it related to §11.9(d)(3) of the 2016 QAP. The 2017 List of Declared Disaster Areas (please see Exhibit C attached) also fails to specify the period over which the disasters took place and only specifies that these are “2017 Declared Disaster Areas” that relate to §11.9(d)(3) of the 2017 QAP.

We submit that the two lists are extremely susceptible to the interpretation that these Counties incurred declared disasters during the calendar year indicated. The 2017 Application Procedures Manual is not helpful in clarifying this interpretation, since it says only:

*• Part 6 – Declared Disaster Area: If claiming points, simply mark the yellow box and select the Total Points Claimed from the drop-down box. The 2017 list of eligible counties are posted on the TDHCA website:
<http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>.*

This assistance also does not reflect that the counties on the list are for the two-year period preceding the Application due date. It could just as easily mean that the counties on the list incurred declared disasters during 2017 – and while there are quite a lot of counties listed, this is not inconceivable for Texas, where in some years all of the counties have declared disasters.

This is an instance where the documentation supplied by the TDHCA was not clear enough on its face to alert the Applicant to the likelihood that there was an alternative interpretation to the Applicant’s understanding of the contents of the document. Here the Applicant thought that the 2016 list showed counties with disasters that occurred in 2016, which would have been within the two years preceding the Application Due Date. There was nothing that provided a clue that the list might have been a listing of all counties that had occurred between March 1, 2014 and March 1, 2016. The Applicant didn’t even have sufficient warning of the alternative meaning of the list to trigger an awareness that supplemental help should be sought.

We note that the Applicant provided the 2016 Declared Disaster Areas listing to Staff in response to an Administrative Deficiency specifically inquiring why Disaster Points had been claimed. (Please see Exhibit D). As a result, Staff issued the June 1, 2017 Scoring Notice that indicated the Disaster Points were awarded. It was only when a Third Party Request for Administrative Deficiency (“RFAD”) was filed on that same day that the Staff went back and changed position on whether the Application qualified for the ten (10) points. We suggest that the fact that the Staff did change its position after previously specifically reviewing and confirming the Application’s qualification for the points is indicative of the ambiguity created by listing the Declared Disaster Areas without either (i) indicating the actual time span that the disasters covered, or (ii) specifying that the listing comprises all of the counties that will qualify for the points in a 2016 (or 2017) application unless otherwise proven with a Governor’s Proclamation. In view of this situation, we request that the ten (10) points be reinstated.

Six Points for Pre-Application Participation.

Because the Staff rescinded the ten (10) points for being in a Declared Disaster Area, the loss of six (6) points for Pre-Application was triggered. We request that these points also be reinstated, with the Disaster points.

Tie-break Factor – Accessible Route to Public Transportation.

The Scoring Notice indicates that the Application qualified for only six of the seven Tie-Break Factors because there is no evidence of an accessible route to public transportation. On May 26, 2017, the Applicant received a Deficiency Notice from requesting that evidence “that the (park/route to the park/route to public transit stop) is accessible in the form of certification from the city or from another professional certified to make such a determination.” On June 1, 2017, the Applicant uploaded a response, providing a certification from Mark Mucasey, A.I.A., Registered Architect, certifying that the bus stop is accessible from the Development Site, being immediately adjacent to the Development and being accessible by internal sidewalks without steps. A certification by the General Manager of Midland Odessa Urban Transit District was also provided, certifying that public transport rout #4 stops in front of the Development and is accessible to all pedestrians. In view of the fulfillment of the Administrative Deficiency request, we respectfully ask that the record be revised to show that the Development qualifies for this Tie-break Factor.

Thank you for the opportunity to appeal the Scoring Notice. We appreciate your attention to the matter. If you are not able to grant the appeal in your role as Executive Director, we request that this appeal be placed on the Agenda for the TDHCA Board Meeting that is now scheduled for July 13, 2017.

Very truly yours,



Tamea A. Dula

Tim Irvine, Executive Director
June 28, 2017
Page 4

cc: Marnie Holloway
Sharon Gamble
Joe Weatherly
Amay Inamdar

EXHIBIT A

SCORING NOTICE DATED JUNE 1, 2017



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Amay Inamdar
Phone #: (713) 955-6439
Email: jweatherly@tmo.com
Second Email: ljensen@themichaelsorg.com

Date: June 01, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2017 Competitive Housing Tax Credit (HTC) Application for Chaparral Apartments, TDHCA
Number: 17064**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17064, Chaparral Apartments

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP): 120

Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP): 120

Difference between Requested and Awarded: 0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support: 17

Points Awarded for §11.9(d)(4) Quantifiable Community Participation: 4

Points Awarded for §11.9(d)(5) Community Support from State Representative: 8

Points Awarded for §11.9(d)(6) Input from Community Organizations: 4

Points Awarded for §11.9(d)(7) Concerted Revitalization Plan: 0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules: 0

Section 4:

Final Score Awarded to Application by Department staff: 153

Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

NA

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. No evidence of an accessible route to public transportation was provided. (Items Selected 7, Items Qualified 6)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Thursday, June 8, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon Gamble

Sharon Gamble
 9% Competitive HTC Program Administrator

EXHIBIT B

LISTING OF 2016 DECLARED DISASTER AREAS



2016 Declared Disaster Areas

§11.9(d)(3) of the 2016 QAP

Andrews	Coleman	Garza	Johnson	Mills	Shackelford
Angelina	Collin	Gillespie	Jones	Mitchell	Shelby
Aransas	Collingsworth	Glasscock	Karnes	Montague	Sherman
Archer	Colorado	Goliad	Kaufman	Montgomery	Smith
Armstrong	Comal	Gonzales	Kendall	Moore	Somervell
Atascosa	Comanche	Gray	Kenedy	Motley	Starr
Austin	Concho	Grayson	Kent	Nacogdoches	Stephens
Bailey	Cooke	Grimes	Kerr	Navarro	Sterling
Bandera	Coryell	Guadalupe	Kimble	Newton	Stonewall
Bastrop	Cottle	Hale	King	Nolan	Sutton
Baylor	Crockett	Hall	Kinney	Nueces	Swisher
Bee	Crosby	Hamilton	Kleberg	Ochiltree	Tarrant
Bell	Dallam	Hansford	Knox	Oldham	Taylor
Bexar	Dallas	Hardeman	Lamar	Orange	Terrell
Blanco	Dawson	Hardin	Lamb	Palo-Pinto	Terry
Borden	Deaf-Smith	Harris	Lampasas	Parker	Throckmorton
Bosque	Delta	Harrison	La-Salle	Parmer	Tom-Green
Bowie	Denton	Hartley	Lavaca	Pecos	Travis
Brazoria	DeWitt	Haskell	Lee	Polk	Trinity
Brazos	Dickens	Hays	Leon	Potter	Tyler
Brewster	Dimmit	Hemphill	Liberty	Presidio	Upton
Briscoe	Donley	Henderson	Limestone	Randall	Uvalde
Brown	Duval	Hidalgo	Lipscomb	Reagan	Val-Verde
Burleson	Eastland	Hill	Live-Oak	Real	Van-Zandt
Burnet	Ector	Hockley	Llano	Red-River	Victoria
Caldwell	Edwards	Hood	Lubbock	Refugio	Walker
Calhoun	Ellis	Hopkins	Lynn	Roberts	Waller
Callahan	El-Paso	Houston	Madison	Robertson	Washington
Cameron	Erath	Howard	Martin	Rockwall	Wharton
Carson	Fannin	Hudspeth	Mason	Runnels	Wheeler
Cass	Fayette	Hunt	Matagorda	Rusk	Wichita
Castro	Fisher	Hutchinson	Maverick	Sabine	Wilbarger
Chambers	Floyd	Irion	McCulloch	San-Augustine	Willacy
Cherokee	Foard	Jack	McLennan	San-Jacinto	Williamson
Childress	Fort-Bend	Jackson	Medina	San-Patricio	Wilson
Clay	Frio	Jasper	Menard	San-Saba	Wise
Cochran	Gaines	Jefferson	Midland	Schleicher	Yoakum
Coke	Galveston	Jim-Wells	Milam	Scurry	Young
					Zavala

EXHIBIT C

LISTING OF 2017 DECLARED DISASTER AREAS



2017 Declared Disaster Areas

§11.9(d)(3) of the 2017 QAP

Angelina	Coleman	Gaines	Irion	McLennan	Shackelford
Archer	Collin	Galveston	Jack	Medina	Shelby
Armstrong	Collingsworth	Garza	Jackson	Milam	Sherman
Atascosa	Colorado	Gillespie	Jasper	Mills	Smith
Austin	Comal	Gonzales	Jefferson	Montague	Somervell
Bailey	Comanche	Gray	Jim Wells	Montgomery	Starr
Bandera	Cooke	Grayson	Johnson	Moore	Stephens
Bastrop	Coryell	Gregg	Jones	Motley	Stonewall
Baylor	Cottle	Grimes	Karnes	Nacogdoches	Sutton
Bell	Crosby	Guadalupe	Kaufman	Navarro	Tarrant
Bexar	Dallam	Hale	Kendall	Newton	Terry
Blanco	Dallas	Hall	Kent	Nueces	Throckmorton
Bosque	Deaf Smith	Hamilton	Kerr	Ochiltree	Titus
Bowie	Delta	Hansford	Kimble	Oldham	Tom Green
Brazoria	Denton	Hardeman	King	Orange	Travis
Brazos	De Witt	Hardin	Kleberg	Palo Pinto	Trinity
Briscoe	Dickens	Harris	Knox	Parker	Tyler
Brown	Donley	Harrison	Lamar	Parmer	Uvalde
Burleson	Duval	Hartley	Lamb	Polk	Val Verde
Burnet	Eastland	Haskell	Lampasas	Potter	Van Zandt
Caldwell	Edwards	Hays	Lee	Rains	Victoria
Calhoun	Ellis	Hemphill	Leon	Real	Walker
Callahan	El Paso	Henderson	Liberty	Red River	Waller
Cameron	Erath	Hidalgo	Lipscomb	Refugio	Washington
Carson	Falls	Hill	Llano	Roberts	Wharton
Cass	Fannin	Hockley	Lubbock	Robertson	Wheeler
Castro	Fayette	Hood	Lynn	Rockwall	Wichita
Chambers	Floyd	Hopkins	Madison	Rusk	Wilbarger
Cherokee	Foard	Houston	Marion	Sabine	Willacy
Childress	Fort Bend	Hudspeth	Mason	San Augustine	Williamson
Clay	Franklin	Hunt	Matagorda	San Jacinto	Wilson
Cochran	Frio	Hutchinson	McCulloch	San Saba	Wise
					Young
					Zavala

<http://gov.texas.gov/news/proclamation>



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

221 E. 11th St., Austin, TX 78701 Main Number: 512-475-3800 Email: Info@tdhca.state.tx.us
P.O. Box 13941, Austin, TX 78711 Toll Free: 800-525-0657 Web: www.tdhca.state.tx.us

Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.
Relay Texas: 800-735-2989 (TTY) and 711 (Voice).



EXHIBIT D

ADMINISTRATIVE DEFICIENCY AND RESPONSE
















Tamea A. Dula

To: Tamea A. Dula (tdula@coatsrose.com)
Subject: FW: 17064 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Attachments: PastedGraphic-17.tiff

From: Amay Inamdar <ainamdar@themichaelsorg.com>
Subject: Re: 17064 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: June 1, 2017 at 3:59:37 PM CDT
To: Nicole Fisher <nicole.fisher@tdhca.state.tx.us>
Cc: Lauren Jensen <ljensen@themichaelsorg.com>, Michael Perretta <mperretta@themichaelsorg.com>, Joseph Weatherly <jweatherly@tmo.com>

Hi Nicole, I just want to let you know that I've uploaded a response to the attached deficiency titled Response to Deficiency Notice 052617. Please let me know if anything more is required.

 Home 

Name	Size	Time
 17064 - Deficiency Response 041217.pdf	8.38 MB	4/12/2017, 10:54:37 PM
 17064 app chk receipt.pdf	246.31 KB	3/1/2017, 2:57:00 PM
 17064_Chaparral_Apartments.pdf	66.37 MB	3/1/2017, 3:23:59 PM
 17064_Chaparral_Apartments.xls	3.8 MB	3/1/2017, 3:19:16 PM
 17064_Chaparral_Apartments.xlsx	3.01 MB	3/1/2017, 6:18:25 PM
 17064_Chaparral_Apartments_CORRECT.pdf	2.5 MB	3/1/2017, 4:38:58 PM
 17064_Chaparral_Apartments_CORRECTv2.pdf	66.57 MB	3/1/2017, 4:42:30 PM
 C17-AHA 133 Chaparral Appraisal Final.pdf	6.63 MB	2/28/2017, 7:13:11 AM
 Chaparral ESA.pdf	7.49 MB	3/1/2017, 11:44:50 AM
 Chaparral Market Study 031017.pdf	3.87 MB	3/13/2017, 10:24:37 PM
 Chaparral PCA 022817.pdf	9.06 MB	2/28/2017, 3:15:42 PM
 Deficiency Response 051217.pdf	12.15 MB	5/12/2017, 4:25:48 PM
 Response to Deficiency Notice 051012.pdf	633.43 KB	5/12/2017, 4:49:01 PM
 Response to Deficiency Notice 051712.pdf	616.07 KB	5/18/2017, 7:45:43 PM
 Response to Deficiency Notice 052617.pdf	1.21 MB	6/1/2017, 3:54:44 PM

Thanks,

Amay A. Inamdar
VP Acquisitions and Development, Southwest

The Michaels Organization
2245 Texas Drive, Ste. 300
Sugar Land, Texas 77479

713.955.6439
Office
713.588.2423
Fax
713.540.0122
Cell
ainamdar@tmo.com
www.themichaelsorg.com

Confidentiality Notice: The information in this document and attachments is confidential and may also be legally privileged. It is intended only for the use of the named recipient. If you are not the intended recipient, please notify us immediately and then delete this document. Do not disclose the contents of this document to any other person, nor make any copies. Violation of this notice may be unlawful

On May 26, 2017, at 4:07 PM, Nicole Fisher <nicole.fisher@tdhca.state.tx.us> wrote:

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(1) described in §10.201(7)(A) and/or §10.201(7)(B) of the 2017 Uniform Multifamily Rules was identified. In this deficiency notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Whether an initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

Provide evidence that the (park/route to the park/route to public transit stop) is accessible in the form of certification from the city or from another professional certified to make such a determination.

The above list may not include all Administrative Deficiencies such as those that may be identified during a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth business day any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the fifth business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the fifth business day or tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documents at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3227.

All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily R they apply to due diligence, applicant responsibility, and the competitive nature of the progr which they are applying.

****All deficiencies must be corrected or clarified by 5 pm Austin local time on Monday, June 5, Please respond to this email as confirmation of receipt.****

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Nicole Fisher

Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.2201
Fax: 512.475.1895

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)).



Michaels Development Co.
Interstate Realty Management Co.
Michaels Military Housing
Michaels Management Services
Continental Mortgage Co.
Prestige Building Corp.
Riverside Capital, LLC
University Student Living, LLC

June 1, 2017

ATLANTA, GA
BALTIMORE, MD
BEACON, NY
BOULDER, CO
CHESTER, PA
CHICAGO, IL
DETROIT, MI
FT. WORTH, TX
HONOLULU, HI
HOUSTON, TX
JACKSON, MS
KANSAS CITY, MO
LODI, CA
LOS ANGELES, CA
NEW HAVEN, CT
PHILADELPHIA, PA
PITTSBURGH, PA
TAMAQUA, PA
TAMPA, FL
TRENTON, NJ
TULSA, OK
WASHINGTON, DC

Nicole Fisher
Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701
Via HTTPs and E-mail: Nicole.fisher@tdhca.state.tx.us

Re: 17064 – 9% HTC Deficiency Response

Dear Nicole,

Thank you for the opportunity to respond to the application deficiency on TDHCA #17064, Chaparral Apartments, dated May 26, 2017.

Please find attached, the following:

- Evidence from the City of Midland and our Architect that the route to the public transit stop is accessible.

Thank you so much for the opportunity to address this administrative deficiency and your consideration of this clarification. Please do not hesitate to contact me if further information or explanation is required.

Sincerely,

Amay Inamdar

Corporate Office
3 E. Stow Rd.
PO Box 994
Marlton, NJ 08053
Tel: 856.596.0500
Fax: 856.596.6093

From: Nicole Fisher nicole.fisher@tdhca.state.tx.us 
Subject: 17064 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: May 26, 2017 at 4:07 PM
To: Amay Inamdar ainamdar@themichaelsorg.com, ljensen@themichaelsorg.com



In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(A) and/or §10.201(7)(B) of the 2017 Uniform Multifamily Rules was identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

Provide evidence that the (park/route to the park/route to public transit stop) is accessible in the form of certification from the city or from another professional certified to make such a determination.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

****All deficiencies must be corrected or clarified by 5 pm Austin local time on Monday, June 5, 2017. Please respond to this email as confirmation of receipt.****

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Nicole Fisher

Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.2201
Fax: 512.475.1895

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)).



Midland Odessa Urban Transit District
10300 Younger Road, Midland, TX, 79707 Phone: 432.561.9990

To Whom it May Concern:

I Robert Stephens General Manager of the Midland Odessa Urban Transit District / EZ-Rider Transit Midland TX due here by certify that my public transit route # 4 stops in front of the Chaparral Apartments located at 4201 N. Garfield, Midland TX 79705 and is accessible to all pedestrians. We continue to support the Michaels Organization 9% Tax application.

Please do not hesitate to contact me if you need further assistance

A handwritten signature in blue ink, appearing to read 'Robert W Stephens'.

Robert W Stephens
General Manager
Midland Odessa Urban Transit District
325.234.0241



June 1, 2017

Job No. 1611

Amay Inamdar
The Michaels Organization
2245 Texas Drive, Suite 300
Sugarland, TX 77479

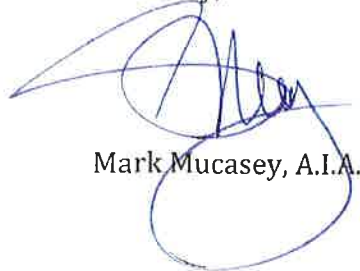
Dear Amay:

Mucasey & Associates, Architects has designed the Chaparral Apartment Renovation for submission in the LIHTC Program for 2017 tax credits. The renovation plans to provide handicap accessible units (5% of the existing count) that are connected via an accessible route to all amenities on site.

One of those amenities that they will be connected to via the accessible route is the public bus transportation system. Currently, there is a Bus Stop located at approximately 4201 N. Garfield on Route #4 of Midland's EZ-Rider Public Transportation Bus Service that is on an accessible route from the Chaparral Apartments, also addressed at 4201 N. Garfield, Midland, Texas 79705. The Bus Stop exists immediately adjacent to our apartment project, whereby the current residents can reach it from our internal sidewalks without the use of steps, as this area of the property is essentially flat, on an accessible route. This current connection of the Bus Stop to that side of the property will be enhanced by our proposed additional accessible routes to all handicap accessible units and amenities in the project.

Please do not hesitate to contact me with any questions.

Sincerely,



Mark Mucasey, A.I.A.



*Mark S. Mucasey, A.I.A.
Principal*

4808 Gibson • Suite 200 • Houston, Texas 77007
Tel: (713) 521-1233 Fax: (713) 520-1904
Email: office@mucaseyarchitects.com

*Will Cummings, Sr. Associate
Paul Titterington, Sr. Associate
David Howland, Sr. Associate
Agnar Nielsen, Arch. Sys. Mgr.*



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Appeal Election Form: 17064, Chaparral Apartments


Note: If you do not wish to appeal this notice, do not submit this form.

I am in receipt of my 2017 scoring notice and am filing a formal appeal to the Executive Director on or before Wednesday, July 5, 2017.

If my appeal is denied by the Executive Director:

I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.

I do not wish to appeal to the Board of Directors.

Signed 
Title VICE PRESIDENT
Date JUNE 28, 2017

Please email to Sharon Gamble:
<mailto:sharon.gamble@tdhca.state.tx.us>

17064
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

July 6, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Ms. Tamea Dula
Coats Rose
9 Greenway Plaza, Ste 1100
Houston, TX 77046

RE: 17064 CHAPARRAL APARTMENTS: SCORING APPEAL RESPONSE

Dear Ms. Dula:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated June 28, 2017, of the scoring notification for the above referenced Application. This Application was denied ten (10) points under 10 TAC §11.9(d)(3) related to Declared Disaster Area because Midland County did not receive a disaster declaration from the Governor within the two years preceding the Full Application Delivery Date of March 1, 2017, and is therefore not included on the list of eligible counties published by the Department. Because the Application lost these ten points, the Application did not qualify for six points under 10 TAC §11.9(e)(3) related to Pre-application Participation. Finally, the Applicant did not qualify for an accessible route to public transportation.

The appeal asserts that the Applicant was misled as Midland County was included on the list of eligible counties from 2016. The appeal states:

"The Applicant did not research the disaster proclamations under Tex. Gov't Code §418.014 directly, but instead researched the listing of disaster areas that had been accepted by the TDHCA within the last two years."

Pursuant to 10 TAC §11.1(b) related to Due Diligence and Applicant Responsibility:

Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP or may be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application ... In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and

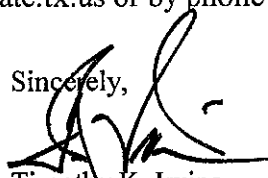


verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application.

Further, the appeal referred to the list posted from the 2016 program year. The list of eligible counties for the 2017 program year was posted to the Department's website on or about December 13, 2017. The Applicant had the opportunity prior to filing the full Application to review the list and contact staff to determine why Midland County was no longer included on the list, but it did not do so.

I find that the appeal provided sufficient evidence that the Development Site is within ½ mile on an accessible route to public transportation, and that tie-breaker will be awarded. The appeal has not provided sufficient evidence that the Application is eligible for the 10 points requested for Declared Disaster Area, and is therefore not eligible for six points for the Pre-application. Accordingly, I am denying that portion of your appeal. You have indicated that you wish for this appeal to be heard by the Department's Governing Board, and the appeal has been placed on the agenda for the board meeting of July 13, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,



Timothy K. Irvine
Executive Director

TKI

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, Discussion, and Possible Action on Timely Filed Scoring Notice Appeals for Applications 17097 Holly Oak Seniors under the Department's Multifamily Program Rules

RECOMMENDED ACTION

WHEREAS, a 9% Housing Tax Credit Application for Chaparral Apartments was submitted to the Department by the Full Application Delivery Date;

WHEREAS, staff has determined that the Application does not qualify for five points under 10 TAC §11.9(c)(6) related to Underserved Area as part of the census tract lies outside of the incorporated area of Houston, but the Application does qualify for two points;

WHEREAS, the Applicant appealed to the Executive Director; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Application 17097 Holly Oak Seniors is denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the "Code"), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

Pursuant to 10 TAC §11.10 of the Qualified Allocation Plan related to Third party Request for Administrative Deficiency, staff reviewed the Application to determine whether it qualified for five points under 10 TAC §11.9(c)(6) related to Underserved Area. Staff determined that the Application did not qualify for five points, as the census tract includes areas that outside of the incorporated boundaries of Houston. A scoring notice was issued to the Applicant, and the Applicant appealed staff's decision on July 5, 2017. The Executive Director denied the appeal, and the Applicant is appealing the scoring result.

§11.9(c)(6) Underserved Area

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to five (5) points if the Development Site is located in one of the areas described in subparagraphs (A) - (E) of this paragraph, and the Application contains evidence substantiating qualification for the points.

(E) A census tract within the boundaries of an incorporated area and all contiguous census tracts for which neither the census tract in which the Development is located nor the contiguous census tracts have received an award or HTC allocation within the past 15 years and continues to appear on the Department's inventory. This item will apply in cities with a population of 300,000 or more, and will not apply in the At-Risk Set-Aside (5 points).

The Application requested five points but was awarded two points as the census tract that includes the Development Site includes areas that are outside of the municipal boundaries of the City of Houston.

The appeal questions staff's reading that the census tract must be entirely within the boundaries of the municipality. The appeal asserts that the language of the rule does not contain any indication that the census tract must be entirely within the incorporated area of the city. Staff's reading is that where partial inclusion of an area is allowable the rule indicates such, as in item (A) of this same subsection:

(A) The Development Site is located wholly or partially within the boundaries of a colonia as such boundaries are determined by the Office of the Attorney General and within 150 miles of the Rio Grande River border.

Staff recommends the Board deny the appeal.

17097
Holly Oak Seniors

17097

Scoring Notice and
Documentation



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Nathan Kelley

Phone #: (713) 914-9200

Email: nkelley@blazerbuilding.com

Second Email: jhenderson@blazerbuilding.com

Date: June 27, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2017 Competitive Housing Tax Credit (HTC) Application for Holly Oak Seniors, TDHCA Number:
17097**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17097, Holly Oak Seniors

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	124
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	121
Difference between Requested and Awarded:	3

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
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Section 4:

Final Score Awarded to Application by Department staff:	154
--	------------

Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

§11.9(c)(6) Underserved Area. The Application requested five points but the census tract includes areas that are not within the boundaries of an incorporated area. (Requested 5, Awarded 2)

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Wednesday, July 5, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

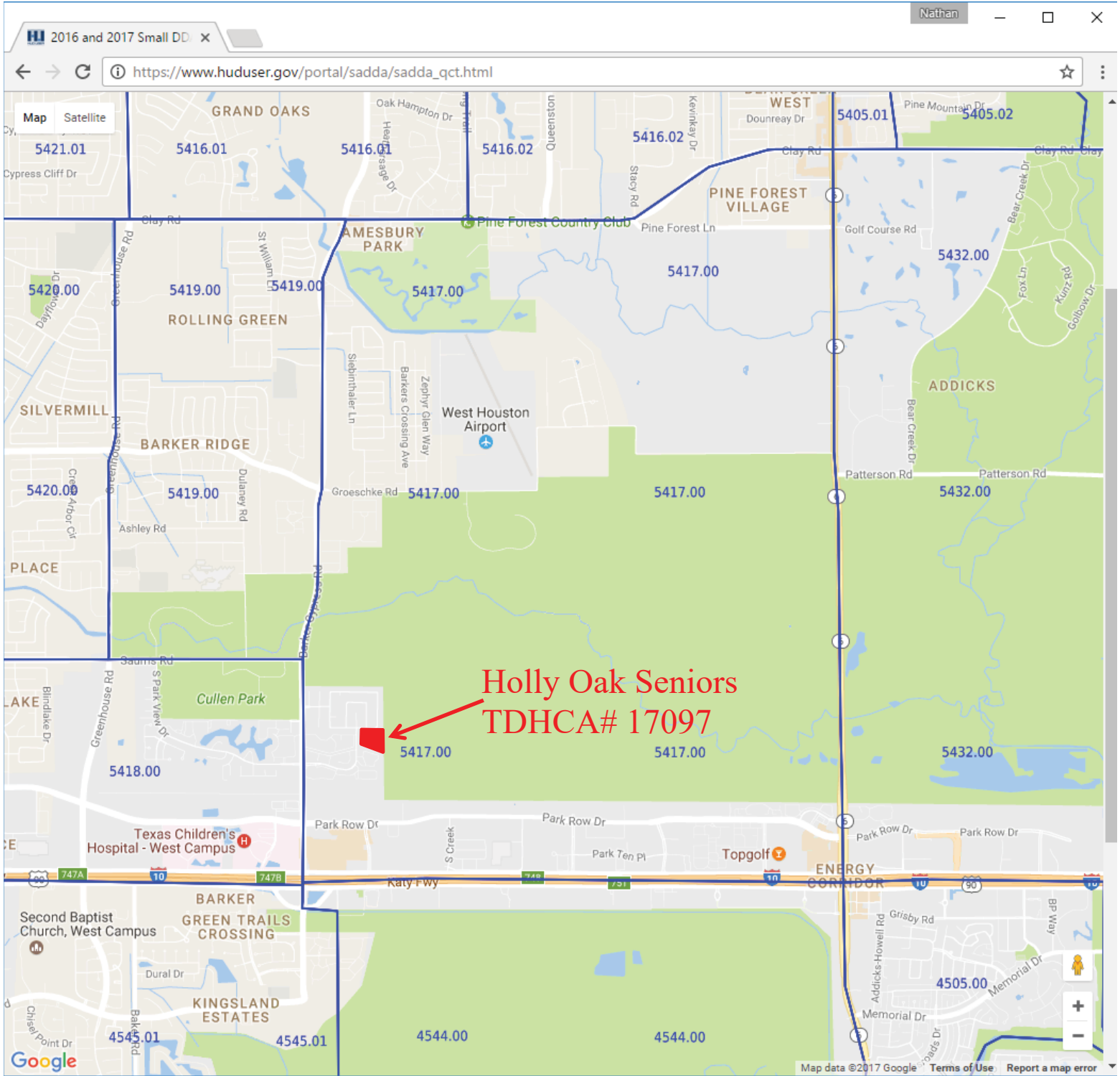
If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon Gamble

Sharon Gamble
 9% Competitive HTC Program Administrator

NH-Holly Oak LP Contiguous Census Tracts



Subject Tract:	48201541700		
Contiguous Tracts:	48201541800	48201540501	48201454501
	48201541900	48201543200	
	48201541601	48201450500	
	48201541602	48201454400	

17097

Applicant Appeal to
Executive Director



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Appeal Election Form: 17097, Holly Oak Seniors

Note: If you do not wish to appeal this notice, do not submit this form.

I am in receipt of my 2017 scoring notice and am filing a formal appeal to the Executive Director on or before Wednesday, July 5, 2017.

If my appeal is denied by the Executive Director:

I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.

I do not wish to appeal to the Board of Directors.

Signed 

Title Authorized Agent

Date July 5, 2017

Please email to Sharon Gamble:
<mailto:sharon.gamble@tdhca.state.tx.us>

Nantucket Housing, LLC

July 5, 2017

By Electronic Delivery
Mr. Tim Irvine
Texas Department of Housing and Community Affairs
211 East 11th Street
Austin, Texas 78701-2410

RE: Appeal of Revised 2017 Application Round Scoring Notice related to TDHCA Application# 17097, Holly Oak Seniors

Dear Mr. Irvine:

We represent NH-Holly Oak, LP, (the “Applicant”), which filed the above-referenced application (the “Application”) for low-income housing tax credits. This letter constitutes our appeal of the three (3) point reduction detailed in the “REVISED 2017 Application Round Scoring Notice...” issued by the Texas Department of Housing and Community Affairs (the “Department”) on June 28, 2017 (the “Revised Scoring Notice”). The Revised Scoring Notice was issued following the Department’s review of the Applicant’s response to a Request for Third Party Administrative Deficiency (the “Deficiency Notice”). Said Deficiency Notice requested that Applicant provide evidence documenting that the census tract that includes the development site be entirely within the city limits of Houston in order to qualify for the 5 points requested for being in an underserved area described in §11.9(c)(6) (the “Rule”) of the 2017 Qualified Allocation Plan (“QAP”).

The Rule provides up to 5 points for applications in which the development site “is located in one of the areas described in subparagraphs (A)-(E) of this paragraph, and the Application contains evidence substantiating qualification for the points.” (emphasis added) The Applicant stated “yes” on the line in the application form (see page from application attached hereto as Exhibit “A”) next to the option corresponding to subparagraph (E) and described in item §11.9(c)(6)(E) of the QAP as follows:

(E) A census tract within the boundaries of an incorporated area and all contiguous census tracts for which neither the census tract in which the Development is located nor the contiguous census tracts have received an award or HTC allocation within the past 15 years and continues to appear on the Department's inventory. This item will apply in cities with a population of 300,000 or more, and will not apply in the At-Risk Set-Aside (5 points).

TDHCA
Tim Irvine
July 5, 2017

The Deficiency Notice requested evidence “that the census tract that includes the development site is entirely within the city limits of Houston”, e.g. the boundaries of an incorporated area. Although (i) the development site is entirely within the boundaries of the city limits of Houston and (ii) the overwhelming majority of the census tract is within the boundaries of the city limits of Houston, there are portions of the census tract that lie within the extraterritorial jurisdiction of the city limits of Houston.

The request for the “evidence” noted in the paragraph above is driven by Staff’s interpretation that the “entire census tract would have to be within the boundaries of the incorporated area in order to get these points.”, as outlined in its Frequently Asked Questions (the “FAQ”) document which was first published on January 13, 2017. It is important to note that the deadline for pre-applications to be delivered to TDHCA was January 9, 2017, four (4) days prior to TDHCA publishing the FAQ.

It is impractical and unfair to expect the Applicant to foresee Staff’s interpretation of each provision of the QAP rather than relying on the plain language of the Governor-approved document. Each pre-application requires months of work with elected officials and neighborhood organizations leading up to the submission date not to mention capital resources spent securing land and preparing the applications. To change the course of an application’s score after the date pre-applications are due to TDHCA, and in such an informal setting as an FAQ, puts the Applicant in an unworkable situation when evaluating sites.

Lastly, if Staff’s interpretation of the QAP is going to set the precedent, then the FAQ should be published as a supplement to the NOFA’s & Rules section of the Department’s website instead of referenced in the General Information section of the 9% Housing Tax Credit page and provided under Multifamily Finance Program FAQs page of the Resources section.

PLAIN LANGUAGE & GOOD PUBLIC POLICY
SUPPORT APPLICANT’S REQUEST

§11.9(c)(6)(E) when read in the context of the entire §11.9(c)(6) provision clearly indicates that if a “development site” is located within an underserved area that is: (a) within a census tract that has not received an allocation of housing tax credits within the past 15 years; (b) all contiguous census tracts have not received an allocation of housing tax credits within the past 15 years ; and (c) which is in an incorporated area--it should be eligible for the 5 points.

The Department has taken the position that all of the census tract must be inside the boundaries of the incorporated city, as evidenced by the FAQ it published. However, while FAQs may be helpful articulations of staff’s interpretation of the rule—they clearly do not have any legally binding effect, whereas the rule itself is valid and binding legal authority. Any inconsistency between staff’s well-intended, helpful information and the QAP must be resolved in favor of the Rule.

TDHCA
Tim Irvine
July 5, 2017

The language of the Rule does not contain any indication that the census tract must be entirely within the incorporated area of the city. A more reasonable interpretation is that the development site must be entirely within a census tract in which no credits have been allocated for 15 years and that the development site must be entirely within an incorporated city. The FAQ adds language to the Rule that favors the Department's interpretation but clearly does not preempt the Rule or the Applicant's understanding and interpretation of the Rule.

Additionally, the clear intent of the Rule is to provide opportunities for areas in census tracts that have not received credits for many years—if ever—to receive them. Therefore, if it is good public policy to encourage allocation of credits in an area of a city that has a census tract that does not extend beyond the city limits, is it not better public policy to expand the reach of such an area to a larger footprint extending beyond the city limits? If the purpose of the policy is to provide more opportunities to underserved areas, then interpreting the Rule in a manner to cover a larger area rather than a smaller more restrictive area more fully achieves that policy objective. A map illustrating the larger area of coverage of the census tract at issue (Census Tract No. 5417) is attached hereto as Exhibit "B".

Furthermore, a census tract may be either partially within an incorporated area or entirely within an incorporated area and still be "within" the incorporated area. Since both constructions follow the express language of the Rule the two interpretations are not mutually exclusive. The fact that the Rule itself contains no modifying language to foreclose either interpretation means that both are therefore valid. And because both interpretations are valid, the Applicant should receive the 5 points at issue.

APPLICANT ALSO QUALIFIES FOR 2 POINTS

In addition to qualifying for the 5 points possible under subparagraph (E) of the Rule, Applicant clearly qualified for the 2 points possible under subparagraph (D) as indicated in the Revised Scoring Notice. The entire census tract depicted in Exhibit B, both the portion within and outside the incorporated area of the City, is not subject to any existing LURA—that is an objective and indisputable fact not subject to any level of subjective interpretation. Additionally, Applicant provided evidence of that fact in the Application.

In summary, we believe the Department may award the 5 points based on the clear and plain language of the Rule. If however, you determine that is not appropriate, then Applicant respectfully requests that the Department's recommendation that 2 points be awarded remain intact.

TDHCA
Tim Irvine
July 5, 2017

Thank you for your consideration of this important matter

Very truly yours,

A handwritten signature in blue ink, appearing to read "Nathan L. Kelley". The signature is fluid and cursive, with the first name being the most prominent.

Nathan L. Kelley

cc: Cynthia Bast
Chris Richardson

Enclosures

EXHIBIT A

Development is Rural and Development Site is within the required distance of eligible amenities and/or services pursuant to §11.9(c)(4)(B)(ii) of the QAP. A map showing the Development Site, scale showing radius, location of the amenities, and other evidence as applicable is included behind this tab.

Application is seeking points for Opportunity Index. Total Points Claimed: 7

If necessary, provide a brief summary of how the Development Site is justifying the points selected:

3. §11.9(c)(8) - Proximity to the Urban Core (Competitive HTC Applications Only)

- Development Site is located in a City with a population over 300,000 and is *not* in At-Risk Set-Aside.
- AND**
- Population of City is 300,000-500,000 and Development is located w/in 2 miles of City Hall facility.
- OR**
- Population of City is more than 500,000 and Development is located w/in 4 miles of City Hall facility.

Application is seeking points for Proximity to the Urban Core. Total Points Claimed: 0

4. §11.9(c)(6) - Underserved Area (Competitive HTC and Direct Loan Applications Only)

Applications may qualify for up to five (5) points for proposed Developments located in one of the following areas:

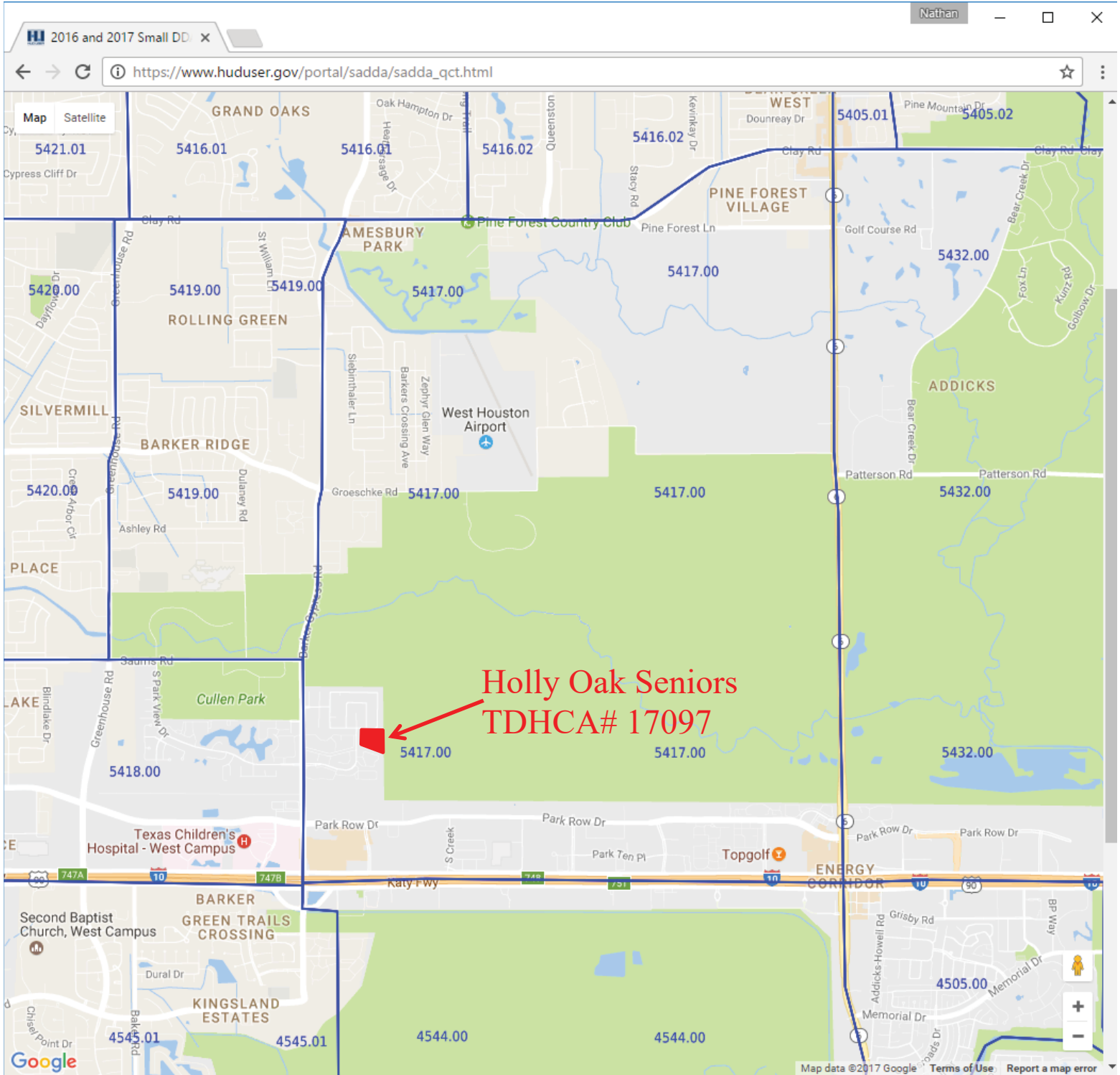
- Colonia (Note: Not eligible if application qualifies for Opportunity Index points) ;
- Economically Distressed Area (Note: Not eligible if application qualifies for Opportunity Index points) ;
- A census tract within the boundaries of an incorporated area that has not received a competitive tax credit allocation or a 4% non-competitive tax credit allocation for a Development within the last 15 years; and continues to appear on Department's inventory
- If not the previous item, a census tract that does not have a Development subject to an active tax credit LURA, (or has received a tax credit award but not yet reached the point where its LURA must be recorded);
- Yes** A census tract within the boundaries of an incorporated area and all contiguous census tracts for which neither the census tract within which the Development is located nor the contiguous census tracts have received an award or HTC allocation within the last 15 years and continues to appear on the Department's inventory (**only applies in cities with a population of ≥300,000 and will not apply in At-Risk**).

Contiguous Census Tract #	<input type="text" value="48201543200"/>	Contiguous Census Tract #	<input type="text" value="48201541900"/>
Contiguous Census Tract #	<input type="text" value="48201541602"/>	Contiguous Census Tract #	<input type="text" value="48201541800"/>
Contiguous Census Tract #	<input type="text" value="48201541601"/>	Contiguous Census Tract #	<input type="text" value="48201454400"/>

Application is seeking points for Underserved Area. Total Points Claimed: 5

EXHIBIT B

NH-Holly Oak LP Contiguous Census Tracts



Subject Tract:	48201541700		
Contiguous Tracts:	48201541800	48201540501	48201454501
	48201541900	48201543200	
	48201541601	48201450500	
	48201541602	48201454400	

17097
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

July 6, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Mr. Nathan L. Kelly
Nantucket Housing, LLC
4001 W. Sam Houston Pkwy. N., Ste 100
Houston, TX 77043

RE: 17097 HOLLY OAK SENIORS: SCORING APPEAL RESPONSE

Dear Mr. Kelly:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated July 5, 2017, of the scoring notice for the above referenced Application. This Application was denied three points under 10 TAC §11.9(c)(6) related to Underserved Area. The Application requested five points but was awarded two points as the census tract that includes the Development Site includes areas that are outside of the municipal boundaries of the City of Houston.

The appeal questions staff's reading that the census tract must be entirely within the boundaries of the municipality. Staff presented a similar question to the Department's Governing Board at the May 25, 2017, meeting, and the Board concurred with staff's reading. The appeal asserts that the language of the rule does not contain any indication that the census tract must be entirely within the incorporated area of the city. Staff's reading is that where partial inclusion of an area is allowable the rule indicates such, as in item (A) of this same subsection:

(A) The Development Site is located wholly or partially within the boundaries of a colonia as such boundaries are determined by the Office of the Attorney General and within 150 miles of the Rio Grande River border.

I find that the appeal did not provide sufficient evidence that the Application qualifies for five points under Underserved Area the two points awarded will remain. You have indicated that you wish for this appeal to be heard by the Department's Governing Board, and the appeal has been placed on the agenda for the board meeting of July 13, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy K. Irvine".

Timothy K. Irvine
Executive Director

TKI



17170 Star of Texas Seniors

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, discussion, and possible action on timely filed appeal of application termination under the 2017 Uniform Multifamily Rules:

17194	Oaks Apartments	Quitman
17203	Park Estates Apartments	Quitman
17741	Gateway Residences	Raymondville

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (“HTC”) Applications #17194 Oaks Apartments, 17203 Park Estates Apartments, and 17741 Gateway Residences that were submitted to the Department by the Full Application Delivery Date;

WHEREAS, notice of termination was provided to the Applicant for failure to meet the requirements of 10 TAC §10.204(16) of the 2017 Qualified Allocation Plan, related to the Section 811 Project Rental Assistance Program (“Section 811 PRA Program”);

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the appeal of termination for Applications #17194 Oaks Apartments, 17203 Park Estates Apartments, and 17741 Gateway Residences, is hereby denied.

BACKGROUND

Pursuant to 10 TAC §10.204, related to Required Documentation for Application Submission:

The purpose of this section is to identify the documentation that is required at the time of Application submission, unless specifically indicated or otherwise required by Department rule. If any of the documentation indicated in this section is not resolved, clarified or corrected to the satisfaction of the Department through either original Application submission or the Administrative Deficiency process, the Application will be terminated.

Item (16) of the subsection, related to the Section 811 Project Rental Assistance Program, outlines the requirements for each Application submitted for the competitive Application cycle:

All Competitive HTC Applications, Direct Loan only Applications and Tax-Exempt Bond Development Applications that are layered with Direct Loan funds must meet the requirements of subparagraphs (A) or (B) of this paragraph. Applications that are unable

meet the requirements of subparagraphs (A) or (B) must certify to that effect in the Application.

On March 17, 2017, the Applications were terminated because the Applications did not include information regarding the Section 811 PRA Program. The Applicant appealed the termination, and the Executive Director granted the appeal, directing staff to determine if the Section 811 Project Rental Assistance Program was not applicable to the Applications, as the Applications suggested. Staff issued an Administrative Deficiency to the Applicant on April 12, 2017, and the Applicant responded timely. The response included the following certification:

“This Application is unable to meet the requirements of subparagraphs (A) or (B) for the Section 811 Project Rental Assistance Program.

The Applicant and any affiliate **do not** have an existing development located in an eligible MSA that would meet the criteria outlined in the Section 811 PRA Program Request for Applications as referenced in subparagraph A.

Additionally, this application is **not** located in an eligible MSA and therefore this Application is unable to provide Section 811 units through subparagraph (B).”

On May 11, 2017, the Applicant was issued a second Administrative Deficiency by Section 811 PRA Program staff seeking to further clarify the issue. The Applicant responded timely, and the response included the following admission:

“Applicant, nor any affiliate, understood that project number 15281, Cayetano Villas of Live Oak, was participating in the Section 811 PRA Program. We SINCERLEY apologize for the oversight. We have corrected the corresponding application information and enclosed to reflect that pre-existing participation.”

The response included a letter from the lender for Cayetano Villas of Live Oak stating that the lender would not agree to further participation in the Section 811 PRA Program. After reviewing the response to the Administrative Deficiency issued on May 11, 2017, staff has determined that the certification provided by the Applicant and the letter from the lender were provided after the fact, and the Applications failed to meet threshold regarding this item.

Staff recommends denial of the appeal.

17194 Oaks Apartments
17203 Park Estates Apartments
17741 Gateway Residences

Part 3

Tab 19a

Section 811 Project Rental Assistance
Program

Not Applicable

Section 811 Project Rental Assistance Program [§10.204(16)]

(9% HTC Applications or Direct Loan Only Applications and Tax-Exempt Bond Development Applications that are layered with Direct Loan Funds)

- A. Application contains TDHCA approval for the participation of an Existing Development in the Section 811 PRA Program. The Existing Development must provide the Section 811 PRA Program with at least the lower of 10 units or 10% of the total number of Units in the Development in the Application; **or if the Applicant cannot provide this, Proceed to B.**

Attached behind this tab is the TDHCA approval letter for the participation of an Existing Development.

Attached behind this tab is the executed Certification for Section 811 PRA Program Participation.

- B. Applicants that in the Department's determination cannot meet the requirements of option A. above can proceed, if the application applying for funds includes the items listed below and meets the criteria outlined in this section; or if the Application cannot provide this, indicate below.

Attached behind this tab is a Self-Certification that the Applicant and any Affiliates do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria; or

Attached behind this tab is a Self-Certification that the Applicant and any Affiliates do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria except on which the Department, lender or investor will not approve; and Attached behind this tab is at least one of the following that allows the Applicant to select B. rather than A.

A copy of rejection letter(s) that has been provided by the Department in response to the applicant's submission of application(s) under the Existing Development Criteria; or

1) a copy of a letter(s) indicating that approval from either the lender or investor cannot be obtained for Existing Development(s). 2) copy of the TDHCA approval letter(s) for the participation of the Existing Development referenced in the lender or investor letter.

Attached behind this tab is the executed Certification for Section 811 PRA Program Participation for the Development applying under this Application.

Attached behind this tab a Self-Certification that the Development applying for funding has a disqualifying factor named below:

Mark **any** of the following factors that disqualify the development applying for funding from participating in the Section 811 PRA Program (some fields will auto-populate):

The Development is not proposing to use and previously did not use federal funding requiring lead based remediation (such as HOME or CDBG funds), and the Development was originally constructed before 1978;

Development only has units available that have other sources of project-based rental or long-term operating assistance that will be in effect when the property is operating or within six months of receiving Section 811 PRA Program assistance.

Development only has units that have an existing use restriction for Extremely Low-income households.

Development only has units available that are restricted for persons with disabilities.

Development is not located in Austin-Round Rock MSA, Brownsville-Harlingen MSA, Corpus Christi MSA, Dallas-Fort Worth-Arlington MSA, El Paso MSA, Houston-The Woodlands-Sugar Land MSA, McAllen-Edinburg-Mission MSA, or San Antonio-New Braunfels MSA.

The Development is a new construction project and located in the mapped 500-year floodplain or in the

100-year floodplain according to FEMA's most current Flood Insurance Rate Maps.

- The Development is located in a coastal high hazard area (V Zone) or regulatory floodway.
- Other disqualifying factor [\(please explain\)](#)

Not Applicable

Part 3

Tab 19a

Section 811 Project Rental Assistance
Program

Not Applicable

Section 811 Project Rental Assistance Program [§10.204(16)]

(9% HTC Applications or Direct Loan Only Applications and Tax-Exempt Bond Development Applications that are layered with Direct Loan Funds)

- A. Application contains TDHCA approval for the participation of an Existing Development in the Section 811 PRA Program. The Existing Development must provide the Section 811 PRA Program with at least the lower of 10 units or 10% of the total number of Units in the Development in the Application; **or if the Applicant cannot provide this, Proceed to B.**

Attached behind this tab is the TDHCA approval letter for the participation of an Existing Development.

Attached behind this tab is the executed Certification for Section 811 PRA Program Participation.

- B. Applicants that in the Department's determination cannot meet the requirements of option A. above can proceed, if the application applying for funds includes the items listed below and meets the criteria outlined in this section; or if the Application cannot provide this, indicate below.

Attached behind this tab is a Self-Certification that the Applicant and any Affiliates do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria; or

Attached behind this tab is a Self-Certification that the Applicant and any Affiliates do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria except on which the Department, lender or investor will not approve; and Attached behind this tab is at least one of the following that allows the Applicant to select B. rather than A.

A copy of rejection letter(s) that has been provided by the Department in response to the applicant's submission of application(s) under the Existing Development Criteria; or

1) a copy of a letter(s) indicating that approval from either the lender or investor cannot be obtained for Existing Development(s). 2) copy of the TDHCA approval letter(s) for the participation of the Existing Development referenced in the lender or investor letter.

Attached behind this tab is the executed Certification for Section 811 PRA Program Participation for the Development applying under this Application.

Attached behind this tab a Self-Certification that the Development applying for funding has a disqualifying factor named below:

Mark **any** of the following factors that disqualify the development applying for funding from participating in the Section 811 PRA Program (some fields will auto-populate):

The Development is not proposing to use and previously did not use federal funding requiring lead based remediation (such as HOME or CDBG funds), and the Development was originally constructed before 1978;

Development only has units available that have other sources of project-based rental or long-term operating assistance that will be in effect when the property is operating or within six months of receiving Section 811 PRA Program assistance.

Development only has units that have an existing use restriction for Extremely Low-income households.

Development only has units available that are restricted for persons with disabilities.

Development is not located in Austin-Round Rock MSA, Brownsville-Harlingen MSA, Corpus Christi MSA, Dallas-Fort Worth-Arlington MSA, El Paso MSA, Houston-The Woodlands-Sugar Land MSA, McAllen-Edinburg-Mission MSA, or San Antonio-New Braunfels MSA.

The Development is a new construction project and located in the mapped 500-year floodplain or in the

100-year floodplain according to FEMA's most current Flood Insurance Rate Maps.

- The Development is located in a coastal high hazard area (V Zone) or regulatory floodway.
- Other disqualifying factor [\(please explain\)](#)

Not Applicable

Part 3

Tab 19a

Section 811 Project Rental Assistance
Program

Not Applicable

Section 811 Project Rental Assistance Program [§10.204(16)]

(9% HTC Applications or Direct Loan Only Applications and Tax-Exempt Bond Development Applications that are layered with Direct Loan Funds)

- A. Application contains TDHCA approval for the participation of an Existing Development in the Section 811 PRA Program. The Existing Development must provide the Section 811 PRA Program with at least the lower of 10 units or 10% of the total number of Units in the Development in the Application; **or if the Applicant cannot provide this, Proceed to B.**

Attached behind this tab is the TDHCA approval letter for the participation of an Existing Development.

Attached behind this tab is the executed Certification for Section 811 PRA Program Participation.

- B. Applicants that in the Department's determination cannot meet the requirements of option A. above can proceed, if the application applying for funds includes the items listed below and meets the criteria outlined in this section; or if the Application cannot provide this, indicate below.

Attached behind this tab is a Self-Certification that the Applicant and any Affiliates do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria; or

Attached behind this tab is a Self-Certification that the Applicant and any Affiliates do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria except on which the Department, lender or investor will not approve; and Attached behind this tab is at least one of the following that allows the Applicant to select B. rather than A.

A copy of rejection letter(s) that has been provided by the Department in response to the applicant's submission of application(s) under the Existing Development Criteria; or

1) a copy of a letter(s) indicating that approval from either the lender or investor cannot be obtained for Existing Development(s). 2) copy of the TDHCA approval letter(s) for the participation of the Existing Development referenced in the lender or investor letter.

Attached behind this tab is the executed Certification for Section 811 PRA Program Participation for the Development applying under this Application.

Attached behind this tab a Self-Certification that the Development applying for funding has a disqualifying factor named below:

Mark **any** of the following factors that disqualify the development applying for funding from participating in the Section 811 PRA Program (some fields will auto-populate):

The Development is not proposing to use and previously did not use federal funding requiring lead based remediation (such as HOME or CDBG funds), and the Development was originally constructed before 1978;

Development only has units available that have other sources of project-based rental or long-term operating assistance that will be in effect when the property is operating or within six months of receiving Section 811 PRA Program assistance.

Development only has units that have an existing use restriction for Extremely Low-income households.

Development only has units available that are restricted for persons with disabilities.

Development is not located in Austin-Round Rock MSA, Brownsville-Harlingen MSA, Corpus Christi MSA, Dallas-Fort Worth-Arlington MSA, El Paso MSA, Houston-The Woodlands-Sugar Land MSA, McAllen-Edinburg-Mission MSA, or San Antonio-New Braunfels MSA.

The Development is a new construction project and located in the mapped 500-year floodplain or in the

100-year floodplain according to FEMA's most current Flood Insurance Rate Maps.

- The Development is located in a coastal high hazard area (V Zone) or regulatory floodway.
- Other disqualifying factor [\(please explain\)](#)

Not Applicable

Quad-State Development, Inc.

841 Sweetwater Avenue

Florence, Alabama 35630

Tele: (256) 760-9624 Fax: (256) 760-0902

April 18, 2017

Texas Department of Housing and Community Affairs
Attn: Director of Multi-family Finance
221 E 11th St
Austin, TX 78711-3941

Re: Administrative Deficiency for 2017 Competitive Housing Application 17194 Oaks Apartments

Pursuant to your notice dated March 12, 2017 on the above referenced application, please accept this clarification.

Applicant, nor any affiliate, have any ownership interest in or control of any Existing Development that would meet the criteria outlined in the Section 811 PRA Program Request for Applications. We apologize for the oversight of the separate self-certification but do believe this was otherwise demonstrated in the application as submitted. We are providing the statement as supplemental information since no points were taken and to have in the file for easy future reference. It can be confirmed in the following sections of the application as originally submitted that applicant met the criteria for paragraph B as demonstrated below:

- Tab 39: Applicant and Co-Developer as Quad State Development stated no prior experience with any TDHCA administered affordable rental program. Casa Tierra SA-1 and all members listed their TDHCA program experience to include identifying each of the 4 projects as 9% HTC only. They only have ownership in 2 of the 4 projects; none of which participate in the Section 811 Program.
- Tab 12, Part III: Development submitted is not located in the Austin-Round Rock MSA, Brownsville-Harlingen MSA, Corpus Christi MSA, Dallas-Fort Worth-Arlington MSA, El Paso MSA, Houston-The Woodlands-Sugar Land MSA, McAllen-Edinburg-Mission MSA, or San Antonio-New Braunfels MSA.
- Tab 19: Applicant stated that it was "Not Applicable" believing it wasn't as noted above in other areas of the application.

We remain available to discuss this in any further detail and can be contacted by phone, email, or mail. Thank you for the opportunity to pursue this proposed application.

Sincerely,



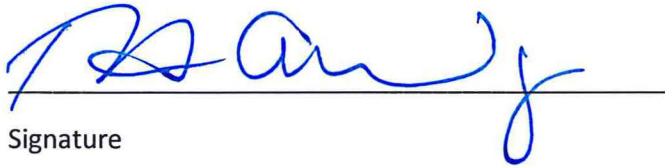
Randy Aldridge
President

Section 811 Self Certification

This Application is unable to meet the requirements of subparagraphs (A) or (B) for the Section 811 Project Rental Assistance Program.

The Applicant and any affiliate **do not** have an existing development located in an eligible MSA that would meet the criteria outlined in the Section 811 PRA Program Request for Applications as referenced in subparagraph A.

Additionally, this application is **not** located in an eligible MSA and therefore this Application is unable to provide Section 811 units through subparagraph (B).

A handwritten signature in blue ink, appearing to read "Randy", is written over a horizontal line. The signature is fluid and cursive.

Signature

Date: February 28, 2017

May 15, 2017

Texas Department of Housing and Community Affairs
Attn: Director of Multi-family Finance
221 E 11th St
Austin, TX 78711-3941

Re: Administrative Deficiency for 2017 Competitive Housing Application 17194 Oaks Apartments

Pursuant to your notice dated May 11, 2017 on the above referenced application, please accept this clarification. In an attempt to expedite the review of pending applications, we are splitting this response into forms pertaining to the pending applications and next steps on overall portfolio participation.

Regarding the pending applications, Applicant, nor any affiliate, understood that project number 15281, Cayetano Villas of Live Oak, was participating in the Section 811 PRA Program. We SINCERLEY apologize for the oversight. We have corrected the corresponding application information and enclosed to reflect that pre-existing participation. Please note the following circumstances that led us to this incorrect understanding:

- Applicant and Co-Developer as Quad State Development do NOT have prior experience with any TDHCA administered affordable rental program and correctly represented that. The subject proposed property is not in a participating county and while we attempted to thoroughly review and discuss the 811 guidelines as it pertained to proposed applications, we were relying on the information provided by non-profit partnerships on their other projects that are not jointly shared with proposed ownership structures in these pending applications.
 - Project is NOT in a participating county.
 - Applicant was not submitting a 9% application with either Direct Loan or Tax Exempt Bond layered fund.
- Casa Tierra SA-1 and all members listed their TDHCA program experience to include identifying each of the 4 projects as 9% HTC only. They only have ownership in 2 of the 4 projects and misunderstood from partnership that they were participating in the Section 811 Program.
 - Although La Vernia, Wilson County is part of San Antonio MSA, the La Vernia project in question was approved under the Rural Region category in 2015.
 - It was their (mis)understanding that the 10 units that are currently participating in the 811 units were established for scoring during the 2015 competitive QAP and didn't understand that they were currently co-participating in 811 as they were still under initial lease up at that time.
 - In reviewing the guidelines for existing developments to see if they needed to submit, the project in question was still leasing during the first quarter when applications were submitted. When app was submitted on March 1sts, project was between 85-90% occupied but had not maintained that in prior months as it was initial lease up. Project hit 85% occupancy on 2/23/17. We did not understand that there were pre-existing agreements already entered into and were just reviewing the status of the property at the time in making the determination on how to represent the new application with a non-related ownership partner.
 - 2017 811 FAQ and all guidelines available seemed to indicate a distinction between 9% application in a participating county verses existing developments and their participation as it related to layered financing applications; neither of which were applicable. As such the certification was made incorrectly.

Casa Tierra SA-1 is very dedicated to the advancement of affordable housing and special initiatives to ensure housing needs are being met for the lowest income households. We would GREATLY appreciate your input to make sure we have a thorough understanding of existing developments going forward. We have discussed with the ownership partners of Cayetano Villas of Live Oak your request to complete the Development Screening Tool to see if they can commit to 2 additional units. The initial discussion yielded some reluctance in increase participation from 10 to 12 units. In part, the required syndicator approval. Upon seeking that approval we have received the enclosed response that indicates their unwillingness to extend the current agreement for set aside units. We remain available to discuss this in any further detail and can be contacted by phone, email, or mail. Casa Tierra SA-1 is committed to ensuring we understand these new requirements so that we can best benefit the state on any of our existing or future projects.

Thank you for the opportunity to pursue this proposed application. We have enclosed the following:

1. In response to the clarification that project number 15-281, which is a project within the experience of an affiliate member to the applicant, is participating in a Section 811 Agreement we have provided a corrected Section 19 indicating participation as well as a copy of the executed agreement on the existing development.

a. Applicant did NOT claim points under this section and as such appreciate your acceptance of this clarification as allowed for under 11.9 (a) of the QAP.

2. In response to the request to submit the Section 811 Existing Development Screening Tool for project number 15-281; we are providing a letter from the syndicator conveying that they will not allow for additional participation beyond the existing 10 currently participating. Please advise if you would like to pursue additional conversation with the investor on re-evaluating this participation. But in the interest of advancing the existing applications reviews, we wanted to give you the initial response as to why the Screening Tool is not being submitted at this time.

Sincerely,



Mark Temple

Section 811 Project Rental Assistance Program [§10.204(16)]

(9% HTC Applications or Direct Loan Only Applications and Tax-Exempt Bond Development Applications that are layered with Direct Loan Funds)

A. Application contains TDHCA approval for the participation of an Existing Development in the Section 811 PRA Program. The Existing Development must provide the Section 811 PRA Program with at least the lower of 10 units or 10% of the total number of Units in the Development in the Application; **or if the Applicant cannot provide this, Proceed to B.**

Attached behind this tab is the TDHCA approval letter for the participation of an Existing Development.

Attached behind this tab is the executed Certification for Section 811 PRA Program Participation.

B. Applicants that in the Department's determination cannot meet the requirements of option A. above can proceed, if the application applying for funds includes the items listed below and meets the criteria outlined in this section; or if the Application cannot provide this, indicate below.

Attached behind this tab is a Self-Certification that the Applicant and any Affiliate do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria; or

Attached behind this tab is a Self-Certification that the Applicant and any Affiliate do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria except on which the Department, lender or investor will not approve; and Attached behind this tab is at least one of the following that allows the Applicant to select B. rather than A.

A copy of rejection letter(s) that has been provided by the Department in response to the applicant's submission of application(s) under the Existing Development Criteria; or

1) a copy of a letter(s) indicating that approval from either the lender or investor cannot be obtained for Existing Development(s). 2) a copy of the TDHCA approval letter(s) for the participation of the Existing Development referenced in the lender or investor letter.

Attached behind this tab is the executed Certification for Section 811 PRA Program Participation for the Development applying under this Application.

Attached behind this tab a Self-Certification that the Development applying for funding has a disqualifying factor named below:

Mark **any** of the following factors that disqualify the development applying for funding from participating in the Section 811 PRA Program (some fields will auto-populate):

The Development is not proposing to use and previously did not use federal funding requiring lead based remediation (such as HOME or CDBG funds), and the Development was originally constructed before 1978;

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Development is not located in Austin-Round Rock MSA, Brownsville-Harlingen MSA, Corpus Christi MSA, Dallas-Fort Worth-Arlington MSA, El Paso MSA, Houston-The Woodlands-Sugar Land MSA, McAllen-Edinburg-Mission MSA, or San Antonio-New Braunfels MSA.

The Development is a new construction project and located in the mapped 500-year floodplain or in the

100-year floodplain according to FEMA's most current Flood Insurance Rate Maps.

- The Development is located in a coastal high hazard area (V Zone) or regulatory floodway.
- Other disqualifying factor [\(please explain\)](#)

Support Documentation from Section 811 Should be Included Behind this Tab.

- TDHCA approval letter for the participation of an Existing Development.
- Executed Certification for Section 811 PRA Program Participation.
- Self-Certification that the Applicant and any Affiliate do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria; or
- Self-Certification that the Applicant and any Affiliate do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria except on which the Department, lender or investor will not approve; and
- At least one of the following that allows the Applicant to select B rather than A:
 - A copy of rejection letter(s) that has been provided by the Department in response to the applicant's submission of application(s) under the Existing Development Criteria; or
 - 1) a copy of a letter(s) indicating that approval from either the lender or investor cannot be obtained for Existing Development(s). 2) a copy of the TDHCA approval letter(s) for the participation of the Existing Development referenced in the lender or investor letter.
- Executed Certification for Section 811 PRA Program Participation for the Development applying under this Application.
- Self-Certification that the Development applying for funding has a disqualifying factor.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

**SECTION 811 PROJECT RENTAL ASSISTANCE DEMONSTRATION
PROGRAM
OWNER PARTICIPATION AGREEMENT**

This Section 811 Project Rental Assistance Demonstration Program Owner Participation Agreement (the "Agreement") is entered into on this 30th day of November, 2015 by and between the Capetano Villas of Galveston, LLC ("Owner") and the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas ("TDHCA") (collectively, the "Parties") for participation in the TDHCA Section 811 Project Rental Assistance Demonstration Program.

Section 1
TERM

This Agreement shall be effective on the date executed by the authorized representative for TDHCA and shall remain in full force and end on the date which is 30 years from the date of execution or the expiration date of the Use Agreement, whichever period is longer, unless earlier terminated or amended in accordance with the provisions herein ("**Term**").

Section 2
DEFINITIONS

2.1 General. Unless the context clearly indicates otherwise, capitalized terms used shall have the meaning ascribed to them in this Agreement, provided that certain capitalized terms used and not defined herein shall have the meanings ascribed to them in or for the purposes of the Program Requirements.

- A. "**Assisted Units**" means rental units made available to or occupied by an Eligible Tenant in Eligible Multifamily Properties receiving assistance under 42 U.S.C. § 8013(b)(3)(A).
- B. "**Contract Rent**" means the total amount of rent specified in the Rental Assistance Contract (RAC) as payable to the Owner for the Assisted Unit.
- C. "**Cooperative Agreement**" means the Section 811 Project Rental Assistance Demonstration Program Cooperative Agreement including all exhibits and attachments thereto, by and between TDHCA as "Grantee" and HUD, entered into as a condition to

and in consideration of TDHCA's participation in the Section 811 Project Rental Assistance Demonstration Program.

- D. **"Eligible Applicants"** Means an Extremely Low-Income Person with Disabilities, between the ages of 18 and 62, and Extremely Low Income Families, which includes at least one Person with a Disability, who is between the ages of 18 and 62 at the time of admission. The Person with a Disability must be eligible for community-based, long-term care services as provided through Medicaid waivers, Medicaid state plan options, comparable state funded services or other appropriate services related to the type of disability(ies) targeted under the Inter-Agency Partnership Agreement.
- E. **"Eligible Families"** or **"Eligible Family"** shall have the same meaning as "Eligible Tenant."
- F. **"Eligible Multifamily Property"** or **"Eligible Multifamily Properties"** means any new or existing property owned by a private or public nonprofit, or for-profit entity with at least five (5) housing units.
- G. **"Eligible Tenant"** means an Eligible Applicant who is being referred to available Assisted Units in accordance with the Inter-Agency Partnership Agreement and for whom community-based, long-term care services are available at time of referral. Such services are voluntary; referral shall not be based on willingness to accept such services. Eligible Tenant also means an Extremely Low-Income Person with a Disability, between the ages of 18 and 62 at the time of referral, and Extremely Low-Income families, which includes at least one Person with a Disability, who is between the ages of 18 and 62 at the time of referral.
- H. **"Extremely Low-Income"** means a very-low income household whose annual income does not exceed the higher of: thirty percent (30%) of the median income for the areas, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than thirty percent (30%) of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes or the Federal Poverty Level. HUD's income exclusions, as defined under 24 CFR §5.609, apply in determining income eligibility and Eligible Tenant's rent.
- I. **"HUD"** means the U. S. Department of Housing and Urban Development.
- J. **"Inter-Agency Partnership Agreement"** means the Inter-Agency Partnership Agreement between TDHCA and State Health and Human Services Medicaid Agency(ies) that provides a formal structure for collaboration to participate in TDHCA's Section 811 Project Rental Assistance Demonstration Program to develop permanent supportive housing for Extremely Low-Income Persons with Disabilities.

- K. **“Owner”** means the entity that owns the Eligible Multifamily Property. Additionally, Owner means the entity named as such in the first paragraph on page 1 of this Agreement, its successors and assigns.
- L. **“Owner & Property Management Manual”** means a set of guidelines designed to be an implementation tool for the Program, which allows the Owner and the Owner’s designated property manager to better administer the Program, which also includes adherence to the “Owner Occupancy Requirements” set forth in Section IV of HUD Notice H 2013-24.
- M. **“Persons with Disability”** or **“Persons with Disabilities”** shall have the same meaning as defined under 42 U.S.C. §8013(k)(2) and 24 CFR §891.305.
- N. **“Program”** means TDHCA’s Section 811 Project Rental Assistance Demonstration Program under Section 811 of the Cranston-Gonzales National Affordable Housing Act [42 U.S.C. §8013(b)(3)(A)], as amended by the Frank Melville Supportive Housing Investment Act of 2010 (Public Law 111-374) designed to provide permanent supportive housing for Extremely Low-Income persons with disabilities receiving long term supports and services in the community.
- O. **“Program Requirements”** means but is not limited to: (1) this Agreement; (2) Tex. Gov’t. Code Ann. Chapter 2306; (3) the applicable state program rules under Title 10, Part 1 of the Texas Administrative Code; (4) the Owner & Property Management Manual; (5) Part I of the Rental Assistance Contract attached as Exhibit 8 to the Cooperative Agreement; (6) Part II of the Rental Assistance Contract attached as Exhibit 9 to the Cooperative Agreement; (7) the Use Agreement; (8) Program Guidelines attached as Exhibit 5 to the Cooperative Agreement; (9) HUD Notice 2013-24 issued on August 23, 2013; (10) section 811 of the Cranston-Gonzales National Affordable Housing Act [42 U.S.C. §8013(b)(3)(A)], as amended by the Frank Melville Supportive Housing Act of 2010 [Public Law 111-374]; (11) Consolidated and Further Continuing Appropriations Act of 2012 [Public Law 112-55]; (12) Notice of Funding Availability (NOFA) for Fiscal Year 2012 Section 811 Project Rental Assistance Demonstration Program published on May 15, 2012 (13) Notice of Funding Availability (NOFA) for Fiscal Years 2013 Section 811 Project Rental Assistance Program published on March 4, 2014, and Technical Corrections to NOFA; and (14) all laws applicable to the Program.
- P. **“Rental Assistance Contract (RAC)”** means the HUD contract (form HUD-92235-PRA and form HUD-92237-PRA) by and between TDHCA and the Owner of the Eligible Multifamily Property which sets forth additional terms, conditions and duties of the Parties with respect to the Eligible Multifamily Property and the Assisted Units.
- Q. **“Rental Assistance Payments”** means the payment made by TDHCA to Owner as provided in the Rental Assistance Contract. Where the Assisted Units are leased to an Eligible Tenant, the payment is the difference between the Contract Rent and the Tenant Rent. An additional payment is made to the Eligible Tenant when the Utility Allowance is greater than the Total Tenant Payment. A vacancy payment may be made to the Owner when an Assisted Units is vacant, in accordance with the RAC.

- R. **“Target Population”** means the specific group or groups of Eligible Applicants and Eligible Tenants described in TDHCA’s Inter-Agency Partnership Agreement who are intended to be solely served or to be prioritized under TDHCA’s Program.
- S. **“Tenant Rent”** means the rent as defined in 24 CFR Part 5.
- T. **“Total Tenant Payment”** means the payment as defined in 24 CFR Part 5.
- U. **“Utility Allowance”** means the Utility Allowance as defined in 24 CFR Part 5.
- V. **“Use Agreement”** means an agreement by and between TDHCA and Owner in the form prescribed by HUD under Exhibit 10 of the Cooperative Agreement (form HUD-92238-PRA) encumbering the Eligible Multifamily Property with restrictions and guidelines under the Program for operating Assisted Units during a thirty (30) year period, to be recorded in the official public property records in the county where the Eligible Multifamily Property is located.

Section 3
OWNER’S OBLIGATIONS AND LIABILITIES

3.1 Legal Authority

- A. **Contractual Authority.** Owner assures and guarantees TDHCA that Owner possesses the legal authority to enter into this Agreement, to receive funds authorized by this Agreement, and to perform the services Owner has obligated itself to perform under this Agreement.
- B. **Signature Authority.** The person(s) signing and executing this Agreement on behalf of Owner does hereby warrant and guarantee that he/she is duly authorized by Owner to execute this Agreement on behalf of Owner and to validly and legally bind Owner to all the terms, performances, and provisions of this Agreement.

Section 4
TDHCA OBLIGATIONS AND LIABILITIES

4.1 Program Funds TDHCA shall not disburse Program funds under this Agreement until and unless the actual receipt by TDHCA of adequate federal or state funds to meet TDHCA’s liabilities under this Agreement. If adequate funds are not available to make payments under this Agreement, TDHCA shall notify Owner in writing within a reasonable time after such fact is determined. In that event, this Agreement shall terminate and neither TDHCA nor Owner shall have any further rights or obligations hereunder.

4.2 TDHCA Point of Contact (“TDHCA POC”)

- A. **Appointment.** TDHCA will appoint a staff person as the Point of Contact responsible for receiving the Program referrals from the referral agents. The current TDHCA POC is **Bill Cranor** and can be reached at **bill.cranor@tdhca.state.tx.us**.

- B. Responsibilities. The TDHCA POC will maintain the waiting list for all Assisted Units within Eligible Multifamily Properties. The TDHCA POC is responsible for the various functions detailed in the Inter-Agency Partnership Agreement for the Program and is the main point of contact for Owner.
- C. Changes; New Appointment. Should the TDHCA POC change, TDHCA will make reasonable attempts to notify the Parties of the change in TDHCA POC in accordance with the notice provision in Section 10.15 of this Agreement.

Section 5 PERFORMANCE

5.1 Use and Occupancy of Eligible Multifamily Property

- A. Use of Eligible Multifamily Property. During the Term of this Agreement, the Owner will commit to the Program a set aside for Eligible Applicants and make available for occupancy by Eligible Applicants on a continuous basis (10 ✓) Assisted Units on the Eligible Multifamily Property.
- B. Assisted Units Requirements. An Assisted Unit must meet the following requirements:
1. The Assisted Unit does not currently have an existing use restriction for Persons with Disabilities.
 2. The Assisted Unit has not been receiving any federal, state, or local project-based rental assistance or long-term operating assistance for a period of 6 months or longer.
 3. The Assisted Unit does not have an existing use restriction for Persons 62 years of age or older or 55 years of age or older.
 4. If the Assisted Unit has an existing income or rent restriction, that restriction must be for an income or rent greater than thirty percent (30%) of the median family income for the area.
 5. The types (*e.g.*, accessible) and the specific number of Assisted Units (*e.g.*, units 101, 201, etc.) will be "floating" (flexible) depending on the needs of the Program and the availability of the Assisted Units on the Eligible Multifamily Property.
- C. Occupancy Requirements. Owner must comply with the following occupancy requirements:
1. If the Eligible Multifamily Property consists of less than 50 total units, then Owner must set aside no more than twenty-five percent (25%) of the total units in Eligible Multifamily Property as Assisted Units to be funded with payments under the Program, restricted to supportive housing for Persons with Disabilities, or have occupancy preferences as reflected in a contract or Use Agreement for Persons with Disabilities.

2. If the Eligible Multifamily Property consist of 50 or more total units, then Owner must set aside no more than eighteen percent (18%) of the total units in Eligible Multifamily Property as Assisted Units to be funded with payments under the Program, restricted to supportive housing for Persons with Disabilities, or have occupancy preferences as reflected in a contract or Use Agreement for Persons with Disabilities.
3. Owner is required to follow all applicable Program Requirements including but not limited to the following occupancy requirements found in HUD Handbook 4350.3 REV-1 and Housing Notices:
 - a. H 2012-06, *Enterprise Income Verification (EIV) System*
 - b. H 2012-26, *Extension of Housing Notice 2011-25, Enterprise Income Verification (EIV) & You Brochure- Requirements for Distribution and Use*
 - c. H 2012-22, *Further Encouragement for O/As to Adopt Optional Smoke-Free Housing Policies*
 - d. H 2012-11, *State Registered Lifetime Sex Offenders in Federally Assisted Housing*
 - e. H 2012-09, *Supplemental Information to Application for Assistance Regarding Identification of Family Member, Friend or Other Persons or Organization Supportive of a Tenant for Occupancy in HUD Assisted Housing*

D. Use Agreements. The Owner must execute the Use Agreement, as found in Exhibit 10 of the Cooperative Agreement, before the execution of the RAC and comply with the following:

1. Use Agreement should be properly recorded according to local laws in the official public records on the Eligible Multifamily Property. The Owner shall provide to TDHCA within 30 days of its receipt of the recorded Use Agreement, a copy of the executed, recorded Use Agreement.
2. The Owner shall not enter into any future use agreements or other subsidy programs that would diminish the number of Assisted Units that can be placed on the Eligible Multifamily Property.

TDHCA will enforce the provisions of the Use Agreement and RAC consistent with HUD's internal control and fraud monitoring requirements.

5.2 Tenant Certifications, Reporting and Compliance

- A. TRACS & EIV Systems. The Owner shall have appropriate software to access the Tenant Rental Assistance Certification System (TRACS) and the Enterprise Income Verification (EIV) System. The Owner shall be responsible for ensuring Program

information is entered into these systems. The Owner agrees that TRACS is the only method for an Eligible Multifamily Property to request Rental Assistance Payments.

- B. Outside Vendors. The Owner has the right to refuse assistance from outside vendors hired by TDHCA to assist with tenant screening duties, but is still required to satisfy the Program Requirements.
- C. Tenant Certification. The Owner shall transmit Eligible Tenant's certification and recertification data, transmit voucher data, and communicate errors electronically in a form consistent with HUD reporting requirements for Tenant Rental Assistance Certification System (TRACS).

5.3 Tenant Selection and Screening

- A. Target Population. TDHCA will screen Eligible Applicants for compliance with TDHCA's Program Target Population criteria and do an initial screening for Program Requirements. The Inter-Agency Partnership Agreement describes the specific Target Population eligible for TDHCA's Program. The Target Population can be revised with HUD approval.
- B. Tenant Selection Plan. Upon the execution of this Agreement, the Owner will submit the Eligible Multifamily Property's Tenant Selection Criteria, as defined by and in accordance with 10 TAC §10.610 (as amended), to TDHCA for approval. TDHCA will review the Tenant Selection Plan for compliance with existing Tenant Selection Criteria requirements and consistent with TDHCA's Section 811 PRA Participant Selection Plan.
- C. Tenant Eligibility and Selection. The Owner is responsible for ultimate eligibility and selection of an Eligible Tenant and will comply with the following:
 - 1. The Owner must accept referrals of an Eligible Tenant from TDHCA and retain copies of all applications received. The Owner is responsible for notifying the prospective Eligible Tenant and TDHCA in writing regarding any denial of a prospective Eligible Tenant's application to an Eligible Multifamily Property and the reason for said denial. In the notice of denial, the Owner is responsible for notifying the Eligible Tenant of the right to dispute a denial, as outlined in HUD Handbook 4350.3. The results of the dispute must be sent to the Eligible Tenant and TDHCA in writing.
 - 2. The Owner is responsible for determining age of qualifying member of the Eligible Families. Eligible Family member must be at least 18 years of age and under the age of 62.
 - 3. The Owner is responsible for criminal background screening as required by HUD Handbook 4350.3.
- D. Verification of Income. The Owner is responsible for determining income of Eligible Families. The Owner shall verify income through the Enterprise Income

Verification (EIV) System. The Owner must certify an Eligible Tenant and Eligible Families at least annually and verify their income.

5.4 Rental Assistance Contracts ("RAC")

- A. Applicability. If requested by TDHCA, the Owner shall enter into a RAC. Not all properties with an Eligible Multifamily Property Agreement will have a RAC, but when notified by TDHCA, the Eligible Multifamily Property must enter into a RAC(s) and begin serving Eligible Applicants. This Agreement is consistent and not in conflict with the RAC.
- B. Notice. TDHCA agrees to provide written notice to the Owner if and when it intends to enter into a RAC with the Owner.
- C. Assisted Units. TDHCA will determine the number of Units (up to the maximum listed in Section 5.2 of this Agreement) to place in the RAC(s) which may be fewer than the number of Units identified in Section 5.2 of this Agreement. In addition, TDHCA will designate the bedroom composition of the Assisted Units, as required by the RAC. However, based on an actual Eligible Tenant, this may fluctuate. It is possible that an Eligible Multifamily Property will have a RAC for a different number of units than the number committed in the Inter-Agency Partnership Agreement.
- D. Amendments. The Owner agrees to amend the RAC(s) upon request of TDHCA. Some examples are amendments that may either increase or decrease the total number of Assisted Units or increase or decrease the associated bedroom sizes; multiple amendments to the RAC may occur over time. The total number of Assisted Units in the RAC will not exceed the number of Assisted Units committed in this Agreement, unless by request of the Owner.
- E. Contract Term. TDHCA will specify the effective date of the RAC. During the first year of the RAC and with approval from HUD, the Owner may request to align the anniversary date of the RAC with existing federal or state housing programs layered on the Eligible Multifamily Property.
- F. Rent Increase. Owners must submit a written request to TDHCA 30 days prior to the anniversary date of the RAC to request an annual increase.
- G. Utility Allowance. The RAC will identify the TDHCA approved Utility Allowance being used for the Assisted Units for the Eligible Multifamily Property. The Owner must notify TDHCA if there are changes to the Utility Allowance calculation methodology being used.
- H. Termination. Although TDHCA has discretion to terminate a RAC due to good cause, an Owner cannot opt-out of a RAC.
- I. Foreclosure of Eligible Multifamily Property. Upon foreclosure, assignment, sale in lieu of foreclosure, or sale of the Eligible Multifamily Property, to the extent allowed by law:

1. The RAC shall be transferred to new owner by contractual agreement or by the new owner's consent to comply with the RAC, as applicable; and
2. Rental Assistance Payments will continue uninterrupted in accordance with the terms of the RAC.

5.5 Advertising

- A. Advertising Materials. The Owner must provide materials for the purpose of advertising the Eligible Multifamily Property, including but not limited to:
1. Depictions of the units including floor plans
 2. Brochures
 3. Tenant Selection Criteria
 4. House Rules
 5. Number and size of available units
 6. Number of units with accessible features (including, but not limited to units designed to meet Uniform Federal Accessibility Standards, the Fair Housing Act, or the Americans with Disabilities Act)
 7. Documentation on access to transportation and commercial facilities
 8. Onsite amenities
- B. Affirmative Marketing. TDHCA will be responsible for affirmatively marketing the Program to Eligible Applicants and will establish an affirmative fair housing marketing plan for its TDHCA Program which Owner will be required to follow when marketing Assisted Units.
- C. Advertising. At any time, TDHCA may choose to advertise the Eligible Multifamily Property, even if the Eligible Multifamily Property has not yet entered into a RAC.

5.6 Leasing Activities

- A. Segregation of Assisted Units. The Owner must take actions or adopt procedures to ensure that the Assisted Units are not segregated to one area of a building (such as on a particular floor or part of a floor in a building or in certain sections within the Eligible Multifamily Property).
- B. Form of Lease. The Owner will use the HUD Section 811 PRA Model Lease (HUD-92236-PRA), Exhibit 11 of the Cooperative Agreement, for all Eligible Families once a RAC is signed. The initial lease will be for not less than one year.

- C. Communication. Owners are required to document in writing all communication between the Eligible Tenant and the Owner, or Owner-designated agent regarding applications, notifications, evictions, complaints, non-renewals and move outs.
- D. Lease Renewals and Changes. The Owner must notify TDHCA of renewals of leases with Eligible Families and any changes to the terms of the lease.

5.7 Rent

- A. Tenant Rent Payment. The Owner is responsible for remitting any Tenant Rent payment due to the Eligible Tenant if the Utility Allowance exceeds the Total Tenant Payment. The Owner will determine the Tenant Rent payment of the Eligible Tenant, based on HUD Handbook 4350.3, and is responsible for collecting the Tenant Rent payment.
- B. Rent Increase. Owner must provide the Eligible Tenant with at least thirty (30) days notice before increasing rent.
- C. Rent Restrictions. Owner will comply with the following rent restrictions:
 1. If the Assisted Unit has a TDHCA enforced rent restriction that is equal to or lower than Fair Market Rent ("FMR"), the initial rent is the TDHCA enforced rent restriction.
 2. If there is no existing TDHCA enforced rent restriction on the Unit, or the existing TDHCA enforced rent restriction is higher than FMR, TDHCA will work with the Owner to conduct a market analysis of the Eligible Multifamily Property to support that a rent higher than FMR is attainable.
 3. After the signing of the original RAC with TDHCA, the Owner may request a new anniversary date to be consistent with other rent restrictions on the Eligible Multifamily Property allowed by TDHCA.
 4. After the signing of the original RAC, upon request from the Owner to TDHCA, Rents may be adjusted on the anniversary date of the RAC.
 5. Adjustments may not result in higher rents charged for an Assisted Unit as compared to a non-assisted unit. The calculation or methodology used for the annual increase amount will be identified in the Eligible Multifamily Property's RAC.
 6. Owner can submit a request for a rent increase or to change the contract anniversary date using HUD Form 92458.

5.8 Vacancy; Transfers; Eviction; Household Changes

- A. Holding Assisted Units. Once an Owner signs a RAC, the Eligible Multifamily Property must hold an available Assisted Unit for 60 days while a qualified Eligible Applicant applies for and moves into the Assisted Unit.

- B. Notification. Owner will notify TDHCA of determination of ineligibility or the termination of any participating Eligible Families or any member of a participating Eligible Family.
- C. Temporary Vacancy. If the Owner is made aware, the Owner will notify TDHCA if the Eligible Tenant has vacated the Eligible Multifamily Property for more than two (2) weeks, but is continuing to pay rent. An example of this could be for temporary hospitalization.
- D. Vacancy. Once a RAC is executed, the Owner must notify TDHCA of the vacancy of any Unit, including those that have not previously been occupied by an Eligible Tenant, as soon as possible, not to exceed seven (7) calendar days from when the Owner learns that an Assisted Unit will become available. If the qualifying Eligible Tenant vacates the Assisted Unit, TDHCA will determine if the remaining family members are eligible for continued assistance from the Program.
- E. Vacancy Payment. An Owner of an Eligible Multifamily Property that is not under a RAC may not receive a vacancy payment. TDHCA may make vacancy payments not to exceed 80% of the Contract Rent, during this time to the Eligible Multifamily Property, potentially for up to 60 days. After 60 days, the Owner may lease that Assisted Unit to a non-Eligible Tenant.
- F. Household Changes: Transfers. Owners must notify TDHCA if the Eligible Tenant requests an Assisted Unit transfer. Owner will notify TDHCA of any household changes in an Assisted Unit within three (3) business days. If the Owner determines that, because of a change in household size, an Assisted Unit is smaller than appropriate for the Eligible Tenant to which it is leased or that the Assisted Unit is larger than appropriate, the Owner shall refer to TDHCA's written policies regarding family size, unit transfers, and waitlist management. If the household is determined by TDHCA to no longer be eligible, TDHCA will notify the Owner. Rental Assistance Payments with respect to the Assisted Unit will not be reduced or terminated until the eligible household has been transferred to an appropriate size Assisted Unit.
- G. Eviction. Before evicting an Eligible Tenant, the Owner must have accessed, at least once in the two (2) months prior to eviction, the Section 811 Project Rental Assistance Demonstration Program's Conflict Management process.

5.9 Construction Standards, Accessibility, Inspections and Monitoring

- A. Construction Standards. Upon execution of a RAC, the Eligible Multifamily Property shall be required to conform to Uniform Physical Conditions Standards (UPCS) which is a uniform national standards established by HUD for housing that is decent, safe, sanitary, and in good repair. The site, building exterior, building systems, dwelling units and common areas of the Eligible Multifamily Property, as more specifically described in 24 CFR §5.703 must be inspected in any physical inspection of the property.
- B. Inspection. Prior to occupancy, the Eligible Tenant must be given the opportunity to be present for the move-in unit inspection.

- C. Repair and Maintenance. Owner will perform all repair and maintenance functions, including ordinary and extraordinary maintenance; will replace capital items; and will maintain the premises and equipment, appurtenant thereto, in good repair, safe and sanitary condition consistent with HUD and TDHCA requirements.
- D. Accessibility. Owner must ensure that the Eligible Multifamily Property will meet or exceed the accessibility requirements under (1) 24 C.F.R Part 8, which implements Section 504 of the Rehabilitation Act of 1973; (2) the Fair Housing Act Design Manual, (3) Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131-12189), as implemented by the U. S. Department of Justice regulations at 28 CFR Parts 35 and 36, and (4) the Federal Fair Housing Act as implemented by HUD at 24 CFR Part 100. However, Assisted Units can consist of a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.
- E. Accessible Transportation for Existing Properties for Tax Credit Points. If the Owner is an applicant for Competitive (9%) Housing Tax Credits, Owner must ensure that for existing Eligible Multifamily Properties in its portfolio or its affiliate's portfolio, will meet one of the following requirements:
 - 1. Owner agrees to provide at no cost to the Eligible Tenant accessible transportation when the property management office is open, such as cab vouchers or a specialized van on-site, to a bus or other public transit stop; or
 - 2. The Eligible Multifamily Property is within a quarter mile of a bus or other public transit stop.

5.10 Owner Training The Owner is obligated to train all property management staff on the requirements of the Program. The Owner will ensure that any new property management staff who is involved in serving Eligible Families review training materials found on the Program's webpage including webinars, manuals and checklists.

Section 6 RECORDS AND REPORTING

6.1 Retention and Accessibility of Records

- A. Retention. Owner shall establish and maintain sufficient records at its regular place of business, as specified by TDHCA and in accordance with Program Requirements, including records that demonstrate that each Eligible Tenant and Eligible Family assisted with funds provided under this Agreement is income eligible in accordance with Program Requirements.
- B. Accessibility. Owner agrees that TDHCA, HUD, the Auditor of the State of Texas, the United States General Accounting Office, the Comptroller of the United States, or any of their duly authorized representatives, shall have the right to access and to examine all books, accounts, records, reports, files, and other papers or property belonging to or in

use by Owner pertaining to this Agreement. Owner agrees to maintain such records at its regular place of business.

- C. Open Records. Owner acknowledges that TDHCA is subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code) and Owner agrees that funds received from the TDHCA are subject to the Texas Public Information Act and the exceptions to disclosure as provided under the Texas Public Information Act.

6.2 Reporting Requirements Owner shall submit to TDHCA such reports on the operation and performance of this Agreement as may be required by TDHCA, including but not limited to the reports specified in this section. Owner shall provide TDHCA with all reports necessary for TDHCA's compliance with 24 CFR Part 92, or any other federal or state law or regulation.

Section 7 AUDITS AND MONITORING

7.1 Audits, Uniform Administrative Requirements, Cost Principles, and Program Income

- A. Uniform Administrative Requirements. Uniform administrative requirements, cost principles, and audit requirements are set forth in Program Regulations. The expenditure threshold requiring an audit is currently \$500,000 of Federal funds, but may be adjusted in accordance with the Office of Management and Budget regulations.
- B. Audit. TDHCA reserves the right to conduct additional audits of the funds received and performances rendered under this Agreement. Owner agrees to permit TDHCA or its authorized representative to audit Owner's records and to obtain any documents, materials, or information necessary to facilitate such audit in compliance with the requirements of the Single Audit Act.
- C. Program Income. Owner must have sufficient knowledge and experience to indentify and account for program income as defined in 24 CFR Part 85. All program income including interest earned on any award supported activity (if it generates program income it has to be accounted for whether it is paid to Owner or TDHCA or is used for a program purposes without pass back to Owner or TDHCA) is subject to the terms and conditions of the original grant and such U. S. Treasury rules as may apply. TDHCA will document receipt of program income, both principal and interest, and how the funders were used.

Section 8 TERMINATION; EVENT OF DEFALUT

8.1 Termination; Release If TDHCA determines, in its sole authority, that due to lack of demand over a period of time for the Eligible Multifamily Property by households interested in participating in the Program, if adequate funding is not available to meet the financial needs of the Assisted Units, or other good cause exists to terminate all or part of the Agreement, TDHCA

will notify the Owner that they have been released from some or all of the obligations associated with the Program and file a release of the Use Agreement in the property records.

8.2 Event of Default Any of the following are events of default under this Agreement:

- A. Any material failure by Owner to comply with this Agreement of the Program Requirements.
- B. Any material misrepresentation by Owner at any time which, if known by TDHCA, would have resulted in the Owner not being able to participate in the Program or the Program funds not being disbursed.
- C. If the Owner's corporate structure liquidates, terminates, dissolves, merges, consolidates or fails to maintain good standing in the State of Texas, and such is not cured prior to causing material harm to Owner's ability to perform under the terms of this Agreement or in accordance with the Program Requirements.

8.3 Remedies If an event of default is not remedied by Owner, TDHCA may take any of the following actions:

- A. Terminate this Agreement and may assume Owner's rights and obligations under the RAC.
- B. Temporarily suspend disbursing any Program funds to Owner.
- C. Suspend any Program funds held by Owner.
- D. Impose any special additional requirements or conditions on the Owner.

Section 9

CROSS-CUTTING FEDERAL REQUIREMENTS

Section 9.1 Environmental Laws and Regulations

- A. Compliance with Laws and Regulations. Owner must comply with, as applicable, any federal, state, or local law, statute, ordinance, or regulation, whether now or hereafter in effect, pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Land or the Improvements, including without limitation, the following, as now or hereafter amended:

1. Hazardous Materials Transportation Act (49 U.S.C.A. §1801 *et seq.*);
2. Insecticide Fungicide and Rodenticide Act (7 U.S.C.A. §136 *et seq.*);
3. National Environmental Policy Act (42 U.S.C. §4321 *et seq.*) ("NEPA");
4. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. §9601 *et seq.*) ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. No. 99-499, 100 Stat. 1613, as amended Pub. L. No. 107-377) ("Superfund" or "SARA");

5. Resource, Conservation and Recovery Act (24 U.S.C.A. §6901 *et seq.*) (“RCRA”);
6. Toxic Substances Control Act, 15 U.S.C.A. §2601 *et seq.*;
7. Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C.A. §1101 *et seq.*);
8. Clean Air Act (42 U.S.C.A. §7401 *et seq.*) (“CAA”);
9. Federal Water Pollution Control Act and amendments (33 U.S.C.A. §1251 *et seq.*) (“Clean Water Act” or “CWA”);
10. Any corresponding state laws or ordinances including but not limited to Chapter 26 of the Texas Water Code regarding Water Quality Control;
11. Texas Solid Waste Disposal Act (Chapter 361 of the Texas Health & Safety Code, formerly Tex. Rev. Civ. Stat. Ann. Art. 4477-7);
12. Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Chapter 363 of the Texas Health & Safety Code);
13. County Solid Waste Control Act (Chapter 364 of the Texas Health & Safety Code);
14. Texas Clean Air Act (Chapter 382 of the Texas Health & Safety Code);
15. Hazardous Communication Act (Chapter 502 of the Texas Health & Safety Code); and
16. Regulations, rules, guidelines, or standards promulgated pursuant to such laws, statute and regulations, as such statutes, regulations, rules, guidelines, and standards, as amended from time to time.

B. Environmental Review. The environmental effects of each activity carried out with funds provided under this Agreement must be assessed in accordance with the provisions of the Program Requirements, National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. §432 *et seq.*). Each such activity must have an environmental review completed and support documentation prepared in accordance with 10 TAC §10.305 complying with the NEPA, including screening for vapor encroachment following American Society for Testing and Materials (“ASTM”) 2600-10.

9.2 Labor Standards

- A. Owner understands and acknowledges that every contract for the construction (rehabilitation or new construction) of housing that includes twelve (12) or more units assisted with Program funds must contain provisions in accordance with Davis-Bacon Regulations.
- B. Owner understands and acknowledges that every contract involving the employment of mechanics and laborers of said construction shall be subject to the provisions, as applicable, of the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. Sec. 3701 to 3708), Copeland (Anti-Kickback) Act (40 U.S.C. Sec. 3145), the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, *et seq.*) and Davis-Bacon and Related Acts (40 U.S.C. 3141-3148).

- C. Owner further acknowledges that if more housing units are constructed than the anticipated eleven (11) or less housing units, it is the Owner's responsibility to ensure that all the housing units will comply with these federal labor standards and requirements under the Davis-Bacon Act as supplemented by the U. S. Department of Labor regulations ("Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction" at 29 CFR Part 5).
- D. Owner also understands that structuring the proposed assistance for the rehabilitation or construction of housing under this Agreement to avoid the applicability of the Davis-Bacon Act is prohibited.
- E. Construction contractors and subcontractors must comply with regulations issued under these federal acts described herein, with other federal laws, regulations pertaining to labor standards, including but not limited to "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction" at 29 CFR Part 5, HUD Federal Labor Provisions (HUD form 4010). (, as applicable.

9.3 Lead-Based Paint Housing assisted with Program funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations Title X of the 1992 Housing and Community Development Act at 24 CFR Part 35, (including subparts A, B, J, K, M and R). Owner shall also comply with the Lead: Renovation, Repair, and Painting Program Final Rule, 40 CFR Part 745 and Response to Children with Environmental Intervention Blood Lead Levels. Failure to comply with the lead-based paint requirements may be subject to sanctions and penalties pursuant to 24 CFR §35.170.

9.4 Limited English Proficiency Owner shall comply with the requirements in Executive Order 13166 of August 11, 2000, reprinted at 65 FR 50121, August 16, 2000 Improving Access to Services for Persons with Limited English Proficiency and 67 FR 41455. To ensure compliance the Owner must take reasonable steps to insure that LEP persons have meaningful access to the program and activities. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.

9.5 Procurement of Recovered Materials Owner, its subrecipients, and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

9.6 Drug-Free Workplace Owner will follow the Drug-Free Workplace Act of 1988 (41 U.S.C 701, *et seq*) and HUD's implementing regulations at 2 CFR Part 2429. Owner affirms by

executing the Certification Regarding Drug-Free Workplace Requirements attached hereto as Addendum B, that it is implementing the Drug-Free Workplace Act of 1988.

9.7 Nondiscrimination, Fair Housing, Equal Access and Equal Opportunity

- A. Equal Opportunity. The Owner agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965, as amended, and its implementing regulations at 41 CFR Part 60.
- B. Fair Housing Poster. The Owner is required to place a fair housing poster (HUD-928.1 and HUD-9281.A) provided by TDHCA in the leasing office, online, or anywhere else rental activities occur pursuant to 24 CFR §200.620(e). A copy of the poster in Spanish and in English can be found at <http://www.tdhca.state.tx.us/section-811-pra/participating-agents.htm>.
- C. Nondiscrimination Laws. Owner shall ensure that no person shall, on the grounds of race, color, religion, sex, disability, familial status, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any Program or activity funded in whole or in part with funds provided under this Agreement. Owner shall follow Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d *et seq.*), the Age Discrimination Act of 1975 (42 U.S.C. §6101 *et seq.*) and its implementing regulations at 24 CFR Part 146, Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131-12189; 47 U.S.C. §§155, 201, 218 and 255) as implemented by U. S. Department of Justice at 28 CFR Parts 35 and 36, Section 527 of the National Housing Act (12 U.S.C. §1701z-22), the Equal Credit Opportunity Act (15 U.S.C. §1691 *et seq.*), the Equal Opportunity in Housing (Executive Order 11063 as amended by Executive Order 12259) and its implementing regulations at 24 CFR Part 107 and The Fair Housing Act (42 U.S.C. §3601 *et seq.*), as implemented by HUD at 24 CFR Part 100-115.
- D. Affirmatively Furthering Fair Housing. By Owner's execution of the Agreement and pursuant to Section 808(e)(5) of the Fair Housing Act, Owner agrees to use funds in a manner that follows the "State of Texas' Analysis of Impediments" and will maintain records in this regard.
- E. Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. Subpart L of 24 CFR part 5 shall apply to the Assisted Units in Eligible Multifamily Properties.

9.8 Security of Confidential Information.

- A. Systems Confidentiality Protocols. Owner must undertake customary and industry standard efforts to ensure that the systems developed and utilized under this Agreement protect the confidentiality of every Eligible Applicants' and Eligible Tenants' personal and financial information, both electronic and paper, including credit reports, whether the information is received from the Eligible Applicants', Tenants' or from another source. Owner must undertake customary and industry standard efforts so that neither they nor

their systems vendors disclose any Eligible Applicants' or Tenants' personal or financial information to any third party, except for authorized personnel in accordance with this Agreement.

- B. Protected Health Information. If Owner collects or receives documentation for disability, medical records or any other medical information in the course of administering the Program, Owner shall comply with the Protected Health Information state and federal laws and regulations, as applicable, under 10 TAC §1.24, Chapter 181 of the Texas Health and Safety Code, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191, 110 Stat. 1936, enacted August 21, 1996) the HIPAA Privacy Rules (45 CFR Part 160 and Subparts A and E of 45 CFR Part 164). When accessing confidential information under this Program, Owner hereby acknowledges and further agrees to comply with the requirements under the Interagency Data Use Agreement between TDHCA and the Texas Health and Human Services Agencies dated October 1, 2015, as amended.

Section 10 GENERAL PROVISIONS

10.1 Dispute Resolution; Conflict Management

- A. Eligible Tenant Disputes. The Owner or Owner's representative is required to participate in a Dispute Resolution process, as required by HUD to resolve an appeal of an Eligible Tenant dispute with the Owner.
- B. Agreement Disputes. In accordance with Section 2306.082 of the State Act, it is the TDHCA's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2006 respectively, Texas Government Code), to assist in the fair and expeditious resolution of internal and external disputes involving the TDHCA and the use of negotiated rulemaking procedures for the adoption of TDHCA rules. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by TDHCA's ex parte communications policy, TDHCA encourages informal communications between TDHCA staff and the Owner, to exchange information and informally resolve disputes. TDHCA also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time the Owner would like to engage TDHCA in an ADR procedure, the Owner may send a proposal to TDHCA's Dispute Resolution Coordinator. For additional information on TDHCA's ADR policy, see TDHCA's Alternative Dispute Resolution and Negotiated Rulemaking at 10 TAC §1.17.

10.2 Faith Based Activities

None of the performances rendered by Owner under this Agreement shall involve, and no direct funds received by Owner under this Agreement shall be used in support of any explicitly religious activity, such as worship, religious instruction, or proselytization.

Any explicitly religious activity engaged in by Owner must be separate in time or location from the programs or services supported under this Agreement.

10.3 Political Aid and Legislative Influence Prohibited

- A. None of the funds provided under this Agreement shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of the Developer from furnishing to any member of its governing body upon request, or to any other local or state official or employee or to any citizen information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.
- B. No funds provided under this Agreement may be used directly or indirectly to fund or support candidates for the legislative, executive, or judicial branches of government of the State of Texas or the government of the United States.

10.4 Certification Regarding Lobbying Owner and each of its tiers shall comply with the restrictions on lobbying governed by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) by executing the Certification Regarding Lobbying for Contracts, Grants, Loans and Cooperative Agreements attached hereto as Addendum A and incorporated herein for all relevant purposes.

10.5 Compliance with Federal, State and Local Laws Owners shall comply with all federal, state and local laws, statutes, ordinances, rules, regulations, orders and decrees of any court or administrative body or tribunal related to the activities and performances of Owner under this Agreement including, but not limited to (i) the Program Requirements, (ii) the federal laws under Part B, "Grantee Requirements," of the Program Guidelines attached as Exhibit 5 of the Cooperative Agreement, (iii) Cross-Cutting Federal Requirements in Section 9 of this Agreement, (iv) the Environmental Laws and Regulations in Section 9.1 of this Agreement and (v) the Nondiscrimination, Fair Housing, Equal Access and Equal Opportunity laws in Section 9.7 of this Agreement.

10.6 Litigation and Claims

- A. Notice. Owner shall give TDHCA immediate notice, in writing, of the occurrence of any of the following events:
 - 1. any action, including any proceeding before an administrative agency, filed against Owner in connection with this Agreement; and
 - 2. any claim against Owner, the cost and expense of which Owner may be entitled to be reimbursed by TDHCA.

- B. Copies of Relevant Documents. Except as otherwise directed by TDHCA, Owner shall furnish immediately to TDHCA copies of all pertinent papers received by Owner with respect to such action or claim.

10.7 Oral and Written Agreements All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

10.8 Assignment This Agreement is entered into by TDHCA and between Owner. Accordingly, it is not assignable by Owner without the prior written consent and agreement of the TDHCA, which consent may be withheld in its sole discretion.

10.9 Severability If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be and remain in full force and effect and construed so as best to effectuate the intent of the Parties.

10.10 Time is of the Essence Time is of the essence with respect to Owner's compliance with all agreements, terms and obligations under this Agreement.

10.11 Force Majeure If the obligations, including construction or rehabilitation of the improvements, are delayed by the following, an equitable adjustment will be made for delay or failure to perform hereunder:

- A. Any of the following events: (i) catastrophic weather conditions or other extraordinary elements of nature or acts of God; (ii) acts of war (declared or undeclared), (iii) acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; and (iv) quarantines, embargoes and other similar unusual actions of federal, provincial, local or foreign Governmental Authorities; and
- B. The non-performing party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

10.12 Changes and Amendments

- A. Except as specifically provided otherwise in this Agreement or in the Program Requirements, any changes, additions, or deletions to the terms of this Agreement shall be in writing and executed by both Parties to this Agreement.
- B. Any changes, additions, or deletions to the terms of this Agreement which are required by changes in federal or state law, or regulations, are automatically incorporated into this Agreement without the requirement of a written amendment hereto, and shall become effective on the date designated by such law or regulation.

10.13 Counterparts This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

10.14 Facsimile Signatures

- A. Signed signature pages may be transmitted by facsimile or electronic transmission, and any such signature shall have the same legal effect as an original. An executed facsimile or email copy will be sufficient to evidence the Parties' agreement to any amendment, revision or change to this Agreement if it is made on a form provided by the TDHCA. If any party returns a copy by facsimile machine, the signing party intends the copy of its authorized signature printed by the receiving machine to be its original signature. If any party returns a copy by email, the signing party intends the copy of its authorized signature emailed to the receiving email to be its original signature.

- B. A facsimile or electronic copy executed by both Parties will be sufficient to evidence the Parties agreement to any amendment, revision or change to this Agreement. If any Party returns this copy by facsimile machine or electronically, the signing party intends the copy of its authorized signature printed by the receiving machine, or the electronic copy, to be its original signature.

10.15 Notice

- A. If notice is provided concerning this Agreement, notice may be given at the following (herein referred to as "Notice Address"):

1. **As to TDHCA:**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
P. O. Box 13941
Austin, Texas 78711-3941
Attention: Spencer Duran
Telephone: (512) 475-1784
Fax: (512) 175-3935

2. **As to Owner:**

Cametano Villas of Galleria, LLC
1504 Westover Rd
Austin, TX 78703

Attention: Kyndel W. Bennett
Telephone: (512) 560-8377
E-mail address: kbennett@bennettinterests.com

- B. All notices or other communications hereunder shall be deemed given when delivered, mailed by overnight service, or five days after mailing by certified or registered mail,

postage prepaid, return receipt requested, addressed to the appropriate Notice Address as defined in the above Subsection A of this Section 10.15.

10.16 Number; Gender Unless the context requires otherwise, the words of the masculine gender shall include the feminine, and singular words shall include the plural.


10.17 Venue and Jurisdiction This Agreement shall be construed under and in accordance with the laws of the State of Texas. Venue for any litigation regarding this Agreement shall be fixed in any court of competent jurisdiction in Travis County, Texas; provided, however, the foregoing shall not be construed as a waiver by either party of sovereign immunity, official immunity or any other immunity or defense provided by law.

10.18 Third Party Rights Nothing in this Agreement shall be construed as creating any right or any third party to enforce any provision of the Agreement, or to assert any claim against HUD or TDHCA.

IN WITNESS WHEREOF, each of the Parties has executed this Agreement as of the dates written below,

TDHCA:

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS, a public and official
agency of the State of Texas

By: 
Name: TIMOTHY K. IRVINE
Its duly authorized officer or representative

Date: January 28th, 2016

OWNER:

Capitano Villas of Garvernia, LLC (Entity Name)
Limited Liability Company (Entity Type)

By: 
Name: Kyndel W. Bennett, Member
Date: 11/30/15
Title: _____

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
SECTION 811 PROJECT RENTAL ASSISTANCE DEMONSTRATION PROGRAM**

**ADDENDUM A
Certification Regarding Lobbying for
Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned hereby certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form -LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is material representation of fact on which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of its knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

OWNER:

Cayetano Villas of Gaxeraia^{LLC}, a LLC Limited Liability Co.
By: _____, a _____, its _____

By: [Signature] member

Date: 11/30/15

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
SECTION 811 PROJECT RENTAL ASSISTANCE DEMONSTRATION PROGRAM**

**ADDENDUM B
Certification Regarding Drug-Free Workplace Requirements**

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the U. S. Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, U. S. Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

The undersigned certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about-

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within 10 calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted-

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Place(s) of Performance [site(s) for the performance of work done in connection with the specific grant] (include street address, city, county, state, zip code):

- 1. Canetano Villas of Galleria; 400 Wlk of Elm 1346, Galleria, TX
- 2. Alpha Barnes; 12720 Hildcrest Plaza Dr #400, Dallas, TX 75230
- 3. (Ingram CO)
- 4. _____

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios). If Owner does not identify the workplaces at the time of application, or upon award, if there is no application, the Owner must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the Owner's drug-free workplace requirements.

If it is later determined that Owner knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, TDHCA, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

OWNER: Canetano Villas of Galleria, LLC
a TX Limited Liability Company

By: _____, a _____, its

By: [Signature]

Date: 11/30/15

RAYMOND JAMES®

February 10, 2017

Texas Department of Housing and Community Affairs
Attn: Spencer Duran, Section 811 PRAC Program Manager
221 E. 11th Street
Austin, Texas 78701

Re: TDHCA #15281 - Cayetano Villas of La Vernia in La Vernia, Texas
Existing TDHCA Property for Section 811 Consideration

Dear Mr. Duran:

We have received notification of this existing development's potential to be approved for placement of Section 811 PRAC Program units for the 2017 9% Competitive Housing Tax Credit Application cycle.

We understand and appreciate the importance of this program and all the efforts made by the Department to reach Texans of low to moderate incomes and to provide quality housing options for these families.

However, after careful review and consideration, we cannot approve Section 811 units being placed on this property for the 2017 cycle as outlined in the Uniform Multifamily Rules, Subpart C, Section 10.204(16)(A) at this time. This property is currently participating in the program and we do not approve additional Section 811 units to be set aside. This property has already been underwritten, reviewed, and approved based on projections from our underwriting and due diligence from the very specific unit set-aside.

We appreciate the opportunity to provide feedback on our property and look forward to providing many more years of affordable housing in Texas. If you have any questions, please do not hesitate to contact me at (727) 567-5014 or via email at gary.k.robinson@raymondjames.com.

Sincerely,



Gary K. Robinson
Vice President – Managing Director of Acquisitions – MidSouth Region
Raymond James Tax Credit Funds, Inc.

Raymond James Tax Credit Funds, Inc.
A Subsidiary of Raymond James Financial, Inc.

880 Carillon Parkway • St. Petersburg, FL 33716
800-438-8088 Toll Free • 727-567-8455 Fax
Visit our Web Site at www.RJTFC.com

17194, 17203, and 17741
Applicant Appeal to
Executive Director

CASA TIERRA SA-1, INCORPORATED
A 501 (C) (3) NON-PROFIT AFFORDABLE HOUSING CORPORATION
P.O. BOX 700115
SAN ANTONIO, TEXAS 78270-0115
(210) 912-0070

June 23, 2017

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941

Re: Termination of 2017 Competitive Housing Applications-17194, 17203 and 17741

Dear Mr. Irvine:

Pursuant to the letter dated June 20, 2017 from the Director of Multi-Family Finance on the above referenced applications, please accept this as our formal notice of appeal of this finding as eligible under 10 TAC 10.902. Termination notification states the application was terminated based upon it not including information required in Tab 19a regarding the Section 811 Project Rental Assistance Program. **We respectfully appeal for reconsideration based upon the current published rules and guidelines for application submission.** We refer to the following published guidance:

1. 11.9 (a) of the QAP (see Exhibit marked as A) states Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency. The deficiency does not compromise any review of documentation for which points were being taken. We respectfully request that it be allowed to be cured as such through a deficiency response. This was an administrative error section of the application that suggested it was regarding Direct Loan Funds which the Applicant is not seeking. Information was subsequently provided and clarified that it was incorrectly stated; but again, in a section of the application where no points were taken and thus curable through a deficiency response.

2. Applicant is a first time developer in Texas with many years of experience in affordable housing in other states. Applicant relied on the published guidance of the application rules and procedures to ensure a fair and equal opportunity to apply for funding. There are extra ordinary costs associated with the submission of these applications and this was made in good faith relying on published guidelines to allow for cure in the event of minor deficiencies when working with new forms. Not only did this not affect points, but it was on a newer initiative statewide that was not applicable to the Applicant's proposed projects. It was irrespective of the actual application being presented which is now being penalized for an existing project of the non-profit partner that was previously approved within a rural region over two years ago. At the request of Department staff as to why two additional 811 units could not be added to this unrelated project from the above applications, the applicant provided a letter from Raymond James showing their refusal to take such action particularly since the project was maintaining a 100 percent occupancy level

with a waiting list. Thus, complying with this request by Department staff is now being used as a basis for the termination of the applications. We sincerely appreciate your consideration on this matter in ensuring the QAP's guidance is upheld.

While we understand the supplemented information was considered a "change" from the original representation, it did not appear to us additional certification was initially needed because the Applicant was not requesting Direct Loan Funds. This was discussed in length in our initial appeal submitted to the agency on March 21, 2017. This was further discussed in clarification (which the termination letter refers to) that was submitted by the Applicant on May 15, 2017. We had no indication from staff that this was not acceptable or was still being discussed until the June 20th letter which we received 36 calendar days after our last appeal. This is double the suggested 14 calendar day response outlined in TAC 10.902. The timing of that creates deep concern by the Applicant, the City of Quitman, the City of Raymondville and other elected officials. It is our sincere desire to work with staff to ensure that the QAP is upheld and this project is allowed to move forward with its current scored reviews.

We remain available to discuss this matter in any further detail and may be contacted by telephone, email or mail. Thank you for the opportunity to pursue these proposed applications.

Sincerely,


Mark C. Temple

CC: Mr. Randy Aldridge
Trustmark Corporation

Ms. Tammi Creason
Creason Development

Mayor David Dobbs
City of Quitman

The Honorable Cole Hefner
Texas State Representative

Ms. Denea Hudman-Executive Director
Quitman Development Corporation

Mayor Gilbert Gonzales
City of Raymondville

Ms. Rina Castillo-Executive Director
City of Raymondville Economic Development Corporation

The Honorable Ryan Guillen
Texas State Representative

Ms. Gwynn Martin
McWhorter Cobb and Johnson LLP

Ms. Marni Holloway
Texas Department of Housing and Community Affairs

Ms. Sharon Gamble
Texas Department of Housing and Community Affairs

EXHIBIT A for appeal

QAP has not been published in the Texas Register. Staff anticipates it will be submitted to the Texas Register on December 5, 2016, and will become effective 20 days after submission.

Pre-application Submission Log does not ensure that an Applicant will receive points for a pre-application.

§11.9.Competitive HTC Selection Criteria.

(a) General Information. This section identifies the scoring criteria used in evaluating and ranking Applications. The criteria identified in subsections (b) - (e) of this section include those items required under Tex Gov't Code, Chapter 2306, §42 of the Code, and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code. There is no rounding of numbers in this section for any of the calculations in order to achieve the desired requirement or limitation, unless rounding is explicitly stated as allowed for that particular calculation or criteria. Due to the highly competitive nature of the program, **Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency.** However, Department staff may provide the Applicant an opportunity to explain how they believe the Application, as submitted, meets the requirements for points or otherwise satisfies the requirements. When providing a pre-application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant's competitive posture, an Applicant must disclose that in accordance with the Department's rules aspects of the Development may not yet have been determined or selected or may be subject to change, such as changes in the amenities ultimately selected and provided.

(b) Criteria promoting development of high quality housing.

(1) Size and Quality of the Units. (§2306.6710(b)(1)(D); §42(m)(1)(C)(iii)) An Application may qualify for up to fifteen (15) points under subparagraphs (A) and (B) of this paragraph.

(A) Unit Sizes (8 points). The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction), for Developments receiving funding from USDA, or for Supportive Housing Developments without meeting these square footage minimums only if requested in the Self Scoring Form.

- (i) five-hundred fifty (550) square feet for an Efficiency Unit;
- (ii) six-hundred fifty (650) square feet for a one Bedroom Unit;
- (iii) eight-hundred fifty (850) square feet for a two Bedroom Unit;
- (iv) one-thousand fifty (1,050) square feet for a three Bedroom Unit; and
- (v) one-thousand two-hundred fifty (1,250) square feet for a four Bedroom Unit.

(B) Unit and Development Features (7 points). Applicants that elect in an Application to provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in §10.101(b)(6)(B) of this title (relating to Site and Development Requirements and Restrictions) and as certified to in the Application. The amenities will be required to be identified in the LURA. Rehabilitation Developments will start with a base score of three (3) points and Supportive Housing Developments will start with a base score of five (5) points.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

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Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

June 20, 2017

Writer's direct phone # (512) 475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. Mark C. Temple
Managing Director/President
Casa Tierra SA-1, Incorporated
P.O. Box 70015
San Antonio, Texas 78270-0115

RE: ELIGIBILITY DETERMINATION FOR HTC APPLICATIONS #17194 OAKS APARTMENTS, #17203 PARK ESTATE APARTMENTS, AND #17741 GATEWAY RESIDENCES

Dear Mr. Temple:

The Texas Department of Housing and Community Affairs (the "Department") received your appeal, dated March 23, 2017, of the termination of the above referenced Application. This Application was terminated because the Application did not include information regarding the Section 811 Project Rental Assistance Program ("Section 811 PRA Program") as required by 10 TAC §10.204(16) of the 2017 Uniform Multifamily Rules. The Executive Director granted your appeal, directing staff to determine if the Section 811 Project Rental Assistance Program was, indeed, not applicable to your Application, as the Application stated.

After reviewing your response to Administrative Deficiencies issued on May 11, 2017, staff has determined that the applicant and its affiliates do have an ownership interest in or control of property that might be used to satisfy 10 TAC §10.204(16)(A) – namely the Cayetano Villas development in La Vernia that you agreed in your responsive correspondence is not only eligible, but is already participating in the 811 program. However, the lender letter recently submitted in the Administrative Deficiency response does not exempt the Development because the Section 811 PRA Program rules, found under §10.204 (16), require the following regarding investor or lender letters:

"An Applicant may be exempt from having to provide 811 units in an Existing Development if approval from either their lender or investor cannot be obtained and documentation to that effect is submitted in the Application..." (emphasis added)

Further, the exhibit in Tab 19a of the 2017 Uniform Multifamily Application reflects the rule's requirements when it states:

B. Applicants that in the Department's determination cannot meet the requirements of option A. above can proceed, if the application applying for funds includes the items listed



below and meets the criteria outlined in this section; or if the Application cannot provide this, indicate below.

- Attached behind this tab is a Self-Certification that the Applicant and any Affiliate do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria; or
- Attached behind this tab is a Self-Certification that the Applicant and any Affiliate do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria except on which the Department, lender or investor will not approve; **and Attached behind this tab is at least one of the following that allows the Applicant to select B. rather than A.**
 - A copy of rejection letter(s) that has been provided by the Department in response to the applicant's submission of application(s) under the Existing Development Criteria; or
 - a copy of a letter(s) indicating that approval from either the lender or investor cannot be obtained for Existing Development(s).

Because the letter from Raymond James regarding the Cayetano Villas development in La Vernia was not included in the original application, it cannot now be used to supplement your application. With the Application assertion of "Not Applicable" in the context of 10 TAC §10.204(16)(A) (for committing "Existing Developments") now having been demonstrated to be false, the Application is determined by staff to have not satisfied the requirements of 10 TAC §10.204(16), and is recommended for termination, with such termination to become effective and final at such time as you have exhausted the appeal rights available to you.

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §10.902 of the 2017 Uniform Multifamily Rules. Should you choose to appeal staff's determination to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not timely respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2017 Uniform Multifamily Rules for full instruction on the appeals process.

Sincerely,



Marni Holloway
Director of Multifamily Finance

17194, 17203, and 17741
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

July 6, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Mr. Mark C. Temple
Managing Director/President
Casa Tierra SA-1, Incorporated
P.O. Box 70015
San Antonio, Texas 78270-0115

RE: APPEAL RESPONSE FOR HTC APPLICATIONS #17194 OAKS APARTMENTS, #17203 PARK ESTATE APARTMENTS, AND #17741 GATEWAY RESIDENCES

Dear Mr. Temple:

The Texas Department of Housing and Community Affairs (the "Department") received your appeal, dated June 23, 2017, of the termination of the above referenced Applications. The Applications were terminated because the Applications did not include information regarding the Section 811 Project Rental Assistance Program ("Section 811 PRA Program") as required by 10 TAC §10.204(16) of the 2017 Uniform Multifamily Rules.

The appeal suggests that the missing information was "in a section of the application where no points were taken and thus curable through a deficiency response." The response to a previously issued Administrative Deficiency included a letter from a lender that was not included in the original Application. As such, the response does not provide sufficient clarification or correction of information submitted in the Application to resolve an administrative deficiency as required by 10 TAC §10.201(7) related to the Administrative Deficiency Process:

The purpose of the Administrative Deficiency process is to allow an Applicant to provide clarification, correction, or **non-material** missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. ...(emphasis added)

The lender letter recently submitted in the Administrative Deficiency response does not exempt the Development because the Section 811 PRA Program rules, found under §10.204 (16), require the following regarding investor or lender letters:

"An Applicant may be exempt from having to provide 811 units in an Existing Development if approval from either their lender or investor cannot be obtained **and documentation to that effect is submitted in the Application...**" (emphasis added)



ELIGIBILITY DETERMINATION

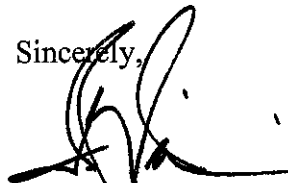
July 6, 2017

Page 2

Because the letter from Raymond James regarding the Cayetano Villas development in La Vernia was clearly material, yet not included in the original application, it cannot now be used to supplement your application. With the Application assertion of "Not Applicable" in the context of 10 TAC §10.204(16)(A) (for committing "Existing Developments") now having been demonstrated to be false, the Application was determined by staff to have not satisfied the requirements of 10 TAC §10.204(16), and is recommended for termination, with such termination to become effective and final at such time as you have exhausted the appeal rights available to you.

You have indicated that you wish to appeal this decision directly to the Governing Board. Therefore, the appeals have been placed on the agenda for the next meeting scheduled for June 29, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,



Timothy K. Irvine
Executive Director

TKI

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, Discussion, and Possible Action on Timely Filed Scoring Notice Appeals under the Department's Multifamily Program Rules:

17194	Oaks Apartments	Quitman
17203	Park Estates Apartments	Quitman
17741	Gateway Residences	Raymondville

RECOMMENDED ACTION

WHEREAS, the 9% Housing Tax Credit Applications for the listed developments were submitted to the Department by the Full Application Delivery Date;

WHEREAS, staff has determined that Applications 17194 and 17203 qualify for two points instead of three under 10 TAC §11.9(c)(6), related to Underserved Area, as portions of the census tracts extend beyond the boundaries of the incorporated area;

WHEREAS, staff has determined that Applications 17194 and 17203 do not qualify for 10 points under 10 TAC §11.9(d)(3) related to Declared Disaster Area, as the Governor has not issued a declaration for Wood County within the required time frame; and are therefore not eligible for six points under 10 TAC §11.9(e)(3) related to Pre-application Participation;

WHEREAS, the Applicant appealed to the Executive Director; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Applications 17194 Oaks Apartments and 17203 Park Estates Apartments are denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the "Code"), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

Pursuant to 10 TAC §11.10 of the Qualified Allocation Plan related to Third party Request for Administrative Deficiency, staff reviewed the Applications to determine whether they qualified for 10 points under 10 TAC §11.9(d)(3) related to Declared Disaster Area. Staff determined that the Applications did not qualify for the 10 points, and are therefore not eligible for six points under 10

TAC §11.9(e)(3) related to Pre-application Participation. Staff had reviewed the Underserved Area item through a separate deficiency notice. A scoring notice was issued to the Applicant, and the Applicant appealed staff's decision on June 23, 2017. The Executive Director denied the appeal, and the Applicant is appealing the scoring result.

§11.9(c)(6) Underserved Area

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to five (5) points if the Development Site is located in one of the areas described in subparagraphs (A) - (E) of this paragraph, and the Application contains evidence substantiating qualification for the points.

(C) A census tract within the boundaries of an incorporated area that has not received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development within the past 15 years and continues to appear on the Department's inventory (3 points);

The Application requested three points but was awarded two points as the census tract that includes the Development Sites includes areas that are outside of the municipal boundaries of the City of Quitman. In response to a Third Party Request for Administrative Deficiency ("RFAD"), the Applicant suggested that "the QAP actually does seem to be referring to the site location being within the city limits." The appeal included an explanation that the census tract and the Development Site are both within the City of Quitman. 10 TAC §11.9(c)(6) codifies the requirement for scoring of underserved in areas described in Tex. Gov't Code §2306.6725(b)(2), which states:

- (b) The department shall provide appropriate incentives as determined through the qualified allocation plan to reward applicants who agree to:
 - (2) locate the development in a census tract in which there are no other existing developments supported by housing tax credits.

In order to score three points under Underserved Area, the entire census tract must be within the incorporated limits of Quitman. Portions of the census tract extend beyond the boundaries of the incorporated area, and therefore the Applications are not eligible for three points under this item, but are eligible for the two points that have been awarded.

§11.9(d)(3) Declared Disaster Area (§2306.6710(b)(1)(H))

An Application may receive ten (10) points if at the time of Application submission or at any time within the two-year period preceding the date of submission, the Development Site is located in an area declared to be a disaster area under the Tex Gov't Code, §418.014.

The appeal suggests that Wood County could not have been declared a disaster area by the Federal Emergency Management Administration ("FEMA") if the Governor had not requested the designation. That may be correct; however, in order to be eligible for points under this scoring item, the Application has to meet the statutory requirement regarding this item. Pursuant to Tex. Gov't Code §2306.6710(b)(1)(H):

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(H) whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

Pursuant to Tex. Gov't Code §418.014 related to Declaration of State of Disaster:

(a) The governor by executive order or proclamation may declare a state of disaster if the governor finds a disaster has occurred or that the occurrence or threat of disaster is imminent.

(b) Except as provided by Subsection (c), the state of disaster continues until the governor:

(1) finds that:

(A) the threat or danger has passed; or

(B) the disaster has been dealt with to the extent that emergency conditions no longer exist; and

(2) terminates the state of disaster by executive order.

(c) A state of disaster may not continue for more than 30 days unless renewed by the governor. The legislature by law may terminate a state of disaster at any time. On termination by the legislature, the governor shall issue an executive order ending the state of disaster.

(d) An executive order or proclamation issued under this section must include:

(1) a description of the nature of the disaster;

(2) a designation of the area threatened; and

(3) a description of the conditions that have brought the state of disaster about or made possible the termination of the state of disaster.

(e) An executive order or proclamation shall be disseminated promptly by means intended to bring its contents to the attention of the general public. An order or proclamation shall be filed promptly with the division, the secretary of state, and the county clerk or city secretary in each area to which it applies unless the circumstances attendant on the disaster prevent or impede the filing.

Staff has reviewed each declaration issued by the Governor during this time and found no declaration or executive order declaring Wood County a disaster area. It is important to note that there are (at least) two mechanisms by which the Governor can declare a disaster. The first is as mentioned above. Alternately, under the provisions of Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §5121-5207 (Stafford Act), and implemented by 44 CFR §206.36, the Governor can appeal directly to the President of the United States to have an area declared a disaster by FEMA. It appears that the declaration for Wood County was handled through the latter. As Tex. Gov't Code §2306.6710(b)(1)(H) has a specific requirement for scoring under this item, the Application must meet those requirements.

Staff recommends the Board deny the appeal.

17194 Oaks Apartments

17203 Park Estates Apartments

17741 Gateway Residences

17194, 17203, and 17741

Scoring Notice
and Documentation



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Greg Abbott
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Sharon Thomason, Member
Leo Vasquez, Member

June 28, 2017

Writer's direct phone # (512) 936-7834
Email: sharon.gamble@tdhca.state.tx.us

Mr. Mark Temple
Quitman Oaks, LP
P.O. Box 700115
San Antonio, TX 78270

RE: NOTICE OF SCORING ADJUSTMENT: 17194 OAKS APARTMENTS; 17203 PARK ESTATES APARTMENTS; 17741 GATEWAY RESIDENCES

Dear Mr. Temple:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of a Third Party Request for Administrative Deficiency ("RFAD") for two of the Applications indicated above (17194 and 17203), requesting that the Department review the Applications to determine whether they qualify for points requested under 10 TAC §11.9(c)(6), related to Underserved Area, as portions of the census tract extend beyond the boundaries of the incorporated area; under §11.9(d)(3), related to Declared Disaster Area, as the Governor has not issued a declaration for Wood County within the required time frame; and under §11.9 (c)(2), related to Rent Levels of Tenants, as the population is General and the Application is not eligible for 13 points. Staff also reviewed 17741 for these same issues.

In reviewing your response to the RFAD, the Department has determined that Applications 17194 and 17203 do not qualify for 10 points related to Declared Disaster Area. The Applications qualify for two points instead of three related to Underserved Area. All three Applications qualify for 11 points instead of 13 under Rent Levels of Tenants. Your Applications have not been fully reviewed and have not been given a score. The reduction of points for these items is the only scoring item that can be appealed through this notice.

An appeals process exists for the Housing Tax Credit Program. It is noted that an appeal letter dated June 23, 2017, relating to the termination of the above Applications, was received by the Department. The instant matter, which is an adverse scoring determination, may also be appealed. The restrictions and requirements related to the filing of an appeal of this scoring determination can be found in §10.902 of the 2017 Uniform Multifamily Rules. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2017 Uniform Multifamily Rules for full instruction on the appeals process. If you have questions or require further information, please contact me.



REQUESTS FOR ADMINISTRATIVE DEFICIENCY

June 28, 2017

Page 2

Sincerely,

A handwritten signature in black ink, appearing to read "SDG", with a long horizontal flourish extending to the right.

Shafon D. Gamble

Competitive HTC Administrator



QUALIFIED CENSUS TRACTS

The 2015 Qualified Census Tracts (QCTs) are effective January 1, 2015. The 2015 designation uses data from the 2010 Decennial Census and three releases of 5-year tabulations from the American Community Survey (ACS): 2006-2010; 2007-2011; and 2007-2012. The revised designation methodology using three years of ACS data is explained in the Federal Register notice published October 3, 2014 (http://www.huduser.gov/portal/Datasets/QCT/DDA2015_Notice.pdf).

48499950500

Select a State Select a County

Map Options : Clear | Reset | Full Screen

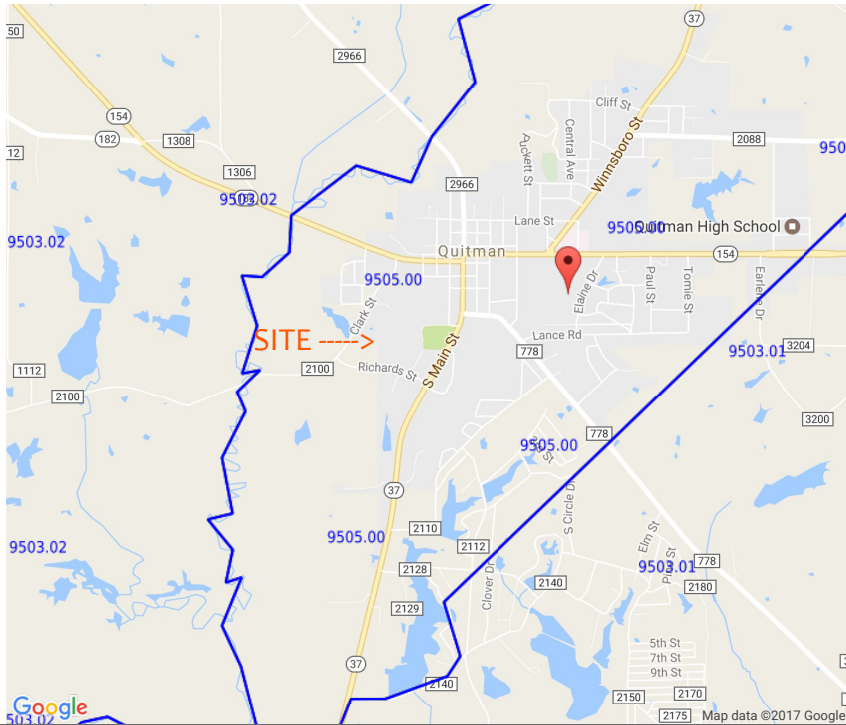
QCT Legend: Tract Outline Qualified Census Tracts (2014 Only) Qualified Census Tracts (2015 Only) Qualified Census Tracts (2014 & 2015) LIHTC Project

QCT Options

14 Current Zoom Level

- Show Tracts Outline (Zoom 11+)
- Show LIHTC Projects (Zoom 11+)
- Color Qualified Tracts (Zoom 7+)

[Click here for full screen map](#)





2017 Declared Disaster Areas

§11.9(d)(3) of the 2017 QAP

Angelina	Coleman	Gaines	Irion	McLennan	Shackelford
Archer	Collin	Galveston	Jack	Medina	Shelby
Armstrong	Collingsworth	Garza	Jackson	Milam	Sherman
Atascosa	Colorado	Gillespie	Jasper	Mills	Smith
Austin	Comal	Gonzales	Jefferson	Montague	Somervell
Bailey	Comanche	Gray	Jim Wells	Montgomery	Starr
Bandera	Cooke	Grayson	Johnson	Moore	Stephens
Bastrop	Coryell	Gregg	Jones	Motley	Stonewall
Baylor	Cottle	Grimes	Karnes	Nacogdoches	Sutton
Bell	Crosby	Guadalupe	Kaufman	Navarro	Tarrant
Bexar	Dallam	Hale	Kendall	Newton	Terry
Blanco	Dallas	Hall	Kent	Nueces	Throckmorton
Bosque	Deaf Smith	Hamilton	Kerr	Ochiltree	Titus
Bowie	Delta	Hansford	Kimble	Oldham	Tom Green
Brazoria	Denton	Hardeman	King	Orange	Travis
Brazos	De Witt	Hardin	Kleberg	Palo Pinto	Trinity
Briscoe	Dickens	Harris	Knox	Parker	Tyler
Brown	Donley	Harrison	Lamar	Parmer	Uvalde
Burleson	Duval	Hartley	Lamb	Polk	Val Verde
Burnet	Eastland	Haskell	Lampasas	Potter	Van Zandt
Caldwell	Edwards	Hays	Lee	Rains	Victoria
Calhoun	Ellis	Hemphill	Leon	Real	Walker
Callahan	El Paso	Henderson	Liberty	Red River	Waller
Cameron	Erath	Hidalgo	Lipscomb	Refugio	Washington
Carson	Falls	Hill	Llano	Roberts	Wharton
Cass	Fannin	Hockley	Lubbock	Robertson	Wheeler
Castro	Fayette	Hood	Lynn	Rockwall	Wichita
Chambers	Floyd	Hopkins	Madison	Rusk	Wilbarger
Cherokee	Foard	Houston	Marion	Sabine	Willacy
Childress	Fort Bend	Hudspeth	Mason	San Augustine	Williamson
Clay	Franklin	Hunt	Matagorda	San Jacinto	Wilson
Cochran	Frio	Hutchinson	McCulloch	San Saba	Wise
					Young
					Zavala

<http://gov.texas.gov/news/proclamation>

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS



221 E. 11th St., Austin, TX 78701
P.O. Box 13941, Austin, TX 78711

Main Number: 512-475-3800
Toll Free: 800-525-0657

Email: Info@tdhca.state.tx.us
Web: www.tdhca.state.tx.us

Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.
Relay Texas: 800-735-2989 (TTY) and 711 (Voice).



17194 and 17203
Applicant Appeal to
Executive Director

CASA TIERRA SA-1, INCORPORATED
A 501 (C) (3) NON-PROFIT AFFORDABLE HOUSING CORPORATION
P.O. BOX 700115
SAN ANTONIO, TEXAS 78270-0115
(210) 912-0070

June 23, 2017

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941

Re: Termination of 2017 Competitive Housing Applications-17194, 17203 and 17741

Dear Mr. Irvine:

Pursuant to the letter dated June 20, 2017 from the Director of Multi-Family Finance on the above referenced applications, please accept this as our formal notice of appeal of this finding as eligible under 10 TAC 10.902. Termination notification states the application was terminated based upon it not including information required in Tab 19a regarding the Section 811 Project Rental Assistance Program. **We respectfully appeal for reconsideration based upon the current published rules and guidelines for application submission.** We refer to the following published guidance:

1. 11.9 (a) of the QAP (see Exhibit marked as A) states Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency. The deficiency does not compromise any review of documentation for which points were being taken. We respectfully request that it be allowed to be cured as such through a deficiency response. This was an administrative error section of the application that suggested it was regarding Direct Loan Funds which the Applicant is not seeking. Information was subsequently provided and clarified that it was incorrectly stated; but again, in a section of the application where no points were taken and thus curable through a deficiency response.

2. Applicant is a first time developer in Texas with many years of experience in affordable housing in other states. Applicant relied on the published guidance of the application rules and procedures to ensure a fair and equal opportunity to apply for funding. There are extra ordinary costs associated with the submission of these applications and this was made in good faith relying on published guidelines to allow for cure in the event of minor deficiencies when working with new forms. Not only did this not affect points, but it was on a newer initiative statewide that was not applicable to the Applicant's proposed projects. It was irrespective of the actual application being presented which is now being penalized for an existing project of the non-profit partner that was previously approved within a rural region over two years ago. At the request of Department staff as to why two additional 811 units could not be added to this unrelated project from the above applications, the applicant provided a letter from Raymond James showing their refusal to take such action particularly since the project was maintaining a 100 percent occupancy level

with a waiting list. Thus, complying with this request by Department staff is now being used as a basis for the termination of the applications. We sincerely appreciate your consideration on this matter in ensuring the QAP's guidance is upheld.

While we understand the supplemented information was considered a "change" from the original representation, it did not appear to us additional certification was initially needed because the Applicant was not requesting Direct Loan Funds. This was discussed in length in our initial appeal submitted to the agency on March 21, 2017. This was further discussed in clarification (which the termination letter refers to) that was submitted by the Applicant on May 15, 2017. We had no indication from staff that this was not acceptable or was still being discussed until the June 20th letter which we received 36 calendar days after our last appeal. This is double the suggested 14 calendar day response outlined in TAC 10.902. The timing of that creates deep concern by the Applicant, the City of Quitman, the City of Raymondville and other elected officials. It is our sincere desire to work with staff to ensure that the QAP is upheld and this project is allowed to move forward with its current scored reviews.

We remain available to discuss this matter in any further detail and may be contacted by telephone, email or mail. Thank you for the opportunity to pursue these proposed applications.

Sincerely,


Mark C. Temple

CC: Mr. Randy Aldridge
Trustmark Corporation

Ms. Tammi Creason
Creason Development

Mayor David Dobbs
City of Quitman

The Honorable Cole Hefner
Texas State Representative

Ms. Denea Hudman-Executive Director
Quitman Development Corporation

Mayor Gilbert Gonzales
City of Raymondville

Ms. Rina Castillo-Executive Director
City of Raymondville Economic Development Corporation

The Honorable Ryan Guillen
Texas State Representative

Ms. Gwynn Martin
McWhorter Cobb and Johnson LLP

Ms. Marni Holloway
Texas Department of Housing and Community Affairs

Ms. Sharon Gamble
Texas Department of Housing and Community Affairs

EXHIBIT A for appeal

QAP has not been published in the Texas Register. Staff anticipates it will be submitted to the Texas Register on December 5, 2016, and will become effective 20 days after submission.

Pre-application Submission Log does not ensure that an Applicant will receive points for a pre-application.

§11.9.Competitive HTC Selection Criteria.

(a) General Information. This section identifies the scoring criteria used in evaluating and ranking Applications. The criteria identified in subsections (b) - (e) of this section include those items required under Tex Gov't Code, Chapter 2306, §42 of the Code, and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code. There is no rounding of numbers in this section for any of the calculations in order to achieve the desired requirement or limitation, unless rounding is explicitly stated as allowed for that particular calculation or criteria. Due to the highly competitive nature of the program, **Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency.** However, Department staff may provide the Applicant an opportunity to explain how they believe the Application, as submitted, meets the requirements for points or otherwise satisfies the requirements. When providing a pre-application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant's competitive posture, an Applicant must disclose that in accordance with the Department's rules aspects of the Development may not yet have been determined or selected or may be subject to change, such as changes in the amenities ultimately selected and provided.

(b) Criteria promoting development of high quality housing.

(1) Size and Quality of the Units. (§2306.6710(b)(1)(D); §42(m)(1)(C)(iii)) An Application may qualify for up to fifteen (15) points under subparagraphs (A) and (B) of this paragraph.

(A) Unit Sizes (8 points). The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction), for Developments receiving funding from USDA, or for Supportive Housing Developments without meeting these square footage minimums only if requested in the Self Scoring Form.

- (i) five-hundred fifty (550) square feet for an Efficiency Unit;
- (ii) six-hundred fifty (650) square feet for a one Bedroom Unit;
- (iii) eight-hundred fifty (850) square feet for a two Bedroom Unit;
- (iv) one-thousand fifty (1,050) square feet for a three Bedroom Unit; and
- (v) one-thousand two-hundred fifty (1,250) square feet for a four Bedroom Unit.

(B) Unit and Development Features (7 points). Applicants that elect in an Application to provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in §10.101(b)(6)(B) of this title (relating to Site and Development Requirements and Restrictions) and as certified to in the Application. The amenities will be required to be identified in the LURA. Rehabilitation Developments will start with a base score of three (3) points and Supportive Housing Developments will start with a base score of five (5) points.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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June 20, 2017

Writer's direct phone # (512) 475-1676
Email: marni.bolloway@tdhca.state.tx.us

Mr. Mark C. Temple
Managing Director/President
Casa Tierra SA-1, Incorporated
P.O. Box 70015
San Antonio, Texas 78270-0115

RE: ELIGIBILITY DETERMINATION FOR HTC APPLICATIONS #17194 OAKS APARTMENTS, #17203 PARK ESTATE APARTMENTS, AND #17741 GATEWAY RESIDENCES

Dear Mr. Temple:

The Texas Department of Housing and Community Affairs (the "Department") received your appeal, dated March 23, 2017, of the termination of the above referenced Application. This Application was terminated because the Application did not include information regarding the Section 811 Project Rental Assistance Program ("Section 811 PRA Program") as required by 10 TAC §10.204(16) of the 2017 Uniform Multifamily Rules. The Executive Director granted your appeal, directing staff to determine if the Section 811 Project Rental Assistance Program was, indeed, not applicable to your Application, as the Application stated.

After reviewing your response to Administrative Deficiencies issued on May 11, 2017, staff has determined that the applicant and its affiliates do have an ownership interest in or control of property that might be used to satisfy 10 TAC §10.204(16)(A) – namely the Cayetano Villas development in La Vernia that you agreed in your responsive correspondence is not only eligible, but is already participating in the 811 program. However, the lender letter recently submitted in the Administrative Deficiency response does not exempt the Development because the Section 811 PRA Program rules, found under §10.204 (16), require the following regarding investor or lender letters:

"An Applicant may be exempt from having to provide 811 units in an Existing Development if approval from either their lender or investor cannot be obtained and documentation to that effect is submitted in the Application..." (emphasis added)

Further, the exhibit in Tab 19a of the 2017 Uniform Multifamily Application reflects the rule's requirements when it states:

B. Applicants that in the Department's determination cannot meet the requirements of option A. above can proceed, if the application applying for funds includes the items listed



ELIGIBILITY DETERMINATION

June 20, 2017

Page 2

below and meets the criteria outlined in this section; or if the Application cannot provide this, indicate below.

- Attached behind this tab is a Self-Certification that the Applicant and any Affiliate do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria; or
- Attached behind this tab is a Self-Certification that the Applicant and any Affiliate do not have an ownership interest or control of any Existing Development that meets the criteria outlined in the Section 811 PRA Program Existing Development Criteria except on which the Department, lender or investor will not approve; **and Attached behind this tab is at least one of the following that allows the Applicant to select B. rather than A.**
 - A copy of rejection letter(s) that has been provided by the Department in response to the applicant's submission of application(s) under the Existing Development Criteria; or
 - a copy of a letter(s) indicating that approval from either the lender or investor cannot be obtained for Existing Development(s).

Because the letter from Raymond James regarding the Cayetano Villas development in La Vernia was not included in the original application, it cannot now be used to supplement your application. With the Application assertion of "Not Applicable" in the context of 10 TAC §10.204(16)(A) (for committing "Existing Developments") now having been demonstrated to be false, the Application is determined by staff to have not satisfied the requirements of 10 TAC §10.204(16), and is recommended for termination, with such termination to become effective and final at such time as you have exhausted the appeal rights available to you.

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §10.902 of the 2017 Uniform Multifamily Rules. Should you choose to appeal staff's determination to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not timely respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2017 Uniform Multifamily Rules for full instruction on the appeals process.

Sincerely,



Marni Holloway
Director of Multifamily Finance

17194 and 17203
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Sharon Thomason, Member
Leo Vasquez, Member

July 10, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Mr. Mark C. Temple
Managing Director/President
Casa Tierra SA-1, Incorporated
P.O. Box 70015
San Antonio, Texas 78270-0115

RE: APPEAL RESPONSE FOR HTC APPLICATIONS #17194 OAKS APARTMENTS, #17203 PARK ESTATE APARTMENTS, AND #17741 GATEWAY RESIDENCES

Dear Mr. Temple:

The Texas Department of Housing and Community Affairs (the "Department") received your appeal, dated July 1, 2017, of the scoring notification for the above referenced Applications. Applications 17194 and 17203 lost one point under 10 TAC §11.9(c)(6), related to Underserved Area, as portions of the census tracts extend beyond the boundaries of the incorporated area, and under §11.9(d)(3), related to Declared Disaster Area, as the Governor had not issued a declaration for Wood County within the required time frame. All three Applications lost two points under §11.9 (c)(2), related to Rent Levels of Tenants, as the population of each is General and therefore not eligible for 13 points.

The appeal points to staff's failure to send a copy of the Department's response to the Third Party Request for Administrative Deficiency received for these Applications. I have discussed this issue with staff and wish to pass on their regret for this error. When staff placed the response in the Application, they believed they had emailed it to all involved parties.

The appeal suggests that Wood County could not have been declared a disaster area by the Federal Emergency Management Administration ("FEMA") if the Governor had not requested the designation. That may be correct; however, in order to be eligible for points under this scoring item, the Application has to meet the statutory requirement applicable to this item. Pursuant to Tex. Gov't Code §2306.6710(b)(1)(H):

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(H) whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed



development site is located in an area declared to be a disaster under Section 418.014;

Pursuant to Tex. Gov't Code §418.014 related to Declaration of State of Disaster:

- (a) The governor by executive order or proclamation may declare a state of disaster if the governor finds a disaster has occurred or that the occurrence or threat of disaster is imminent.
- (b) Except as provided by Subsection (c), the state of disaster continues until the governor:
 - (1) finds that:
 - (A) the threat or danger has passed; or
 - (B) the disaster has been dealt with to the extent that emergency conditions no longer exist; and
 - (2) terminates the state of disaster by executive order.
- (c) A state of disaster may not continue for more than 30 days unless renewed by the governor. The legislature by law may terminate a state of disaster at any time. On termination by the legislature, the governor shall issue an executive order ending the state of disaster.
- (d) An executive order or proclamation issued under this section must include:
 - (1) a description of the nature of the disaster;
 - (2) a designation of the area threatened; and
 - (3) a description of the conditions that have brought the state of disaster about or made possible the termination of the state of disaster.
- (e) An executive order or proclamation shall be disseminated promptly by means intended to bring its contents to the attention of the general public. An order or proclamation shall be filed promptly with the division, the secretary of state, and the county clerk or city secretary in each area to which it applies unless the circumstances attendant on the disaster prevent or impede the filing.

Staff has reviewed each declaration issued by the Governor during this time and found no declaration or executive order declaring Wood County a disaster area. It is important to note that there are (at least) two mechanisms by which the Governor can declare a disaster. The first is as mentioned above. Under the provisions of Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §5121-5207 (Stafford Act), and implemented by 44 CFR §206.36, the Governor can appeal directly to the President of the United States to have an area declared a disaster by FEMA. It appears that the declaration for Wood County was handled through the latter. As Tex. Gov't Code §2306.6710(b)(1)(H) has a specific requirement for scoring under this item, I am unable to grant the appeal for points.

In response to a Third Party Request for Administrative Deficiency ("RFAD"), the Applicant suggested that "the QAP actually does seem to be referring to the site location being within the city limits." The appeal included an explanation that the census tract and the Development Site are both within the City of Quitman. 10 TAC §11.9(c)(6) codifies the requirement for scoring of underserved in areas described in Tex. Gov't Code §2306.6725(b)(2), which states:

- (b) The department shall provide appropriate incentives as determined through the qualified allocation plan to reward applicants who agree to:
 - (2) locate the development in a census tract in which there are no other existing developments supported by housing tax credits.

In order to score three points under Underserved Area, the entire census tract must be within the incorporated limits of Quitman. Portions of the census tract extend beyond the boundaries of the incorporated area, and therefore the Application is not eligible for three points under this item, but is eligible for the two points that have been awarded.

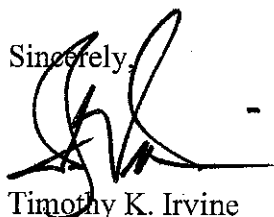
Pursuant to 10 TAC §10.3 related to Definitions:

(127) Target Population--The designation of types of housing populations shall include Elderly Developments, and those that are entirely Supportive Housing. All others will be considered to serve general populations without regard to any subpopulations. An existing Development that has been designated as a Development serving the general population may not change to become an Elderly Development, or vice versa, without Board approval.

Application 17194 indicates the Target Population as General, and 17203 and 17741 indicate Elderly Limitation. In response to the RFAD, the Applicant explained that the developments will offer the same rent levels, tenant services and special needs populations as a Supportive Housing development would. While I believe the referenced FAQ should be further clarified, I find the explanation provided acceptable.

I find that the appeal provided a sufficient explanation to restore the two points for Rent Levels of Tenants for each Application. The appeal has not provided sufficient evidence that Applications 17194 and 17203 are eligible for the 10 points requested for Declared Disaster Area, or the one point withheld for Underserved Area. The Applications are therefore not eligible for six points for the Pre-application. Accordingly, I am denying that portion of your appeal. You have indicated that you wish for this appeal to be heard by the Department's Governing Board, and the appeal has been placed on the agenda for the board meeting of July 13, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,



Timothy K. Irvine
Executive Director

TKI

17247 Western Springs Apartments

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

17251 Pine Terrace Apartments

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, Discussion, and Possible Action on Timely Filed Scoring Notice Appeals for 17267 Industrial Lofts under the Department's Multifamily Program Rules

RECOMMENDED ACTION

WHEREAS, a 9% Housing Tax Credit Applications for 17267 Industrial Lofts was submitted to the Department by the Full Application Delivery Date;

WHEREAS, staff has determined that the Application does not qualify for three tie-breaker points under 10 TAC §11.9(c)(4), related to Opportunity Index, as the Application did not provide sufficient evidence that the Development Site is within ½ mile on an accessible route from a public park, that the Development Site is within ½ mile on an accessible route from public transportation, and that the crime rate for the census tract is 26 per 1,000 or less;

WHEREAS, the Applicant appealed to the Executive Director; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Application 17267 Industrial Lofts is denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the "Code"), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

Pursuant to 10 TAC §11.10 of the Qualified Allocation Plan related to Third party Request for Administrative Deficiency, staff reviewed the Application to determine whether it qualified for three tie-breakers. Staff determined that the Applicant did not provide sufficient evidence that the Development Site is within ½ mile on an accessible route from the public park, that the Development Site is within ½ mile on an accessible route from public transportation, and that the crime rate for the census tract is 26 per 1,000 or less. A scoring notice was issued to the Applicant, and the Applicant appealed staff's decision on July 5, 2017. The Executive Director denied the appeal, and the Applicant is appealing the scoring result.

§11.9(c)(4), Opportunity Index

(B) An application that meets the foregoing criteria may qualify for additional points (for a maximum of seven (7) points) for any one or more of the following factors. Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits:

(i) For Developments located in an Urban Area, an Application may qualify to receive points through a combination of requirements in clauses (I) through (XIII) of this subparagraph.

(I) The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards. (1 point)

(II) The Development Site is located less than 1/2 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service. (1 point)

(VI) The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources. (1 point)

The appeal asserts that the rules do not require that the accessible route to the park must be less than 1/2 mile in distance, but that the park must be less than 1/2 mile away and the route to the park must be accessible. Further, the appeal asserts that the use of accessible transportation should be allowed as part of the route. The rule is clear that the park must be within 1/2 mile of the Development Site *on an accessible route*. The appeal refers to staff's answer to a question posed to the Department and posted in a FAQ. Staff answered a question, and then clarified the answer once more questions were asked. Staff's clarification points to the rule: nowhere in the rule does it state that the use of accessible transportation can be substituted for an accessible route. That the FAQ was posted after pre-applications were submitted is immaterial as the FAQ and clarification was posted well before full Applications were due. If the Applicant was unsure of the meaning of the rule, the Applicant had ample opportunity to contact staff for clarification prior to filing its application.

The appeal states that a portion of the route to public transportation will be made accessible once the Development is approved by the city and the city approves the location of a crosswalk. This is not acceptable evidence as the Applicant cannot promise to complete necessary enhancements to the route on land that the Applicant does not control. The appeal asserts that staff "selectively determined which aspects of the ADA accessibility challenges they determined warranted disqualifying the entire route." Staff reviewed the information provided in the requests and, where specific evidence regarding the inaccessibility of a route was provided, considered that specific evidence. While staff has advised that a letter from a professional qualified to make a determination regarding the accessibility of a route is acceptable evidence, the evidence submitted by the qualified professional must sufficiently disprove the evidence submitted in the requests. The letters submitted did not address any of the specific evidence included in the requests.

The appeal states that the McAllen Police Department "does not feel it is necessary to reconfirm what is already concluded" in a letter submitted in the Application which states that the property crime rate for the census tract containing the Development Site is 1.24 per 1,000 residents. The requests provided evidence that this determination is not correct. The population of the census tract, according to 2010-2014 American Community Survey data, is estimated at 3,555 persons. The

letter from the City of McAllen reports 184 total property crimes in the census tract. To get a rate of 1.24 crimes per 1,000 residents in the census tract, therefore, the census tract would need to have a population of 148,387. If one uses the entire population of the City of McAllen in the formula, determined by staff to be 135,048, the reported ratio of 1.24 crimes per 1,000 would result in approximately 168 total property crimes, which is much closer to the number of crimes reported in the letter from the police department.

Staff cannot ignore specific evidence that contradicts the information in the Application. Staff gave the Applicant the opportunity to refute the evidence provided in the requests, and the Applicant did not do so.

Staff recommends the Board deny the appeal.

17267
Industrial Lofts

17267

Scoring Notice and
Documentation



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Steve Lollis

Phone #: (713) 875-9456

Email: steve@texasgreyoaks.com

Second Email: donna@marqueconsultants.com

Date: June 27, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

RE: 2017 Competitive Housing Tax Credit (HTC) Application for Industrial Lofts, TDHCA Number: 17267

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
 Housing Tax Credit Program - 2017 Application Round
 Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17267, Industrial Lofts

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Difference between Requested and Awarded:	0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
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Section 4:

Final Score Awarded to Application by Department staff:	155
--	------------

Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

NA

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. The park is not within 1/2 mile on an accessible route and would need to be taken by accessible transportation; the route to public transportation is not accessible; the crime rate data appears to extrapolate from the entire population of McAllen. (Items Selected 8, Items Qualified 5)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Wednesday, July 5, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

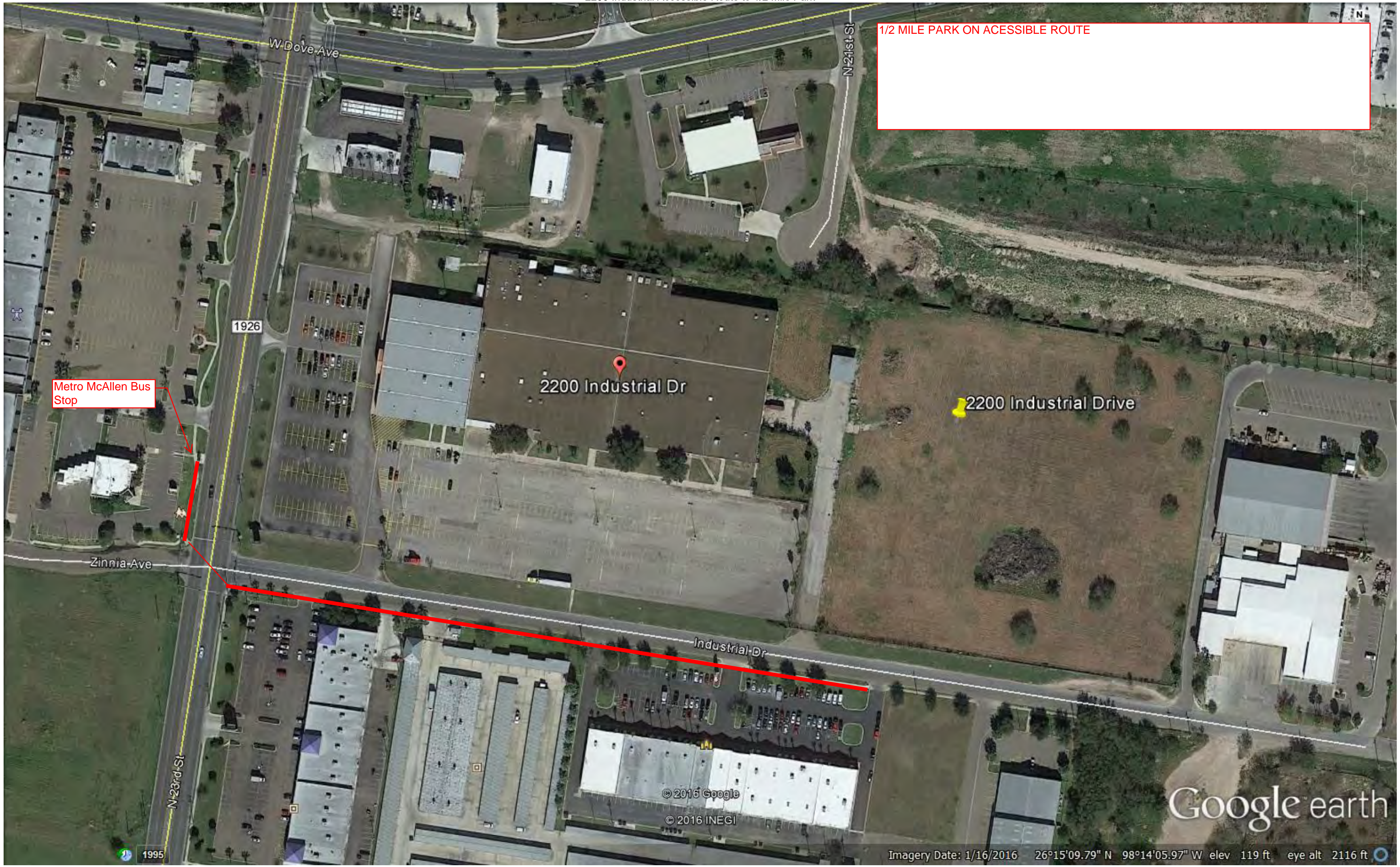
In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon Gamble

Sharon Gamble
 9% Competitive HTC Program Administrator



1/2 MILE PARK ON ACCESSIBLE ROUTE

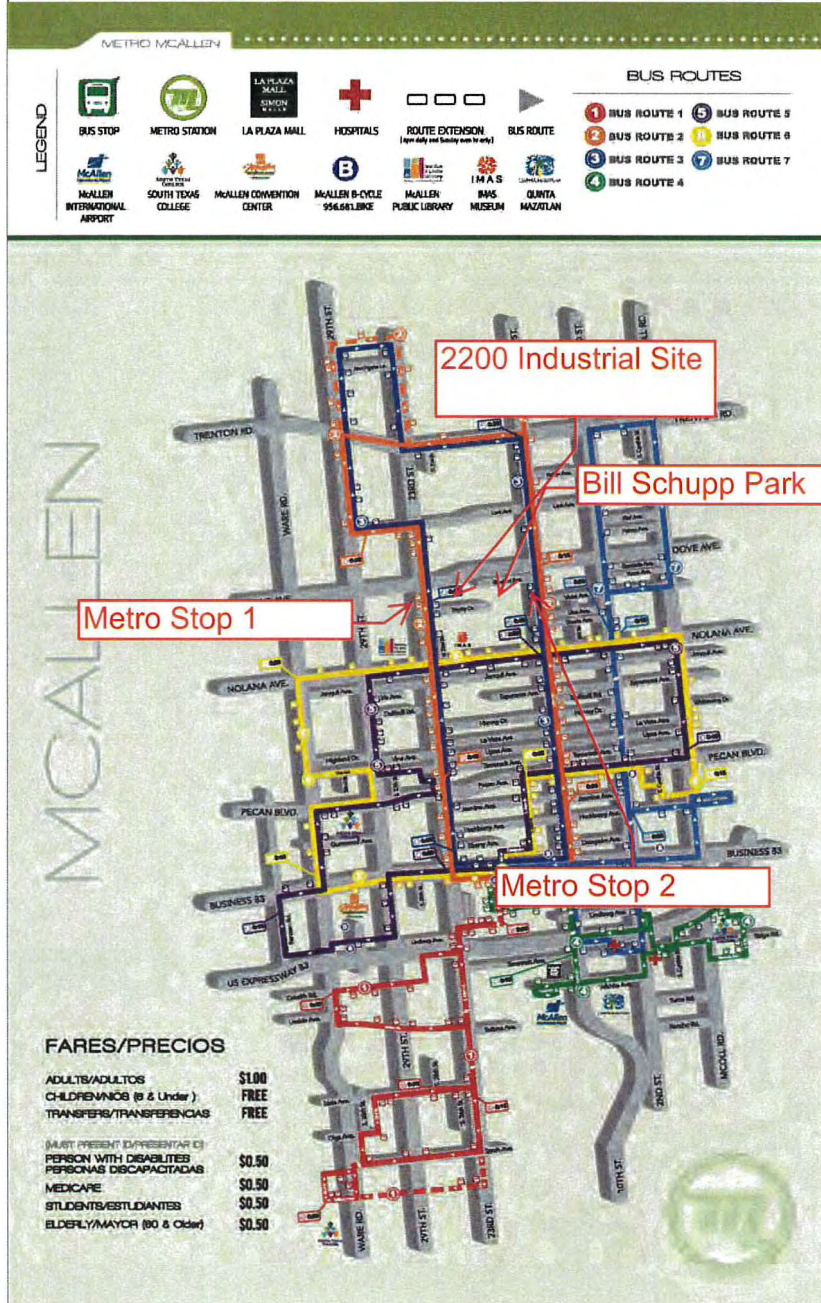
Metro McAllen Bus Stop

2200 Industrial Dr

2200 Industrial Drive

© 2016 Google
© 2016 INEGI

Google earth



http://www.mcallen.net/images/default-source/metro-headers/Metro-Images/map_large.png?sfvrsn=0

[Metro McAllen Full System Map \(http://www.mcallen.net/docs/default-source/metro/metro-mcallen-full-system-map.pdf?sfvrsn=4\)](http://www.mcallen.net/docs/default-source/metro/metro-mcallen-full-system-map.pdf?sfvrsn=4)

Welcome to McAllen Metro. Learn more about your ever-growing public transportation service.

[Read More \(metro/about/facts.aspx\)](http://www.mcallen.net/metro/about/facts.aspx)

Accessible Route to
1/2 Mile Park

2200 Industrial Accessible Route to 1/2 Mile Park



CITY OF McALLEN



POLICE DEPARTMENT

February 28, 2017

Attn: Mr. David Guerra
c/o Donna Rickenbacker/MREC Real Estate Consultants, LLC
710 N Post Oak Rd, Suite 400
Houston, TX 77024

Re: Open Records Request – Crime Statistics for Census Tract 48215020804.

Dear Ms. Rickenbacker,

The McAllen Police Department is in receipt of your public information request for crime statistics for census tract 48215020804 regarding property crimes for 01/25/2016 through 01/25/2017, received on February 27, 2017.

The findings are as follows:

▪ Arson	0
▪ Auto Theft	5
▪ Burglary	5
▪ Criminal Mischief	63
▪ Graffiti	2
▪ Theft	109

Total Property Crimes 184

The above data results in 1.24 number of offenses per 1000 residents.

If you have any questions or comments, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Cecilia Gamez", is written over a horizontal line.

Cecilia Gamez, Lead C.S.S.
Crime Records Bureau
McAllen Police Department

Enclosures: Summary of Fees

**MCALLEN POLICE DEPARTMENT
CRIME RECORDS OFFICE
Publication Information Charges/Fees**



As required by Texas Government Code 552, below is an itemized list of charges/fees associated with your request submitted to the McAllen Police Department.

Information Requested: Crime statistics (Census Tract 48215020804)	Date of Request: 02/28/2017
Requestor: Marquee Companies/Donna Rickenbacker/IBC Bank	Contact#: (713)560-0068
Address: (#, Street, City, State, Zip) 710 N Post Oak Rd, Suite 400, Houston, Tx 77024	
Email: dguerra@IBC.com/donna@marqueconsultants.com	Fax #: 713-583-8858

<u>SERVICE</u>		<u>CHARGES</u>	<u>QTY</u>	<u>EXTENDED</u>
Standard size paper copy	ea	\$0.10	0	\$0.00
Non standard paper copy	ea	\$0.50	0	\$0.00
Certification	ea	\$2.00	0	\$0.00
Clearance letter	ea	\$5.00	0	\$0.00
Diskette (CD-R or CD-RW)	ea	\$1.00	0	\$0.00
Diskette (DVD)	ea	\$3.00	0	\$0.00
Audio cassette	ea	\$1.00	0	\$0.00
VHS video cassette	ea	\$2.50	0	\$0.00
Computer magnetic tape	ea	\$10.00	0	\$0.00
Personnel charges per hour	hr	\$15.00	1.5	\$22.50
overhead 20% of personnel charge	%		0	\$4.50
Microfilm paper copy	ea	\$0.10	0	\$0.00
document retrieval			0	\$0.00
computer resources			0	\$0.00
Programming time	min	\$0.43	0	\$0.00
Photos	ea	\$0.75	0	\$0.00
Accident report	ea	\$6.00	0	\$0.00
TOTAL CHARGES				\$27.00

17267

Applicant Appeal to
Executive Director

TGO INDUSTRIAL LOFTS, LP
710 North Post Oak Road, Suite 400
Houston, TX 77024
(713) 560-0068 – p
(713) 583-8858 – f
Steve@TexasGreyOaks.com
Donna@DWRDevelopment.com

July 5, 2017

Via Email

Timothy Irvine, Esq.
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78711

Re: Appeal: TDHCA #17267; Industrial Lofts, McAllen, Texas

Dear Mr. Irvine:

TGO Industrial Lofts, LP (“Project Owner”) submitted a competitive housing tax credit application (the “Application”) to develop Industrial Lofts (the “Project”) on a site located in McAllen, Hidalgo County, Texas (the “Development Site”). The Project Owner appeals the conclusions of a Scoring Notice (the “Scoring Notice”) issued by the Texas Department of Housing and Community Affairs (“TDHCA”) on June 27, 2017. Particularly, Project Owner appeals the denial of points claimed for Opportunity Index amenities under Section 11.9(c)(4)(B)(i) of the Qualified Allocation Plan (“QAP”) that are being used for Tie-Breaker purposes pursuant to Section 11.7 of the QAP. A copy of the Scoring Notice is attached hereto as **Exhibit “A”**.

TDHCA Staff (“Staff”) claims that the Application is ineligible for points associated with the Development Site’s proximity to the following Opportunity Index amenities:

1. Accessible Route to Public Park – Bill Schupp Park

Section 11.9(c)(4)(B)(i)(I) of the QAP awards one (1)-point if the Development Site is located:

“...less than ½ mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards.”

Background and Facts. Staff issued a RFAD Administrative Deficiency Notice on 06/7/17 (the “RFAD Notice”) requesting that the Project Owner provide “*evidence from the city or from another professional certified to make such a determination that the ½-mile route between the site and the park playground is accessible and the playground itself is accessible.*” In the response to the RFAD Notice dated 06/14/17 (the “RFAD Response”), the Project Owner provided certifications from (i) Mucasey & Associates, the Project architect, (ii) Metro McAllen, the public transportation bus provider for the City of McAllen, and (iii) Melden & Hunt, the Project engineer. The certifications from Metro McAllen and Melden & Hunt certified to the accessibility of the fixed route public transportation buses serving the City of McAllen. The

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fixed route bus service provides that portion of the accessible route from Transportation Stop #1, located near the Development Site to Transportation Stop #2, located across the street from Bill Schupp Park, a public park located within ½ mile of the Development Site. A copy of the RFAD Response is attached hereto as **Exhibit “B”**.

Staff issued a determination notice (the “Determination Notice”) to the Project Owner on 06/16/17 stating that the Department had reviewed the RFAD Response and determined that the Project Owner did not provide sufficient evidence that the Development Site is located within ½ mile on an accessible route from the public park. Staff further concluded that the route itself is more than ½ mile long and would need to be taken by accessible transportation which Staff indicated could not be substituted for an accessible route. A copy of the Determination Notice is attached hereto as **Exhibit “C”**.

Grounds for Appeal. First, Staff has determined that the Application is not eligible for this Opportunity Index amenity point because the route from the Development Site to the public park is more than ½ mile long. The QAP rule does not require that the route itself be less than ½ mile long. The QAP rule states that the site be located less than ½ mile from a public park and that the route taken be accessible. Furthermore, as set forth on Page 13 of 15 in the Frequently Asked Questions (“FAQ”) published by TDHCA on 02/01/17, Staff responded to a question regarding whether the accessible route must be no more than ½ mile long and stated that *“the playground has to be within ½ mile of the site, and the entire route must be accessible.”* Additionally, we assume that by using the word “playground”, Staff means park since the QAP requires that the site be within ½ mile from a public park to qualify for this Opportunity Index amenity point. A copy of the applicable pages from the FAQ are attached hereto as **Exhibit “D”**.

Second, Staff has concluded that the Project Owner cannot use accessible transportation as an acceptable route. *The QAP requires that “the site be located on an accessible route....from a public park that is located less than ½ mile from the site and that both the park and the playground meet 2010 ADA standards.”* Nothing more. In the FAQ, Staff defined an “accessible route” to include accessible transportation. Then on 2/1/17 (25-days after the filing of pre-applications), Staff posted an updated FAQ whereby they changed their mind and ***clarified*** their response to the transportation question by stating that in addition to the transportation being accessible, the route that the transportation takes must also be accessible. This makes no sense and would mean that an applicant would be required to show evidence of duplicative accessible routes on the same path. Furthermore, Staff contradicts themselves. In their response to a question following Staff’s clarification statement Staff states that the *“.....entire route must be accessible (including transit as applicable).”* This answer implies that transit is considered an accessible route if the applicant is using transit to support this accessible route Opportunity Index amenity. Please see applicable pages from the FAQ highlighting these points.

Finally, as it relates to the RFAD challenges, the Project Owner specifically addressed Staff’s deficiency request by providing certifications in the RFAD Response from the City of McAllen and those third party professionals outlined above confirming the accessibility of the routes, park and playground equipment, and additionally confirmed that the park and playground equipment meet 2010 ADA standards. The certifications were issued by third party professionals qualified to make such determinations and we believe that Staff should accept their findings.

Timothy Irvine, Esq.
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For the reasons stated above, the Project Owner respectfully requests your reconsideration of Staff's denial of one (1)-point for having a Development Site within ½ mile on an accessible route from a public park, as defined in Section 11.9(c)(4)(B)(i)(I) of the QAP.

2. Accessible Route from Public Transportation

Section 11.9(c)(4)(B)(i)(II) of the QAP awards one (1)-point if the Development Site is located:

“...less than ½ mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m. plus weekend service.”

Background and Facts. In the original Application, the Project Owner provided evidence of an accessible route from the Development Site running along the south side of Industrial Dr. to Metro McAllen Bus Stop #1 located at the northwest corner of 23rd St. at Industrial Dr. less than ½ mile from the Development Site. Similar to the assessable route to a public park issue described above, Staff issued the RFAD Notice and requested that the Project Owner provide “*evidence from the city or from another professional certified to make such a determination that the route between the site and the public transportation stop is accessible.*” The Project Owner provided such certification from the architect of record in the RFAD Response certifying to the accessibility of the route. In the Determination Notice, Staff found that the route was not accessible concluding (i) there was no crosswalk from the Development Site, and (ii) the traffic control device at the intersection of 23rd St. and Industrial Dr. is not ADA compliant.

Grounds for Appeal. First, the Development Site is on the north side of Industrial Dr. across the street from the existing accessible sidewalks and handicap ramps running along the south side of Industrial Dr. to 23rd St., west of Industrial Dr. Industrial Dr. is a dead end street east of the Development Site. There are no crosswalks from the north side of Industrial Dr. to the existing sidewalks/ramps on the south side of Industrial Dr. because the Development Site and the tracts west and east of it are vacant tracts of land and therefore have not been developed. If the Application is awarded tax credits, the Project Owner plans to work with the City of McAllen to confirm where they want to locate the crosswalks. The Project Owner cannot show these improvements because the City of McAllen has not approved and permitted the Development that will include where the City wants the Project Owner to locate the crosswalks that will tie the accessible route from the Development to the existing accessible routes across the street.

Second, Staff has concluded that the traffic control device at the intersection of Industrial Dr. and 23rd St. is not ADA compliant and therefore the entire route is not accessible for purposes of awarding this Opportunity Index amenity point. We very much disagree with their conclusions. Staff reviewed the RFADs and selectively determined which aspects of the ADA accessibility challenges they determined warranted disqualifying the entire route. Please be aware, the routes described in multiple applications in Region 11-Urban were challenged. The Project Owner as well as all of the other challenged applications provided certifications from qualified third party ADA professionals confirming the accessibility of their routes to Public Transportation. Furthermore, each challenger provided similar confirmations from their own third party ADA professional certifying to the lack of ADA accessibility of each of the routes they challenged. Credits will be awarded in Region 11 based on which of the conflicting and competing ADA

Timothy Irvine, Esq.
Executive Director, TDHCA
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professionals' conclusions Staff deems more credible for purposes of awarding this Tie-Breaker Opportunity Index amenity.

Finally, as with the accessible route to a public park argument described above, the Project Owner responded to Staff's request and provided in the RFAD Response a certification from an ADA professional certifying to the accessibility of the route to Public Transportation. We believe that Staff should accept these findings as the Staff members are not ADA specialists and therefore should not be comparing route conclusions by others and making subjective determinations based on which ones they deem more acceptable for purposes of awarding points in a scoring category.

For the reasons stated above, the Project Owner respectfully requests your reconsideration of Staff's denial of one (1)-point for having a Development Site within ½ mile on an accessible route from Public Transportation, as defined in Section 11.9(c)(4)(B)(i)(II) of the QAP.

3. Property Crime

Section 11.9(c)(4)(B)(i)(VI) of the QAP awards one (1)-point if the Development Site is located:

“...in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources.”

Background and Facts: In the original Application, the Project Owner submitted a letter from the McAllen Police Department (*a local data source*) dated February 28, 2017 (the “Crime Letter”). A copy of the Crime Letter is attached hereto as **Exhibit “E”**. The Crime Letter found that the property crime in Census Tract 48215020804, a tract that includes the Development Site, was 1.24 offenses per 1,000 persons. Staff agreed with the assertions of an RFAD challenger and concluded that *it appeared* that the data used by the McAllen Police Department considered the population of the City rather than the population of the census tract in calculating the property crime rate. Staff issued the RFAD Notice and requested that the Project Owner provide “*evidence from the city or from another professional certified to make such determination that the crime statistics meets the threshold of 26 per 1,000 persons.*”

Grounds for Appeal: Pursuant to an open records request made by the Project Owner, the City of McAllen Police Department evaluated property crime data at the census tract level, and provided the Crime Letter on Police Department letterhead showing that the crime is well below the 26 per 1,000 person threshold. The Police Department does not feel that it is necessary to reconfirm what is already concluded in the Crime Letter. The Police Chief told the Project Owner and its consultants that he was very disturbed and disappointed by the behavior of those challengers that contacted his office. They questioned his staff, his findings and even the authenticity of the Crime Letter. This should be unacceptable to you and to Staff. We believe that Staff should accept the findings of the Crime Letter and that reconfirmation of what is already stated in the letter is redundant and unnecessary.

For the reasons stated above, the Project Owner respectfully requests your reconsideration of Staff's denial of one (1)-point for having a Development Site located in a census tract with a property crime rate that meets the threshold defined in Section 11.9(c)(4)(B)(i)(VI) of the QAP.

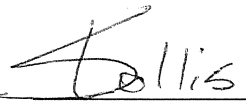
Timothy Irvine, Esq.
Executive Director, TDHCA
#17267-Appeal
July 5, 2017
Page -5-

As you are aware, this appeal may be granted by you as the Executive Director. If you determine that one or more of the requests to overturn Staff's recommendations should be denied, then the Project Owner hereby requests that your decision be appealed to the Board and that this letter be made the basis for the appeal of your decision for consideration at the next Board meeting scheduled for July 13, 2017. Attached please find the signed Appeal Election Form.

Very truly yours,

TGO Industrial Lofts, LP

By: Texas Grey Oaks, LLC, a member of the general partner

By: 

Steve Lollis, President

Schedule of Exhibits (A-E)

Donna Rickenbacker (via email)

Marni Gamble (via email)

Sharon Gamble (via email)

EXHIBIT "A" – SCORING NOTICE



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Steve Lollis

Phone #: (713) 875-9456

Email: steve@texasgreyoaks.com

Second Email: donna@marqueconsultants.com

Date: June 27, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

RE: 2017 Competitive Housing Tax Credit (HTC) Application for Industrial Lofts, TDHCA Number: 17267

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17267, Industrial Lofts

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Difference between Requested and Awarded:	0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
--	---

Section 4:

Final Score Awarded to Application by Department staff:	155
--	------------

Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

NA

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. The park is not within 1/2 mile on an accessible route and would need to be taken by accessible transportation; the route to public transportation is not accessible; the crime rate data appears to extrapolate from the entire population of McAllen. (Items Selected 8, Items Qualified 5)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Wednesday, July 5, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon Gamble

Sharon Gamble
 9% Competitive HTC Program Administrator

EXHIBIT "B" – RFAD RESPONSE

Marque Real Estate Consultants
710 North Post Oak Road, Suite 400
Houston, TX 77024
(713) 560-0068 – p
(713) 583-8858 – f
donna@marqueconsultants.com

June 14, 2017

Via Serv-U Portal

Elizabeth Henderson
Program Specialist III
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: TDHCA No. 17267-Industrial Lofts

Dear Elizabeth,

The following is in response to your Administrative Deficiency Notice dated 06/07/17 for information in connection with your Eligibility/Selection/Threshold review of the above-described application.

1. The requestors state that the route from the development site to the Bill Schupp Park playground is not an accessible route. Provide evidence from the city or from another professional certified to make such a determination that the ½-mile route between the site and the Bill Schupp Park playground is accessible and that the playground itself is also accessible.

Response: Attached please find the following 3 letters confirming that the routes from the development site to the Bill Schupp Park playground and the playground itself are accessible:

- a. Certification Letter from Mark Mucasey, A.I.A. certifying to the accessibility of the therein described routes from the site to the playground and the playground itself;
 - b. Certification Letter from Mario Delgado, Transit Director of McAllen Metro confirming that the Metro McAllen fixed route transportation buses are handicap accessible and meet all current 2010 ADA standards; and
 - c. Certification Letter from Melden & Hunt Engineering Firm also confirming the fixed route buses meet current 2010 ADA standards.
2. The requestors state that the route from the development site to the public transportation stop being used for Opportunity Index points is not an accessible route. Provide evidence from the city or from another professional certified to make such a determination that the route between the site and the public transportation stop is accessible.

Response: Attached please find a certification letter from Mark Mucasey, A.I.A. (No. 1a above) confirming that the route from the development site to the public transportation stop (McAllen Metro Bus Transportation #1) meets 2010 accessibility standards.

Elizabeth Henderson – TDHCA

Application No. 17267

June 14, 2017

Page -2-

3. The requestors state that the crime statistics used for Opportunity Index points does not meet the threshold of 26 per 1000. Provide evidence from the city or from another professional certified to make such a determination that the crime statistics meet the threshold of 26 per 1000.

Response: Pursuant to an open records request, the McAllen Police Department looked at the property crime statistics for census tract no. 48215020804 and as set forth in the letter found that the property crime in the census tract was less than 26 per 1,000 persons. The McAllen Police Department does not believe that it is necessary to reconfirm their findings. See attached.

Thank you for allowing us the opportunity to clarify the above described administrative deficiencies. In the event you have any additional questions or comments, please feel free to contact us.

Sincerely,



Donna Rickenbacker

cc: Steve Lollis (Via Email)



June 12, 2017

TGO Industrial Lofts, LP
c/o Steve Lollis – Via Email – steve@texasgreyoaks.com
710 North Post Oak Rd., Ste. 400
Houston, Texas 77024

Re: ADA Accessible Route Confirmation

Dear Mr. Lollis,

We have evaluated at street level each of the following routes to determine whether they meet 2010 accessibility standards, each of the routes observed are shown on the attached maps:

1. Sidewalks and route along Industrial Drive from the proposed Industrial Lofts development site ("Project Site") to the McAllen Metro Bus Transportation Station #1 located near the northwest intersection of 23rd Street and Industrial Drive; and
2. Sidewalks and route from the McAllen Metro Bus Transportation #2 located in the northeast corner of N. 10th Street and Zinnia Avenue continuing along Zinnia Avenue to and including routes made a part of the Bill Schupp Park located at 1300 Zinnia Avenue, McAllen, Texas 78504, less than .05 miles from the Project Site.

I hereby confirm that the above described sidewalks and routes are accessible routes that meet the 2010 ADA accessibility standards.

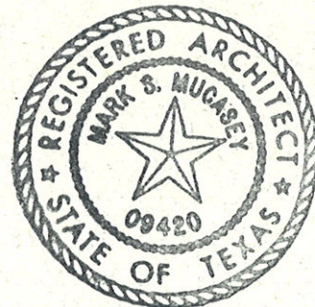
Additionally the playground and playground equipment located at the Bill Schupp Park also meet these standards.

Please feel free to contact me if you have any additional questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark S. Mucasey', is written over a horizontal line. The signature is stylized and loops around the line.

Mark S. Mucasey, A.I.A.



Cc: Donna Rickenbacker- Via Email – donna@marqueconsultants.com
Marque Real Estate Consultants

Ruler [x]

Line | Path | Polygon | Circle | 3D path | 3D polygon

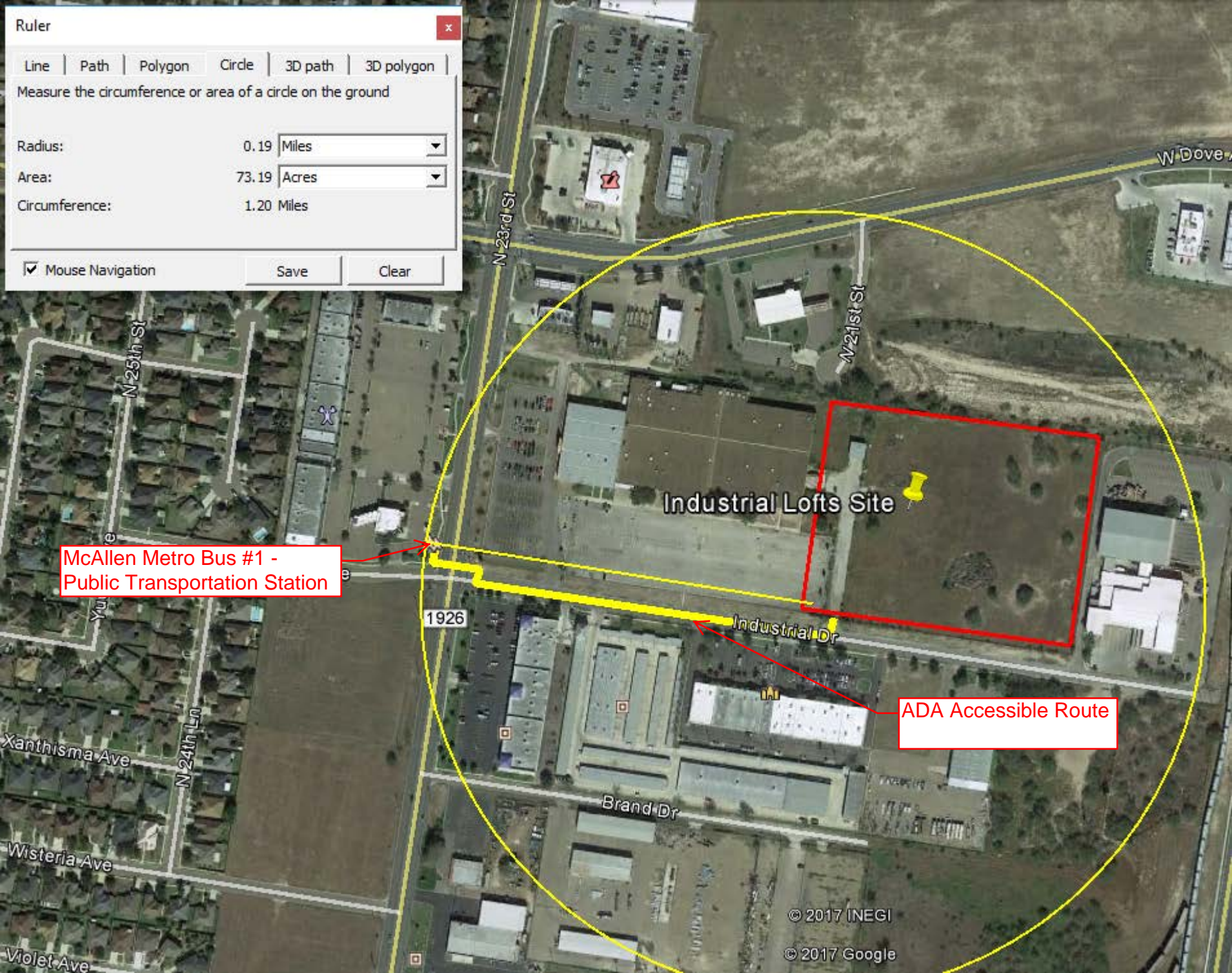
Measure the circumference or area of a circle on the ground

Radius: 0.19 Miles

Area: 73.19 Acres

Circumference: 1.20 Miles

Mouse Navigation Save Clear



McAllen Metro Bus #1 - Public Transportation Station

Industrial Lofts Site

ADA Accessible Route

Ruler

Line | Path | Polygon | Circle | 3D path | 3D polygon

Measure the circumference or area of a circle on the ground

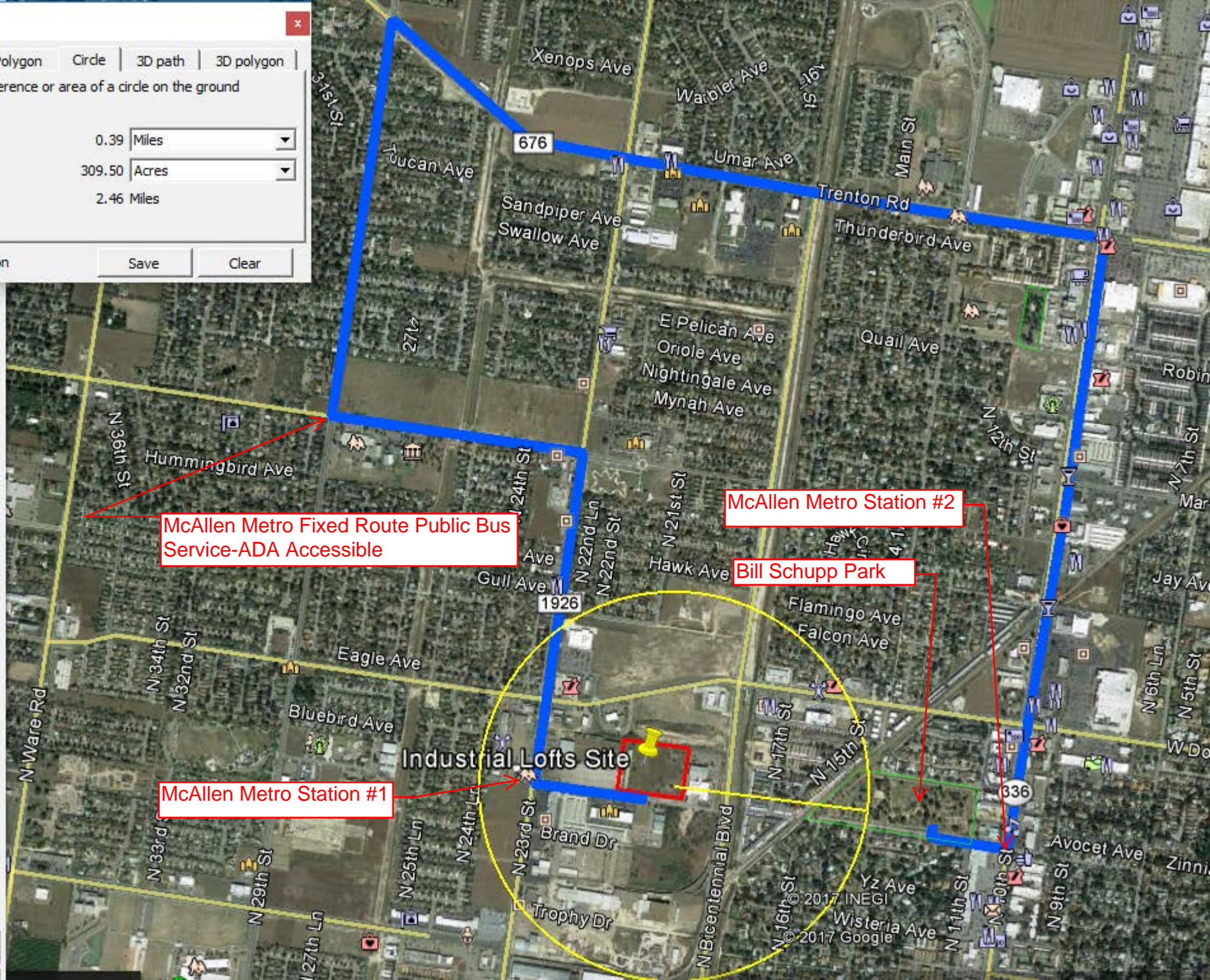
Radius: 0.39 Miles

Area: 309.50 Acres

Circumference: 2.46 Miles

Mouse Navigation

Save Clear



McAllen Metro Fixed Route Public Bus Service-ADA Accessible

McAllen Metro Station #2

Bill Schupp Park

McAllen Metro Station #1

Industrial Lofts Site

© 2017 INEGI
© 2017 Google

<http://www.mcallen.net/images/default-source/metro-headers/Metro-Images/metromap.jpg?sfvrsn=2>

METHO MCALEN

LEGEND

- BUS STOP
- METRO STATION
- LA PLAZA MALL
- HOSPITALS
- ROUTE EXTENSION (Sun, Daily and Sunday even to early)
- BUS ROUTE
- MCALEN INTERNATIONAL AIRPORT
- SOUTH TEXAS COLLEGE
- MCALEN CONVENTION CENTER
- MCALEN B-CYCLE 956.661.8262
- MCALEN PUBLIC LIBRARY
- J.M.A.S. MUSEUM
- QUINTA MAZATLAN

BUS ROUTES

- 1 BUS ROUTE 1
- 2 BUS ROUTE 2
- 3 BUS ROUTE 3
- 4 BUS ROUTE 4
- 5 BUS ROUTE 5
- 6 BUS ROUTE 6
- 7 BUS ROUTE 7

FARES/PRECIOS

ADULTS/ADULTOS	\$1.00
CHILDREN/NIÑOS (8 & Under)	FREE
TRANSFERS/TRANSFERENCIAS	FREE
(MUST PRESENT ID/PRESIDENTAR ID)	
PERSON WITH DISABILITIES PERSONAS DISCAPACITADAS	\$0.50
MEDICARE	\$0.50
STUDENTS/ESTUDIANTES	\$0.50
ELDERLY/MAYOR (80 & Older)	\$0.50

[/images/default-source/metro-headers/Metro-Images/map_large.png?sfvrsn=0](http://www.mcallen.net/images/default-source/metro-headers/Metro-Images/map_large.png?sfvrsn=0)

[Metro McAllen Full System Map \(/docs/default-source/metro/metro-mcallen-full-system-map.pdf?sfvrsn=4\)](http://www.mcallen.net/docs/default-source/metro/metro-mcallen-full-system-map.pdf?sfvrsn=4)

Welcome to McAllen Metro. Learn more about your ever-growing public transportation service.
[Read More \(/metro/about/facts.aspx\)](http://www.mcallen.net/metro/about/facts.aspx)



Bill Schupp
Accessible Park

Metro McAllen Bus
Stop- Stop 2

© 2016 Google
© 2016 INEGI

Google earth

1995

Imagery Date: 1/16/2016 26°15'05.07" N 98°13'20.19" W elev 115 ft eye alt 1130 ft



June 8, 2017

Via Email – donna@marqueconsultants.com

Donna Rickenbacker
Marque Real Estate Consultants
710 North Post Oak Rd., Ste. 400
Houston, Texas 77024

Re: Metro Services-ADA accessibility

Dear Ms. Rickenbacker,

Pursuant to your request, Metro McAllen provides public transportation services within the City of McAllen. We have 2 types of bus service that include our Metro McAllen Fixed Route Service and our Metro McAllen Paratransit (MMP) Services. Our traditional Public Bus System has fixed routes and regular hours of operation throughout the City. Our fixed route buses are handicap accessible that include wheelchair ramps and meet all applicable and current 2010 ADA standards.

Our MMP Service is designed to serve only those persons whose disability prevents them from using the public transportation. Eligibility is not based on medical diagnosis or disability. Eligibility is based solely on the inability of the individual to use the available fixed route system. A person must be functionally unable to use the Metro McAllen fixed route transportation. A person must apply to use the MMP service. The applications are available in person, by mail or by downloading the application on our website. If a person qualifies, they may request a trip. Reservations must be made at least one day, but not more than fourteen days, in advance of the desired travel date.

Since MMP is a community transit system passengers should be prepared to share rides with other clients and accept flexibility in pick-up and drop-off times.

I hope that I have properly responded to your request. If you have any other questions, please feel free to contact us at (956) 681-3510.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mario Delgado", is written over the word "Sincerely,".

Mario Delgado
Transit Director

JAMES E. DARLING, Mayor
HILDA SALINAS, Mayor Pro-Tem and Commissioner District 3
AIDA RAMIREZ, Mayor Pro-Tem and Commissioner District 4
RICHARD F. CORTEZ, Commissioner District 1
TREY PEBLEY, Commissioner District 2
JOHN J. INGRAM, Commissioner District 5
VERONICA VELA WHITACRE, Commissioner District 6

ROEL RODRIGUEZ, P.E., City Manager



TBPE Firm # F-1435
TBPLS # 10096900.

MELDEN & HUNT INC.

CONSULTANTS • ENGINEERS • SURVEYORS

FRED L. KURTH • ALLAN F. BOOE • KELLEY A. HELLER-VELA • ROBERTO N. TAMEZ • MARIO REYNA

June 12, 2017

Via Email – donna@marqueconsultants.com

TGO Industrial Lofts, LP
c/o Donna Rickenbacker
Marque Real Estate Consultants
710 North Post Oak Rd., Ste. 400
Houston, Texas 77024

Re: Metro Services-ADA accessibility

Dear Ms. Rickenbacker,

Pursuant to your request, Melden & Hunt, Inc. has verified that Metro McAllen provides public transportation service within the City of McAllen. Metro McAllen currently operates seven (7) intercity bus routes - Metro McAllen Fixed Route Service and a paratransit bus service to eligible patrons - the Metro McAllen Paratransit (MMP) Service. The traditional intercity system provides bus service along fixed routes throughout the City with regular hours of operation. I have verified and hereby certify that the fixed route buses are handicap accessible that include wheelchair ramps and meet all applicable and current 2010 ADA standards.

I hope that I have properly responded to your request. If you have any other questions, please feel free to contact us at (956) 500-2734.

Sincerely,

Mario A. Reyna , P.E.



CITY OF McALLEN



POLICE DEPARTMENT

February 28, 2017

Attn: Mr. David Guerra
c/o Donna Rickenbacker/MREC Real Estate Consultants, LLC
710 N Post Oak Rd, Suite 400
Houston, TX 77024

Re: Open Records Request – Crime Statistics for Census Tract 48215020804.

Dear Ms. Rickenbacker,

The McAllen Police Department is in receipt of your public information request for crime statistics for census tract 48215020804 regarding property crimes for 01/25/2016 through 01/25/2017, received on February 27, 2017.

The findings are as follows:

▪ Arson	0
▪ Auto Theft	5
▪ Burglary	5
▪ Criminal Mischief	63
▪ Graffiti	2
▪ Theft	109

Total Property Crimes 184

The above data results in 1.24 number of offenses per 1000 residents.

If you have any questions or comments, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Cecilia Gamez", is written over a horizontal line.

Cecilia Gamez, Lead C.S.S.
Crime Records Bureau
McAllen Police Department

Enclosures: Summary of Fees

EXHIBIT "C" – RFAD DETERMINATION



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

June 16, 2017

Writer's direct phone # (512) 475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. Steve Lollis
TGO Industrial Lofts, LP
710 Post Oak Road, Ste 400
Houston, TX 77024

RE: REQUESTS FOR ADMINISTRATIVE DEFICIENCY: 17267 INDUSTRIAL LOFTS

Dear Mr. Lollis:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of three Third Party Requests for Administrative Deficiency ("RFAD") requesting that the Department review the Application above to determine whether it should be awarded several tie-breaker items under 10 TAC §11.9(c)(4), related to Opportunity Index. The requests assert that the Application did not contain sufficient documentation of community assets used to claim the tie-breakers.

Consistent with similar decisions made by the Department's Governing Board at its May 25, 2017, meeting, an Administrative Deficiency was determined to be appropriate for these Applications. The Department issued a deficiency notice on June 7, 2017, and the response was received timely.

After reviewing the response, the Department has determined that the response does not provide sufficient evidence that the Development Site is within ½ mile on an accessible route from the public park. Though the park is .39 miles away, the route indicated is approximately 5 miles long and would need to be taken by accessible transportation. Staff has previously stated that accessible transportation to an amenity may not substitute for an accessible route to that amenity.

The response does not provide sufficient evidence that the Development Site is within ½ mile on an accessible route from public transportation as the route indicated would require residents to cross Industrial Drive, where there is no crosswalk. While there is a traffic control device on Industrial Drive where it intersects N. 23rd Street, there is no compliant access to the traffic control device installed there.

Finally, the Department has determined that the response does not provide sufficient evidence that the crime rate for the census tract is 26 per 1,000 or less. The data provided by the City of McAllen may report the number of property crimes reported for the census tract, but it appears that the data considers the population of the city rather than the population of the census tract in the calculation of the rate.

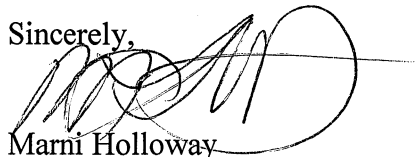


June 16, 2017

Page 2

For purposes of these requests, the matter is considered closed. The Applicant will be issued a scoring notice indicating the loss of points under the affected items and will have the ability to appeal staff's determination. If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', written over a horizontal line.

Marni Holloway
Multifamily Division Director

Cc: Mark D. Musemeche
Doak Brown
Manish Verma

EXHIBIT "D" – FAQ-ACCESSIBLE ROUTE PROVISIONS



2017 Competitive HTC Application Cycle Frequently Asked Questions (FAQs)

Pursuant to §11.1(b) of 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed or may be unclear when applied to specific facts in the QAP, 10 TAC Chapter 10, the Uniform Multifamily Rules, 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules, or 10 TAC Chapter 13, the Multifamily Direct Loan Rule. Applicants should understand that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application. Moreover, after the time that an issue is initially presented and guidance is provided, additional information may be identified and/or the issue itself may continue to develop based upon additional research and guidance. Thus, until confirmed through final action of the Board, staff guidance must be considered merely as an aid, and an Applicant continues to assume full responsibility for any actions Applicant takes regarding an Application. In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to independently perform the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application. These rules may need to be applied to facts and circumstances not contemplated at the time of their creation and adoption. When and if such situations arise, the Board will use a reasonableness standard in applying its rules and evaluating and addressing Applications for Housing Tax Credits.

Following is a list of questions that the Department has received with respect to the 2017 Uniform Multifamily Rules and QAP and how various provisions of the rules will be applied to Applications submitted and reviewed by the Department during the 2017 competitive cycle. The questions were received over the past several weeks and at the application workshops held in early December. Each time an update is made to the FAQ, the most recently updated date will be added to the top right of this page. The FAQ is an opportunity to provide all Applicants and the public the same information that was relayed to the individuals who asked the questions. The answers to FAQs are not agency rules and if there is a conflict between adopted agency rules and the answers to FAQs, then the rule prevails. Answers to FAQs are only examples of a theoretical application of a limited set of facts to a rule or rules, and should not be read to signify a change in an adopted agency rule. There are other questions which have been posed and addressed, but it was staff's assessment that they do not have broad application and are not included here.

Questions and answers are in the same order that their related sections appear in the rules. If questions and answers are added after the initial posting, the revision dates will appear at the top of this page and will be included next to each of the added questions. The Department may not send out a new listserv each time an update is made unless the update is extensive. Staff encourages interested individuals to check back periodically.

2017 Competitive Application Cycle FAQ

Q: For the opportunity index property crime item, are you going to specify the data to be used for the "or local data sources"? Should the "local data sources" be 2015 data or can it be 2016 data? What population figure should we use?

A: We will not specify which local data to use; though the subject data should mirror as much as possible that of Neighborhood Scout. For consistency, use the population data included in the Site Demographics Report, which is based on 2010-2014 ACS.

Q: Please confirm if a fast food restaurant such as McDonalds, Chic Fil A, etc. that has an indoor playground qualify as an indoor recreation facility. Would a bowling alley qualify as an indoor recreation facility?

A: The playground inside a fast food restaurant would not be considered an indoor recreation facility. A bowling alley would qualify.

Q: Would you consider an Anytime Fitness 24 hour gym or any other facility that requires memberships to use them as Indoor Recreation?

A: Yes, we would consider the Anytime Fitness or similar facility to be Indoor Recreation.

Q: Must indoor and outdoor recreation facilities be free or just open to the public? Also, must they be accessible?

A: They don't have to be free. They have to be accessible by law, even if the QAP does not single them out.

Q: Please further clarify what qualifies for an outdoor recreation facility. For example, would any school's outdoor playgrounds, baseballs fields, tennis courts etc. qualify? What if these were only available to students during school hours but after school hours the facilities are gated and locked to the general public?

A: If evidence shows that the facilities are open and available to the public, then they would be considered. If not, they would not qualify. We would need something from the school saying it is, as they are usually not.

Q: Would a public park qualify for an outdoor recreation facility if the park did not have any actual recreation equipment? For example, if the public park is a nature preserve or an open field with expansive lawns and walking trails qualify or would the park have to have an amenity such as a playground, basketball court or similar activity to qualify as an outdoor recreation facility? Would a football stadium where collegiate or professional sports are played qualify?

A: A park such as one you have described would qualify. A stadium wouldn't count.

Q: The rule states that the museum cannot be "an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value". Please explain this carve-out and if possible specific examples of museums that would not qualify based on this provision.

A: The carve-out is simply "it has to be a museum". If you tour a bakery, and at some point in the tour there is a room that has all of the bread-making equipment since 1943 on display, that does not make the bakery a museum. It is a bakery that has a room where they display things. However, a free-standing "The Museum of 20th Century Baking" that operates as an independent organization would qualify as a museum for this point item.

Q: How does one determine if a museum is government sponsored? If a museum is listed with the Texas Historical Commission, would that be qualifying criteria?

A: THC is not the criteria. You would see it on their website, or you would have to contact them. It could be a city or county museum. Most will be nonprofit.

Clarified January 31:

Q: Can an accessible route include accessible public transportation (wheelchair capable/meets ADA standards) service that stops at the development site and has service to and from a public park that is located w/in ½ from the development site?

2017 Competitive Application Cycle FAQ

A: Your description would qualify as part of the accessible route. If a resident takes accessible transportation from the development to the park, the route from the transportation stop to the actual park would also have to be accessible. Just getting them to the vicinity of the park would not be enough.

CLARIFICATION: The provision of transportation is not a substitute for having an accessible route. If transportation is one of the services you will provide at your development, then that transportation must be accessible as described above, but it may not take the place of an accessible route.

Q: Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long?

A: The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable).

Q: If a public transportation stop or park is located less than half a mile from a vacant site where sidewalks are not yet built, but the development plan includes the sidewalks which would connect the proposed development to the park/transit stop, could that qualify an application for points?

A: In this case, if the missing part of the feature is under the Developer's control for completion and can be verified with the Site Plan, it could qualify.

Q: Is a small river/creek considered a census tract "barrier" if there is a bridge that connects both sides?

A: This will depend on a number of factors that will be unique to each situation. For instance, is the bridge right there, or is it 15 miles away? How accessible is the bridge? Provide information in the Application that assists staff in seeing the whole picture.

Q: With the addition of the language regarding hours and "weekend service" to the following point item, does just Saturday service work or does the service need to be both Saturday AND Sunday?

A: Saturday and Sunday are required. Note that it is acceptable for them to provide reduced service on weekends as most transit systems do.

Q: The neighborhood scout crime data on the website is for 2014 and I understand it will be updated in December or January. Depending on when the data is finally updated, it is possible that an application did not have an 18/1000 crime rate at preapp but it could at full app. Should we just take screenshots of the data and the date to prove disclosure was not needed at preapp if it should change?

A: You should definitely keep a copy of the data that was available at the time you submit the Pre-application, or the Application if no Pre-application is submitted. Of course, whatever source you are using for whatever purpose, you need to use the most current data as of the date of your submission. You can't use the old data because the new data doesn't fit.

Underserved Area

Q: Is this section implied to be a menu-type election to total or add-up to 5 points **OR** are developers only allowed to take points in just one subpart?

A: Applicants may not combine the subparagraphs:

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to five (5) points if the Development Site is located in one of the areas described in subparagraphs (A) - (E) of this paragraph

Q: The rule states that the census tract should fall within the boundaries of an incorporated area. That seems to say that at least a part of that census tract should be in the boundaries of the incorporated area. Is that correct?

A: No. The entire census tract would have to be within the boundaries of the incorporated area in order to get these points.

EXHIBIT "E" – CRIME LETTER

CITY OF McALLEN



POLICE DEPARTMENT

February 28, 2017

Attn: Mr. David Guerra
c/o Donna Rickenbacker/MREC Real Estate Consultants, LLC
710 N Post Oak Rd, Suite 400
Houston, TX 77024

Re: Open Records Request – Crime Statistics for Census Tract 48215020804.

Dear Ms. Rickenbacker,

The McAllen Police Department is in receipt of your public information request for crime statistics for census tract 48215020804 regarding property crimes for 01/25/2016 through 01/25/2017, received on February 27, 2017.

The findings are as follows:

▪ Arson	0
▪ Auto Theft	5
▪ Burglary	5
▪ Criminal Mischief	63
▪ Graffiti	2
▪ Theft	109

Total Property Crimes 184

The above data results in 1.24 number of offenses per 1000 residents.

If you have any questions or comments, please do not hesitate to contact our office.

Sincerely,

Cecilia Gamez, Lead C.S.S.
Crime Records Bureau
McAllen Police Department

Enclosures: Summary of Fees



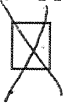
MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Appeal Election Form: 17267, Industrial Lofts

Note: If you do not wish to appeal this notice, do not submit this form.

I am in receipt of my 2017 scoring notice and am filing a formal appeal to the Executive Director on or before Wednesday, July 5, 2017.

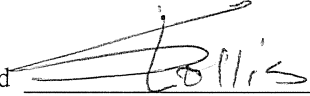
If my appeal is denied by the Executive Director:



I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.



I do not wish to appeal to the Board of Directors.

Signed 

Title President, TGO

Date 7/5/17

Please email to Sharon Gamble:
<mailto:sharon.gamble@tdhca.state.tx.us>

17267
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

July 10, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Mr. Steve Lollis
TGO Industrial Lofts, LP
710 Post Oak Road, Ste 400
Houston, TX 77024

RE: SCORING APPEAL RESPONSE: 17267 INDUSTRIAL LOFTS

Dear Mr. Lollis:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated July 5, 2017, of the scoring notice for the above referenced Application. This Application was denied tie-breaker items under 10 TAC §11.9(c)(4), related to Opportunity Index. Particularly, the Application did not provide sufficient evidence that the Development Site is within ½ mile on an accessible route from the public park, that the Development Site is within ½ mile on an accessible route from public transportation, and that the crime rate for the census tract is 26 per 1,000 or less.

The appeal asserts that the rules do not require that the accessible route to the park must be less than ½ mile in distance, but that the park must be less than ½ mile away and the route to the park must be accessible. Further, the appeal asserts that the use of accessible transportation should be allowed as part of the route. Staff believes that the rule provides that the park must be within ½ mile of the Development Site *on an accessible route*. The appeal refers to staff's answer to a question posed to the Department and posted in a FAQ. Staff answered a question and then clarified the answer once more questions were asked. Staff's clarification points to the rule: nowhere in the rule does it state that the use of accessible transportation can be substituted for an accessible route. That the FAQ was posted after pre-applications were submitted is immaterial as the FAQ and clarification was posted well before full Applications were due. If the Applicant was unsure of the meaning of the rule, the Applicant had ample opportunity to contact staff for clarification prior to filing its application.

The appeal states that a portion of the route to public transportation will be made accessible once the Development is approved by the city and the city approves the location of a crosswalk. This is not acceptable evidence as the Applicant cannot promise to complete necessary enhancements to the route on land that the Applicant does not control. The appeal asserts that staff "selectively determined which aspects of the ADA accessibility challenges they determined warranted disqualifying the entire route." Staff reviewed the information provided in the requests and, where specific evidence regarding the inaccessibility of a route was provided, considered that specific evidence. While staff has advised that a

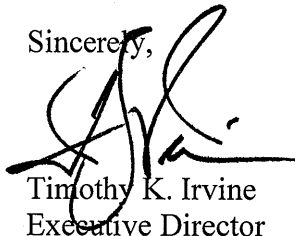


letter from a professional qualified to make a determination regarding the accessibility of a route is acceptable evidence, the evidence submitted by the qualified professional must sufficiently disprove the evidence submitted in the requests. The letters submitted did not address any of the specific evidence included in the requests.

The appeal states that the McAllen Police Department “does not feel it is necessary to reconfirm what is already concluded” in a letter submitted in the Application which states that the property crime rate for the census tract containing the Development Site is 1.24 per 1,000 residents. The requests provided evidence that this determination is not correct. The population of the census tract, according to 2010-2014 American Community Survey data, is estimated at 3,555 persons. The letter from the City of McAllen reports 184 total property crimes in the census tract. To get a rate of 1.24 crimes per 1,000 residents in the census tract, therefore, the census tract would need to have a population of 148,387. If one uses the entire population of the City of McAllen in the formula, determined by staff to be 135,048, the reported ratio of 1.24 crimes per 1,000 would result is approximately 168 total property crimes, which is much closer to the number of crimes reported in the letter from the police department.

Staff cannot ignore specific evidence that contradicts the information in the Application. Staff gave the Applicant the opportunity to refute the evidence provided in the requests, and the Applicant did not do so. I do not find that the appeal provided sufficient evidence that the tie-breakers should be awarded, and accordingly I must deny the appeal. You have indicated that you wish for this appeal to be heard by the Department’s Governing Board, and the appeal has been placed on the agenda for the board meeting of July 13, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,

A handwritten signature in black ink, appearing to read 'TKI', is written over the printed name and title.

Timothy K. Irvine
Executive Director

TKI

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, Discussion, and Possible Action on Timely Filed Scoring Notice Appeals for 17283 Avanti Manor under the Department's Multifamily Program Rules

RECOMMENDED ACTION

WHEREAS, a 9% Housing Tax Credit Applications for 17283 Avanti Manor was submitted to the Department by the Full Application Delivery Date;

WHEREAS, staff has determined that the Application does not qualify for three tie-breaker points under 10 TAC §11.9(c)(4), related to Opportunity Index, as the Application did not contain sufficient evidence that the Development Site is within ½ mile on an accessible route to a public park; and that the public transportation service indicated in the Application does not meet the rule requirement that the service be available on weekends.

WHEREAS, staff has determined that the Application does not qualify for four points under 10 TAC §11.9(d)(6) related to Input from Community Organizations, as the Application provided letters to score points but did not include evidence that the organizations are tax-exempt;

WHEREAS, the Applicant appealed to the Executive Director; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Application 17283 Avanti Manor is denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the "Code"), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

Pursuant to 10 TAC §11.10 of the Qualified Allocation Plan related to Third party Request for Administrative Deficiency, staff reviewed the Application to determine whether it qualified for three tie-breakers. Staff determined that the Applicant did not provide sufficient evidence that the Development Site is within ½ mile on an accessible route to a public park, and that the public transportation service indicated in the Application does not meet the rule requirement that the service be available on weekends. Additionally, the Application provided letters to score points under §11.9(d)(6) related to Input from Community Organizations, but did not include evidence that

the organizations are tax-exempt. A scoring notice was issued to the Applicant, and the Applicant appealed staff's decision. The Executive Director denied the appeal, and the Applicant is appealing the scoring result.

10 TAC §11.9(c)(4), Opportunity Index

(B) An application that meets the foregoing criteria may qualify for additional points (for a maximum of seven (7) points) for any one or more of the following factors. Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits:

(i) For Developments located in an Urban Area, an Application may qualify to receive points through a combination of requirements in clauses (I) through (XIII) of this subparagraph.

(I) The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards. (1 point)

(II) The Development Site is located less than 1/2 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service. (1 point)

(VI) The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources. (1 point)

The appeal asserts that the use of accessible transportation should be allowed as part of the accessible route to a public park. The rule is clear that the park must be within 1/2 mile of the Development Site *on an accessible route*. The appeal refers to staff's answer to a question posed to the Department and posted in a FAQ. Staff answered a question, and then clarified the answer once more questions were asked. Staff's clarification points to the rule: nowhere in the rule does it state that the use of accessible transportation can be substituted for an accessible route.

The appeal states that no public transportation service of any kind is available on Sundays in Region 8. This renders the HOP transportation service ineligible as the rule requires that the service be available on weekends (*i.e.* Saturday and Sunday). While the rule specifically requires weekend service, information included in the posted FAQ document confirms the plain meaning of the rule: that reduced service on weekends is common and acceptable; however, no service at all, not even reduced service, on Sundays renders the service ineligible for this item.

10 TAC §11.9(d)(6), Input from Community Organizations

(A) An Application may receive two (2) points for each letter of support submitted from a community or civic organization that serves the community in which the Development Site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. To qualify, the organization must be qualified as tax exempt and have as a primary (not ancillary or secondary) purpose the overall betterment, development, or

improvement of the community as a whole or of a major aspect of the community such as improvement of schools, fire protection, law enforcement, city-wide transit, flood mitigation, or the like. The community or civic organization must provide evidence of its tax exempt status and its existence and participation in the community in which the Development Site is located including, but not limited to, a listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development Site will not be awarded points.

The scoring notice indicated that the Application did not include evidence that the organizations that provided letters of support are tax-exempt organizations. In the appeal, the Applicant submitted the same information that was included in the Application, insisting that the documentation is sufficient because it has been sufficient in the past. If the Applicant did not understand why the documentation submitted in the Application was not sufficient to satisfy the requirement for points, the Applicant had the opportunity during the appeal period to contact staff for guidance. The appeal basically repeated the assertion of tax exempt status with no new supporting information or documentation, and the administrative deficiency was not addressed by the Applicant in order to resolve the deficiency identified by the Department and therefore there is no basis in the record to substantiate tax exempt status. The argument that it was handled differently last year is not a sufficient basis for a staff level decision to drop the issue of documentation to support the assertion of tax-exempt status.

Staff recommends the Board deny the appeal.

17283

Avanti Manor

17283

Scoring Notice and
Documentation



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Henry Flores

Phone #: (512) 914-0953

Email: hflores@madhousedevlopment.net

Second Email: twilliams@madhousedevlopment.net

Date: June 27, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

RE: 2017 Competitive Housing Tax Credit (HTC) Application for Avanti Manor, TDHCA Number: 17283

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
 Housing Tax Credit Program - 2017 Application Round
 Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17283, Avanti Manor

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Difference between Requested and Awarded:	0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	0
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
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Section 4:

Final Score Awarded to Application by Department staff:	151
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Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

§11.9(d)(6) Input from Community Organizations. The Application provided letters to score points under this item but did not provide evidence that the organizations are tax-exempt organizations. (Possible points 4, Awarded 0)

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. No evidence of an accessible route to park or that the park has an accessible playground was provided; public transportation does not operate on Sundays and does not meet the requirement that it operate on weekends. (Items Selected 5, Items Qualified 3)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Wednesday, July 5, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,



Sharon Gamble

Sharon Gamble
 9% Competitive HTC Program Administrator

Avanti Manor

Amenities Within 1/2 Mile

Legend

-  Avanti Manor 1/2 Mile Radius
-  Avanti Manor Development Site Outline

(I) Goode - Collin Park

Avanti Manor Site Location

(II) Indian Oaks and Nursing Home Bus Stop

(I) Carl Levin Park



4515 W. US 190
Belton, Texas 76513
(254) 933-3700
(254) 933-3724 fax



February 15, 2017

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701
Attention: Sharon Gamble – Multifamily Division

RE: Avanti Manor - 359 Indian Oaks, Harker Heights, TX 76548

Dear Ms. Gamble,

I have been made aware of a proposed residential development in Harker Heights, TX named Avanti Manor. I understand consideration of the project includes a need for information regarding transportation. HCTD is a political subdivision of the State of Texas, and operates The HOP, central Texas' regional public transit system. HCTD has provided transit services since the 1960s, and began operating both fixed route and ADA complementary paratransit service in central Texas in 2000. HCTD's mission is to build, refine, and operate a safe, dependable, and effective transportation network that provides mobility, improves the quality of life, and stimulates economic development through the provision of rural, urban fixed route, and ADA complementary paratransit service for citizens and visitors of the Central Texas area.

The HOP operates urban transit service in the cities of Copperas Cove, Killeen, Harker Heights, Nolanville, Belton, and Temple. In addition to fixed route service, The HOP provides ADA complementary paratransit service which is provided for people unable to use regular fixed route service because of a disability. Individuals must apply for eligibility for the ADA service, thereby showing they have a disability that prevents their use of the fixed route service.

The HOP's fixed route number 35 travels along Indian Oaks, and the route provides transportation to grocery stores, public parks, city offices, and public schools. This route also provides connections to a dozen other routes that offer transit service to colleges, major medical facilities, VA center, and recreational facilities. I understand that transportation to nearby parks is important in the development of Avanti Manor. The route 35 provides service to both Goode-Connell Park and to Carl Levin Park on Miller's Crossing. ADA eligible persons can also schedule transit service to these parks via The HOP's STS.

Central Texas' Regional Public Transit System!

Operated by Hill Country Transit District

4515 W. US 190
Belton, Texas 76513
(254) 933-3700
(254) 933-3724 fax



HCTD relies on funding from the Federal Transit Administration (FTA), the state of Texas and local entities to operate The HOP. More information regarding The HOP and the services it provides can be found on The HOP web site at www.takethehop.com. The HOP is always glad to see the economic growth of our service area, and welcomes Avanti Manor. If you should more questions regarding The HOP, please feel free to contact me. For your convenience, my email address is rator@takethehop.com.

Sincerely,

A handwritten signature in blue ink that reads 'Robert S. Ator'.

Robert S. Ator
Director of Urban Operations

Central Texas' Regional Public Transit System!

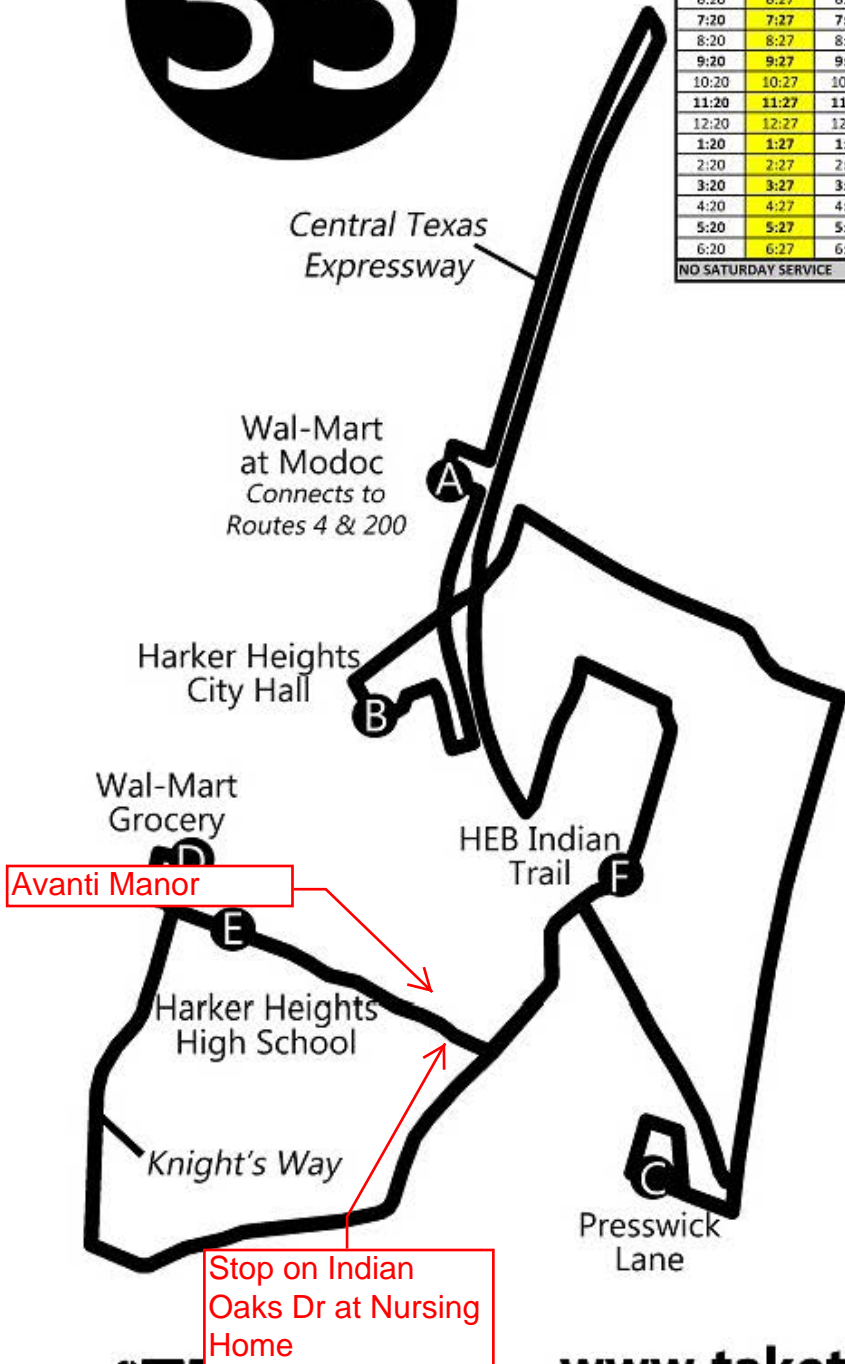
Operated by Hill Country Transit District

(Hover mouse cursor over route number for route description.)



35 - HARKER HEIGHTS LOOP						
INBOUND			OUTBOUND			
D	E	A	A	B	C	D
WAL-MART GROCERY	HEB INDIAN TRAIL	WAL-MART AT MODOC	WAL-MART AT MODOC	HARKER HEIGHTS CITY HALL	PRESSWICK LN	WAL-MART GROCERY
-	-	-	-	-	6:05	6:20
6:20	6:27	6:45	6:45	6:50	7:05	7:20
7:20	7:27	7:45	7:45	7:50	8:05	8:20
8:20	8:27	8:45	8:45	8:50	9:05	9:20
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12:20	12:27	12:45	12:45	12:50	1:05	1:20
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3:20	3:27	3:45	3:45	3:50	4:05	4:20
4:20	4:27	4:45	4:45	4:50	5:05	5:20
5:20	5:27	5:45	5:45	5:50	6:05	6:20
6:20	6:27	6:45	6:45	6:50	7:05	7:20

NO SATURDAY SERVICE



www.takethehop.com
 (254) 933-3700



**Kiwanis Club of Harker Heights, Inc.
Post Office Box 2309
Harker Heights, Texas 76548-2309**

February 17, 2017

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701
Attention: Sharon Gamble – Multifamily Division

RE: Avanti Manor (TDHCA #17283)
359 Indian Oaks
Harker Heights, TX 76548

Dear Ms. Gamble,

I am writing to support the application for Housing Tax Credits for Avanti Manor (TDHCA #17283). It is a 108 unit community for seniors proposed for the City of Harker Heights. The population in Harker Heights and the surrounding area is growing rapidly, and as a result there is a great need for quality housing affordable to seniors. These needs will be met by the development of Avanti Manor.

Again, we are very pleased to lend our support to the Avanti Manor tax credit application. If you need additional information, please feel free to call me at 254-699-7593.

Sincerely,

David McClure
President



Kiwanis Club of Harker Heights 2014-2015

President: Pete Laessig
President Elect: Charles Sweeney
Vice President: Jeanette McNiesh
Secretary: Vivian Marschik
Treasurer: Randy Stone
Board of Directors:
 Patty Brunson
 Steve Carpenter
 Richard Dinwiddie
 James Hoyle
 Jos Portmann
 Diane Thompson
 Esabell Zellmar
Outgoing 2013-14 President
 Paul Loughran



Showing appreciation for the City's support of our annual Easter Sunrise Service.

Objects of Kiwanis

The six permanent Objects of Kiwanis International were approved by Kiwanis club delegates at the 1924 Convention in Denver, Colorado. Through the succeeding decades, they have remained unchanged.

- To give primacy to the human and spiritual rather than to the material values of life.
- To encourage the daily living of the Golden Rule in all human relationships.
- To promote the adoption and the application of higher social, business, and professional standards.
- To develop, by precept and example, a more intelligent, aggressive, and serviceable citizenship.
- To provide, through Kiwanis clubs, a practical means to form enduring friendships, to render altruistic service, and to build better communities.
- To cooperate in creating and maintaining that sound public opinion and high idealism which make possible the increase of righteousness, justice, patriotism, and goodwill.

The Harker Heights Kiwanis Club meets from 11:30 to 12:30 P.M. each Tuesday at the Harker Heights United Methodist Church, 208 W Cardinal Ln, Harker Heights, TX.

Contact our club through the website www.kiwanisharkerheights.org or by mail: P O Box 2309, Harker Heights, TX 76548.



Kiwanis Club of Harker Heights

Kiwanis is a global organization of volunteers dedicated to improving the world one child and one community at a time.

A Legacy of Service

Kiwanis is one of the world's largest and most respected service organizations. Since the founding in 1915 in Detroit, MI the International Kiwanis organization has grown to about 8,400 clubs in more than 96 nations with more than 600,000 men, women, boys and girls improving the lives of people on every continent.

Kiwanis Strategic Plan

The International Board of Trustees and Kiwanis members globally have a vision: To turn Kiwanis into one of the most effective volunteer service organizations in the world. As such, Kiwanis will be a powerful voice for children everywhere, responding to needs globally and acting as a premier provider of programs that develop capable and ethical leaders.



History of Kiwanis Club of Harker Heights

The name "Kiwanis" is taken from an American Indian term "Nunc Kee-wanis" which roughly means "we trade," "we share our talents" & "we have a good time." The Kiwanis Club of Harker Heights was chartered in March of 1971 to Division 23 of the Texas/Oklahoma District. Our current membership is made up of 32 men and women who are dedicated to improving the lives of children in our Central Texas communities. We encourage visitors to enjoy our weekly meetings, and community members are invited to apply for membership. Our club enjoys a variety of activities for friendship and fellowship in a Christian environment. Members may attend International Conventions and seminars and to train with other Kiwanis clubs. Inter-club meetings with other District 23 clubs provide a means to share ideas and make contacts within our communities.

Our club supports a large number of children's charities and programs:

\$1,000 scholarships to HHHS seniors
 Children's Miracle Network,
 Ronald McDonald House, Santa Pal,
 Peaceable Kingdom, local food banks, Builders Club and Key Club projects, Christmas & Easter fruit baskets, and Kiwanis International programs such as IDD (iodine deficiency disorders) and Eliminate (neonatal tetanus)



Harker Heights Kiwanis/P.R. Cox Memorial/ HB "Bill" Davis Scholarship Fund awarded (5) \$1,000 scholarships to Harker Heights High School students.

Service Projects and Fundraisers



The Kiwanis Club donated the land where the Harker Heights Police Station and Harker Heights Library & Activity Center now stands.



Our major fundraisers include our annual Pancake Supper in February and American Flag Delivery program to homes and businesses in the community.



LTC (Ret) Garry McNiesh with \$1000 JROTC Scholarship Recipient

Sponsored Youth Organizations



Eastern Hills Middle School Builders Club volunteer at the annual Food for Families.



Harker Heights High School Key Club members **Adopt-a-Spot** project in the Harker Heights Community Park

Diverse Speaker Series



Harker Heights Mayor Rob Robinson
 Interesting and informative speakers from very diverse fields such as government, business, health care, charitable, civic and social organizations share their expertise with us in our weekly meetings. Weekly newsletters keep you up to date!



Kiwanis

Kiwanis Club of Harker Heights Donations, Memorials and Living Tributes

I enclose a gift of \$_____ and/or items listed on the reverse.

Donor's Name _____

Address 1 _____

Address 2 _____

City _____ State _____ Zip _____

Phone (____) _____ Email _____

Make checks payable to Kiwanis Club of Harker Heights.

The gift is in: Memory of Honor of Tribute to
Name _____

I would like my donation to support:

1. Scholarships for Harker Heights High School Students _____
2. Local Children's Programs _____
3. Other - Specify: _____

Mail to: Kiwanis Club of Harker Heights
 P.O. Box 2309
 Harker Heights, Texas 76548

IRS Rule: Contributions to civic leagues or other section 501(c)(4) organizations generally are not deductible as charitable contributions for federal income tax purposes. They may be deductible as trade or business expenses, if ordinary and necessary in the conduct of the taxpayer's business. <http://www.irs.gov/charities/nonprofits/article/0,,id=156411,00.html>





February 8, 2017

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701
Attention: Sharon Gamble – Multifamily Division

RE: Avanti Manor (TDHCA #17283)
359 Indian Oaks
Harker Heights, TX 76548

Dear Ms. Gamble,

The Harker Heights Lions Club would like to express our support for Housing Tax Credits for Avanti Manor (TDHCA #17283), a housing community for seniors proposed in Bell County. Our organization is a tax-exempt non-profit organization that provides services to the entire Harker Heights area.

There is a tremendous need for affordable housing for seniors in the City of Harker Heights and Bell County. The population of Bell County and the surrounding area is growing rapidly. The Avanti Manor would provide quality, affordable housing to those in need.

Again, we are very pleased to lend out support to the Avanti Manor tax credit application. If you need additional information, please feel free to call me at 254-681-9111.

Sincerely,

A handwritten signature in black ink, appearing to read 'Glenn Gallenstein', with a long horizontal line extending to the right.

Glenn Gallenstein
President

Diabetes Treatment and Prevention

Diabetes prevention and control programs are funded through LCIF, which can include funding for equipment, education and awareness programs for underserved populations.

Opening Eyes

Opening Eyes is a partnership program with Special Olympics to provide vision screenings at select Special Olympics games. Since 2001, more than 350,000 athletes have been screened, and more than 110,000 provided with prescription eyeglasses. More than 20,000 Lions have volunteered their time at the screenings.



"We suffered a lot from stomachache, and the children had worms in their bellies. Some children were dying from stomachaches. But that doesn't happen anymore," said Niajale Diarra. Her village in Mali benefited from clean water after LCIF provided grant funding for a well.



"To support the efforts of Lions clubs worldwide in serving their local communities and the world community as they carry out essential humanitarian service projects."

LCIF Mission Statement



**We Care.
We Serve.
We Accomplish.**



**Lions Clubs International
FOUNDATION**

LIONS CLUBS INTERNATIONAL FOUNDATION
300 W. 22nd Street
Oak Brook, Illinois 60523-8842 USA
phone: 630.468.6901
fax: 630.571.5735
lcif@lionsclubs.org
www.lcif.org

LCIF600EN 5/15

LIONS CLUBS INTERNATIONAL FOUNDATION

AT A GLANCE

We Give Sight.

We Support Youth.

We Provide Disaster Relief.

We Combat Disability.

We Serve.



FOUNDATION OVERVIEW

One of the most important ways that Lions make a difference in their communities and the world is through Lions Clubs International Foundation (LCIF), the official charitable organization of Lions Clubs International. With funding from LCIF, Lions carry out large-scale humanitarian projects in their communities.

Lions' support of the Foundation is critical, as donations from Lions provide the majority of LCIF's revenue. LCIF continues to ensure that all donated funds are used as efficiently as possible. All donations are used to fund grants and program expenses. Based on targeted investment returns, LCIF anticipates investment income to be sufficient to cover projected administrative and development expenses.

Since LCIF began in 1968, it has awarded more than 12,072 grants totaling more than US\$900 million. Together, Lions and LCIF are making a difference for millions of people. "We Serve" better together.

SIGHT

Lions are known worldwide for blindness prevention. Since the SightFirst Program began in 1990, 7.8 million people have had their sight restored through cataract surgeries, 30 million people have had vision loss prevented and hundreds of millions of people have received improved eye care services. Lions and LCIF are establishing and expanding sustainable eye health care systems in underserved areas.

Through two fundraising campaigns, Lions have raised more than US\$415 million to continue and expand SightFirst Programs. Thanks to SightFirst and Lions, the battle against preventable blindness remains a priority in communities worldwide.

"I feel complete now. I cannot thank the Lions enough for restoring my sight. For the first time in a year, I am able to work. It's like being born again," said Nicolas Diaz, a former taxi driver in Mexico. He attended a Lions' SightFirst vision screening and received free cataract surgery.

Childhood Blindness

Since 2001, LCIF and the World Health Organization have been collaborating to address childhood blindness throughout the world. Forty-five need-based Lions eye care centers have been established in countries all over the globe, delivering preventative, therapeutic and rehabilitative eye care services for 140 million children.

SightFirst China Action

Through SightFirst China Action, 5 million cataract surgeries have been carried out in China, home to 17 percent of the world's blind. Additionally, medical staff has been trained and clinics upgraded to increase accessibility to eye care.

Sight for Kids

LCIF and Johnson & Johnson Vision Care Companies (JJVCC) collaborated to develop Sight for Kids, a program that has provided vision screenings, follow up treatment and eye health education to more than 20 million children in Asia.

River Blindness

SightFirst has supported more than 153.3 million treatments for river blindness in Africa and Latin America in partnership with The Carter Center.

Trachoma

To date, Lions and LCIF have provided support for more than 20 million people who have trachoma through medication, surgery, training of health workers, improving hygiene and health education, primarily in Ethiopia, Mali, Niger, Uganda, Kenya and Chad.

YOUTH

Supporting the development of youth is a major initiative of LCIF. Lions are bettering the future of children all over the world through improved education and health.

Lions Quest

Lions Quest is a school-based life-skills program for children from kindergarten to 12th grade. More than 13 million children have taken part in a Lions Quest classroom and more than 600,000 educators have been trained to implement the program. Lions Quest teaches responsible decision-making, effective communication and drug prevention.

HUMANITARIAN EFFORTS

Many of LCIF's successful humanitarian programs range from combating disability to disaster relief efforts. Lions continue to develop projects that address the immediate and long-term needs of their local and global community.

Disaster Relief

LCIF emergency grants enable Lions to meet immediate needs such as food, water, clothing, and medical supplies. LCIF awards approximately US\$2 million for disaster relief each year. Lions often offer additional assistance through volunteering or donating supplies. When disasters occur on a larger scale, major catastrophe grants are awarded for long-term reconstruction projects. LCIF has provided funding for recent catastrophes including Typhoon Haiyan in the Philippines and flooding in the Balkans.

Measles Initiative

Tens of millions of children will benefit from the partnership program fighting measles and childhood blindness. LCIF is working with the Measles Initiative, a worldwide effort to protect children from measles & strengthen routine immunization services.



Support LCIF at www.lcif.org/donate.

Frequently Asked Questions

LCIF General Information

Are contributions to LCIF tax-deductible?

LCIF is a non-profit, tax exempt corporation as described in section 501(c)(3) of the U.S. Internal Revenue Code. US contributions are tax deductible, as allowed under the U.S. Internal Revenue Service Code. In other countries, contributions may be tax deductible, please refer to local tax laws for more information.

Donations

I am interested in making a charitable donation to Lions Clubs International Foundation (LCIF). What are the possibilities?

LCIF has many ways to donate and forms of recognition. For information on the types of donation and recognition programs, visit www.lcif.org, e-mail donorassistance@lionsclubs.org or call 630-203-3836.

How are donations used?

Donations are used to fund grants and program expenses. Based on targeted investment returns, LCIF anticipates investment income to be sufficient to cover projected administrative and development expenses.

Should contributions be accumulated and periodically sent to LCIF?

Funds should be forwarded without delay. Doing so ensures prompt crediting of the donor's record and issuance of LCIF recognition and awards. In addition, checks held for an extended period become dated, sometimes requiring a new check from the donor.

Are restricted donations eligible for MJF recognition?

There are five general areas of giving to choose from when making a contribution: Area of Greatest Need, Disaster, Sight, Measles vaccines, and Youth. Donations can be made to specific programs, such as Lions Quest, or area specific disaster relief, however these donations are not eligible for MJF recognition.

How are donations to be sent?

In the U.S., it is best to send personal or bank checks. Checks sent from outside the U.S. should be in U.S. dollars drawn on U.S. banks, which expedites processing and reduces costly international bank collection charges. In countries where LCI or LCIF has bank accounts, funds may be deposited in local currency in amounts equivalent to the required U.S. dollars, using the association's official exchange rate shown on monthly club statements. A copy of the bank deposit receipt must be sent to LCIF along with a completed Contribution or MJF Application form. Fax or mail documentation to LCIF Donor Services. Fax: 630-571-5735 or e-mail: donorassistance@lionsclubs.org.

How are checks or bank drafts to be made out?

Make checks or bank drafts payable to "LCIF." If the gift is restricted for a specific purpose, write the name of the account to be credited on the face of the check and on related documentation (for example: "Disaster Relief"). For unrestricted donations, write the purpose of the donation, such as "Melvin Jones Fellowship/recipient's name," "club plaque," "toward Melvin Jones Fellowship," etc.

May I charge my donation to my credit card?

LCIF accepts charitable donations charged to Visa, MasterCard, Discover and American Express credit cards. Credit card donations can be made safely and instantly online at www.lcif.org.

Are there other donation programs, such as planned giving?

Yes, LCIF donor programs include the Corporate Humanitarian Partnership Program, planned giving and gifts of securities. Please visit www.lcif.org, e-mail lcifdevelopment@lionsclubs.org or call 630-468-6829 to find out about these programs.

ROTARY CLUB OF HARKER HEIGHTS

108 E. FM 2410, Suite F, PMB 132
Harker Heights, TX 76548



February, 10, 2017

Texas Department of Housing and Community Affairs
Attention: Sharon Gamble – Multifamily Division
221 East 11th Street
Austin, TX 78701

RE: Avanti Manor (TDHCA #17283)
359 Indian Oaks
Harker Heights, TX 76548

Dear Ms. Gamble,

I am writing on behalf of the Rotary Club of Harker Heights to support the application for Housing Tax Credits for Avanti Manor (TDHCA #17283). It is a 108 unit community for seniors proposed for the City of Harker Heights. The population in Harker Heights and the surrounding area is growing rapidly, and, as a result, there is a great need for quality housing affordable to seniors. These needs will be met by the development of Avanti Manor.

Again, we are very pleased to lend our support to the Avanti Manor tax credit application. If you need additional information, please feel free to call me using the information in the below signature block.

Sincerely,

A handwritten signature in blue ink that reads "Linda Angel".

Linda Angel
President, Rotary Club of Harker Heights President
cell: 254-681-6306
lindaa@workforcelink.com

cc: David Mitchell

Username:

Password:

LOG IN



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ABOUT

Chartered on February 1, 2010 with 37 members, the **Rotary Club of Harker Heights** has grown to 79 members as of July 1, 2016.

Professionals of all ages meet each **Thursday at 7 am** at the **Parish Center of Saint Paul Chong Hasang Catholic Church** (the large building with the automated electric sign) in Harker Heights. Following the Rotary motto of "Service Above Self," they engage in numerous projects to serve the local community and, tapping into Rotary's international membership and networks, projects of service across the globe.



Visitors will note that the mood is light and regardless of the table at which you might find a seat, the members are friendly. We enjoy each other's company and we have a good time. We are also quite serious about our local programs, such as Coats For Kids and Early Act/First Knight, and we are also working on a Rotary Global Grant project to drill wells overseas in Ghana.

Pictured is **President Linda Angel**, center of front row, surrounded by current and past club officers and directors, at the 2016-2017 Installation Banquet on June 30, 2016.



ROTARY CLUB OF HARKER HEIGHTS

Chartered in 2010, the Rotary Club of Harker Heights is home to community-minded individuals dedicated to serving above self and participating in Rotary International's mission to promote understanding, goodwill, and world peace.

OUR MISSION

To change lives in our local and world communities through service and support.

OUR VISION

To cultivate a dynamic membership that enhances our club values to serve our local and world communities, providing systemic and enduring change.

FOLLOW US



Like us on Facebook

OUR CLUBS

Satellite Club

Rotaract

Interact

Matching Gifts

The Rotary Foundation is recognized as a 501(c)(3) charity in the United States and may be eligible to receive corporate matching gifts from your employer. Many international companies also match Rotary Foundation contributions from their employees. Ask your human resources department whether your gift can be matched.

If you use The Rotary Foundation contribution form, send your donation to the appropriate address for your region. In countries with currency restrictions, contact your district Rotary Foundation committee chair for guidance.

United States

The Rotary Foundation
14280 Collections Center Drive
Chicago, IL 60693
USA

Canada

The Rotary Foundation (Canada)
c/o 911600
P.O. Box 4090 STN A
Toronto, ON M5W 0E9
Canada

Brazil

Rotary International Office
Rua Tagipuru 209
01156-000 São Paulo, SP
Brazil

Europe and Africa

Rotary International Office
Witikonstrasse 15
CH-8032 Zurich
Switzerland

Germany

Rotary Deutschland
Gemeindienst e. V.
Kreuzstraße 34
40210 Düsseldorf
Germany

Great Britain and Ireland

RI in Great Britain and Ireland
Kinwarton Road
Alcester
Warwickshire B49 6PB
England

Japan

Rotary International Office
Mita Kokusai Building 24F
Mita 1 Chome 4-28, Minato-ku
Tokyo 108-0073
Japan

Korea

Rotary International Office
Rm. 705, 70, Gukjegeumyung-ro
Yeongdeungpo-gu
Seoul 150-733
Korea

South Asia

Rotary International Office
Thapar House
2nd Floor, Central Wing
124 Janpath
New Delhi 110 001
India

17283

Applicant Appeal to
Executive Director

MDS Housing Indian Oaks, Ltd.

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

RE: 17283 – Development Name: Avanti Manor – Applicant: MDS Housing Indian Oaks, Ltd.

Dear Mr. Irvine:

Appeal Item #1: This appeal is filed on behalf of MDS Housing Indian Oaks, Ltd., TDHCA No. 17283 (the “Applicant”) pursuant to the provisions of Sections 10.902(a)(2) and 10.902(c) of the 2017 Uniform Multifamily Rules (the “Rules”), to petition the decision made by the Texas Department of Housing and Community Affairs (“TDHCA”) regarding the Tie-break Factors in the Scoring Notice dated June 27, 2017 (an executed Appeal Election Form is included as Attachment #1).

Specifically, the notice identified the following: *“§11.7 Tie-break Factors. No evidence of an accessible route to park or that the park has an accessible playground was provided; public transportation does not operate on Sundays and does not meet the requirement that it operate on weekends. (Items Selected 5, Items Qualified 3)”*

Response to Appeal Item #1: The HOP provides public transportation Monday through Saturday. Route 35 runs through Harker Heights Monday through Friday and the Special Transit Service/Paratransit Service runs Monday through Saturday well before 8am and after 5 pm. As a result, The Hop services meets the strict reading of the 2017 QAP with respect to this point item:

“(II)The Development Site is located less than ½ mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service”

Please see the supporting documentation for The Hop’s regular service hours behind Attachment #2.

Staff has determined that the lack of services on both Saturdays AND Sundays disqualifies Avanti Manor from qualifying for this point item. Region 8 is unique in the fact that no public transportation service of any kind is available on Sundays. This is the case in every single Urban Place within the region. All future LIHTC residents in region 8 will have access to public transportation for a maximum of 6 days a week. As the Applicant, we believe that public transportation that is available 6 days a week should still be able to qualify for Opportunity Index points when this special circumstance in Region 8 is taken into consideration. If the Opportunity Index Points for public transportation are not awarded to any Applicant in the region based upon the requestor’s assertion, both the policy goals of the Department and intent of the point item will be completely negated. Future LIHTC residents should be able to access as much public transportation as possible to improve their quality of life. Development Sites that have accessibility to the maximum amount of public transportation in Region 8 should

be equated to full-week service in other regions where this circumstance does not exist. Please see the documentation behind Attachment #3 to prove that every Urban Place within Region 8 does not offer any kind of public transportation on Sundays. Please note that all applicants claiming points for public transportation in Region 8 are utilizing the HOP.

The language within 2017 FAQs (displayed in italics below) was generated to prevent situations where an Applicant would certify to provide mobile ADA transportation themselves in order to obtain this point item. The Avanti Manor Development Site is in an area where this Special Transit Service is provided by a public entity, not the Applicant/Development Owner. Any future LIHTC resident that utilized the Special Transit Service would be picked up from an accessible parking space on the Property and dropped off at an accessible parking space directly at either park in this case, meeting the precise requirement in the answer below.

Q: Can an accessible route include accessible public transportation (wheelchair capable/meets ADA standards) service that stops at the development site and has service to and from a public park that is located within ½ mile from the development site?

A: Your description would qualify as part of the accessible route. If a resident takes accessible transportation from the development to the park, the route from the transportation stop to the actual park would also have to be accessible. Just getting them to the vicinity of the park would not be enough.

CLARIFICATION: The provision of transportation is not a substitute for having an accessible route. If transportation is one of the services you will provide at your development, then that transportation must be accessible as described above, but it may not take the place of an accessible route.

As the Applicant and potential Development Owner, we would look forward to using the quality bus route and Special Transit Service provided by The Hop as a way to accommodate future LIHTC residents with a variety of disabilities. For these reasons, disqualifying The Hop's services as point items would put Development Sites at a disadvantage who have elected to utilize them and negate the Department's policy goals to improve the quality of life for LIHTC residents.

Lastly, please refer to the accessibility report behind Attachment #4 proving that Carol Levin Park meets the qualifications for an accessible park.

Appeal Item #2: This appeal is filed on behalf of MDS Housing Indian Oaks, Ltd., TDHCA No. 17283 (the "Applicant") pursuant to the provisions of Sections 10.902(a)(2) and 10.902(c) of the 2017 Uniform Multifamily Rules (the "Rules"), to petition the decision made by the Texas Department of Housing and Community Affairs ("TDHCA") regarding the Input from Community Organizations scoring item deduction in the Scoring Notice dated June 27, 2017.

TDHCA Staff has determined that *The Application provided letters to score points under this item but did not provide evidence that the organizations are tax-exempt organizations. (Possible points 4, Awarded 0).*

Response to Appeal Item #2: Please see the documentation that was originally submitted within the Full Application to prove that Lions International, The Rotary Club, and Kiwanis Club are all tax-exempt organizations behind Attachment #5. The specific language in the documentation that proves the tax-exempt status has been highlighted and encompassed within red outlines for your convenience. Please note that same forms of documentation used to prove the tax-exempt status of each community organization in this Full Application have been acceptable to Staff and the Department for several years prior to 2017. The 2017 Multifamily Application Procedures Manual states that the evidence of tax-exempt status of organizations can be “a listing of services and/or member, brochures, annual reports, etc.” The documentation that was included in the original Full Application clearly meets these qualifications.

Please do hesitate to reach out to our team if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read 'H. Flores'.

Henry Flores

Authorized Representative, MDS Housing
Indian Oaks, Ltd.

Attachment #1



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Appeal Election Form: 17283, Avanti Manor

Note: If you do not wish to appeal this notice, do not submit this form.

I am in receipt of my 2017 scoring notice and am filing a formal appeal to the Executive Director on or before Tuesday, June 20, 2017.

If my appeal is denied by the Executive Director:

I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.

I do not wish to appeal to the Board of Directors.

Signed 

Title Authorized Representative, MDS Housing Indian Oaks, Ltd.

Date July 5th 2017

**Please email to Sharon Gamble:
<mailto:sharon.gamble@tdhca.state.tx.us>**



February 8, 2017

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701
Attention: Sharon Gamble – Multifamily Division

RE: Avanti Manor (TDHCA #17283)
359 Indian Oaks
Harker Heights, TX 76548

Dear Ms. Gamble,

The Harker Heights Lions Club would like to express our support for Housing Tax Credits for Avanti Manor (TDHCA #17283), a housing community for seniors proposed in Bell County. Our organization is a tax-exempt non-profit organization that provides services to the entire Harker Heights area.

There is a tremendous need for affordable housing for seniors in the City of Harker Heights and Bell County. The population of Bell County and the surrounding area is growing rapidly. The Avanti Manor would provide quality, affordable housing to those in need.

Again, we are very pleased to lend out support to the Avanti Manor tax credit application. If you need additional information, please feel free to call me at 254-681-9111.

Sincerely,

A handwritten signature in black ink, appearing to read 'Glenn Gallenstein', written over a horizontal line.

Glenn Gallenstein
President

Frequently Asked Questions

LCIF General Information

Are contributions to LCIF tax-deductible?

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There are five general areas of giving to choose from when making a contribution: Area of Greatest Need, Disaster, Sight, Measles vaccines, and Youth. Donations can be made to specific programs, such as Lions Quest, or area specific disaster relief, however these donations are not eligible for MJF recognition.

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In the U.S., it is best to send personal or bank checks. Checks sent from outside the U.S. should be in U.S. dollars drawn on U.S. banks, which expedites processing and reduces costly international bank collection charges. In countries where LCI or LCIF has bank accounts, funds may be deposited in local currency in amounts equivalent to the required U.S. dollars, using the association's official exchange rate shown on monthly club statements. A copy of the bank deposit receipt must be sent to LCIF along with a completed Contribution or MJF Application form. Fax or mail documentation to LCIF Donor Services. Fax: 630-571-5735 or e-mail: donorassistance@lionsclubs.org.

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May I charge my donation to my credit card?

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Are there other donation programs, such as planned giving?

Yes, LCIF donor programs include the Corporate Humanitarian Partnership Program, planned giving and gifts of securities. Please visit www.lcif.org, e-mail lcifdevelopment@lionsclubs.org or call 630-468-6829 to find out about these programs.

Matching Gifts

The Rotary Foundation is recognized as a 501(c)(3) charity in the United States and may be eligible to receive corporate matching gifts from your employer. Many international companies also match Rotary Foundation contributions from their employees. Ask your human resources department whether your gift can be matched.

If you use The Rotary Foundation contribution form, send your donation to the appropriate address for your region. In countries with currency restrictions, contact your district Rotary Foundation committee chair for guidance.

United States

The Rotary Foundation
14280 Collections Center Drive
Chicago, IL 60693
USA

Canada

The Rotary Foundation (Canada)
c/o 911600
P.O. Box 4090 STN A
Toronto, ON M5W 0E9
Canada

Brazil

Rotary International Office
Rua Tagipuru 209
01156-000 São Paulo, SP
Brazil

Europe and Africa

Rotary International Office
Witikonstrasse 15
CH-8032 Zurich
Switzerland

Germany

Rotary Deutschland
Gemeindienst e. V.
Kreuzstraße 34
40210 Düsseldorf
Germany

Great Britain and Ireland

RI in Great Britain and Ireland
Kinwarton Road
Alcester
Warwickshire B49 6PB
England

Japan

Rotary International Office
Mita Kokusai Building 24F
Mita 1 Chome 4-28, Minato-ku
Tokyo 108-0073
Japan

Korea

Rotary International Office
Rm. 705, 70, Gukjegeumyung-ro
Yeongdeungpo-gu
Seoul 150-733
Korea

South Asia

Rotary International Office
Thapar House
2nd Floor, Central Wing
124 Janpath
New Delhi 110 001
India



Kiwanis

Kiwanis Club of Harker Heights Donations, Memorials and Living Tributes

I enclose a gift of \$_____ and/or items listed on the reverse.

Donor's Name _____

Address 1 _____

Address 2 _____

City _____ State _____ Zip _____

Phone (____) _____ Email _____

Make checks payable to Kiwanis Club of Harker Heights.

The gift is in: Memory of Honor of Tribute to
Name _____

I would like my donation to support:

1. Scholarships for Harker Heights High School Students _____
2. Local Children's Programs _____
3. Other - Specify: _____

Mail to: Kiwanis Club of Harker Heights
P.O. Box 2309
Harker Heights, Texas 76548

IRS Rule: Contributions to civic leagues or other section 501(c)(4) organizations generally are not deductible as charitable contributions for federal income tax purposes. They may be deductible as trade or business expenses, if ordinary and necessary in the conduct of the taxpayer's business. <http://www.irs.gov/charities/nonprofits/article/0,,id=156411,00.html>

17283
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

July 7, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Mr. Henry Flores
MDA Housing Indian Oaks, Ltd.
8500 Shoal Creek Blvd, Ste 208
Austin, TX 78757

RE: SCORING APPEAL RESPONSE: 17283 AVANTI MANOR

Dear Mr. Flores:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal of the scoring notice for the above referenced Application. This Application was denied two tie-breaker items under 10 TAC §11.9(c)(4), related to Opportunity Index. Particularly, the Application did not contain sufficient evidence that the Development Site is within ½ mile on an accessible route to a public park, or that the park has an accessible playground; and that the public transportation service indicated in the Application does not meet the rule requirement that the service be available on weekends. Additionally, the Application provided letters to score points under §11.9(d)(6) related to Input from Community Organizations, but did not include evidence that the organizations are tax-exempt.

The appeal asserts that the use of accessible transportation should be allowed as part of the accessible route to a public park. The rule is clear that the park must be within ½ mile of the Development Site *on an accessible route*. The appeal refers to staff's answer to a question posed to the Department and posted in a FAQ. Staff answered a question, and then clarified the answer once more questions were asked. Staff's clarification points to the rule: nowhere in the rule does it state that the use of accessible transportation can be substituted for an accessible route.

The appeal states that no public transportation service of any kind is available on Sundays in Region 8. This renders the HOP transportation service ineligible as the rule requires that the service be available on weekends (*i.e.* Saturday and Sunday). While the rule specifically requires weekend service, information included in the posted FAQ document confirms the plain meaning of the rule: that reduced service on weekends is common and acceptable; however, no service at all, not even reduced service, on Sundays renders the service ineligible for this item.

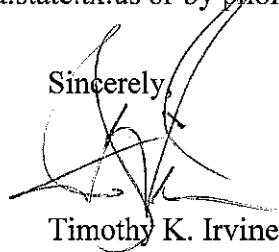
The scoring notice indicated that the Application did not include evidence that the organizations that provided letters of support are tax-exempt organizations. In the appeal, the Applicant submitted the same information that was included in the Application, insisting that the documentation is sufficient because it has been sufficient in the past. If the Applicant did not understand why the documentation



submitted in the Application was not sufficient to satisfy the requirement for points, the Applicant had the opportunity during the appeal period to contact staff for guidance.

I do not find that the appeal provided sufficient evidence that the tie-breakers should be awarded. As regards the establishment of the tax exempt status of the community organizations I am of the view that when staff issued an administrative deficiency asking you to document this and the response basically repeated the assertion of tax exempt status with no new supporting information or documentation, the administrative deficiency was not addressed by the Applicant in order to resolve the deficiency identified by the Department, and therefore there is no basis in the record to substantiate tax exempt status. The argument that it was handled differently last year is not a sufficient basis for a staff level decision to drop the issue of documentation to support the assertion of tax-exempt status. Accordingly I must deny the appeal. You have indicated that you wish for this appeal to be heard by the Department's Governing Board, and the appeal has been placed on the agenda for the board meeting of July 13, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,



Timothy K. Irvine
Executive Director

TKI

17297 Kountze Pioneer Crossing

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, discussion, and possible action on timely filed scoring appeals under 10 TAC §10.901 et seq. of the Department's Multifamily Program Rules (Subchapter G) related to Fee Schedule, Appeals and other Provisions.

RECOMMENDED ACTION

WHEREAS, a 9% Housing Tax Credit Application #17305, for Payton Senior was submitted to the Department by the Full Application Delivery Date;

WHEREAS, staff determined that the Application does not qualify for three tie-breaker items requested under §11.9(c)(4) of the 2017 Qualified Allocation Plan ("QAP"), related to Opportunity Index, because the Application did not include evidence that the Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, evidence that the Development site is located less than 1/2 mile on an accessible route from public transportation, and evidence that the Development site is within 2 miles of a museum;

WHEREAS, a Competitive HTC scoring notice was provided to the Applicant identifying tie-breakers that the Applicant elected but did not qualify to receive under 10 TAC §11.9 related to Competitive HTC Selection Criteria;

WHEREAS, the Applicants timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Application #17305, Payton Senior is hereby denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, ch. 2306, §42 of the Internal Revenue Code (the "Code"), and other criteria established in a manner consistent with ch. 2306 and §42 of the Code.

Pursuant to 10 TAC §11.10 of the Qualified Allocation Plan related to Third party Request for Administrative Deficiency, staff reviewed the Application to determine whether it qualified for three tie-breakers. Staff determined that although the Application did include a map of the area, radius, and routes to the park/playground and public transportation, the Application did not include

complete evidence of an accessible playground or accessible route to a public park and evidence of an accessible route to public transportation. Also, staff found that the Fort Hood November 5 Memorial does not meet the standard of a museum as defined in this subsection.. A scoring notice was issued to the Applicant, and the Applicant appealed staff's decision. The Executive Director denied the appeal, and the Applicant is appealing the scoring result.

§11.9(c)(4), Opportunity Index

(B) An application that meets the foregoing criteria may qualify for additional points (for a maximum of seven (7) points) for any one or more of the following factors. Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits:

(i) For Developments located in an Urban Area, an Application may qualify to receive points through a combination of requirements in clauses (I) through (XIII) of this subparagraph.

(I) The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards. (1 point)

(II) The Development Site is located less than 1/2 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service. (1 point)

(X) Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value. (1 point). (1 point)

In the Application, the Applicant claimed as tie-breakers that the Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, that the Development site is located less than 1/2 mile on an accessible route from public transportation, and that the Development site is within 2 miles of a museum.

The Applicant was issued an Administrative Deficiency notice directing the Applicant to provide evidence to support the selections. After reviewing the response, the Department determined that not only is the playground at Bacon Ranch Park not accessible as there is no path that leads to the playground, Bacon Ranch Park is not actually a public park, but is, as the email from the City of Killeen states, "a privately owned park open to the public." The accessible route to public transportation was not proven, as the Applicant cannot promise to complete a route on land not owned/controlled by the Applicant. Finally, the Fort Hood November 5th Memorial does not meet the standard of a museum as defined in this subsection. Neither the City of Killeen nor Killeen Volunteers, Inc. has a primary purpose of "the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value." Further, the memorial is not an institution, as a history museum would be. The City of Killeen could have built a museum to honor those affected by the disaster at Fort Hood, it chose, however, to build a memorial. The appeal simply asserts that each of the amenities should be found eligible.

Staff recommends the Board deny the appeal.

17305
Payton Senior

17305

Scoring Notice and
Documentation



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Lisa Stephens

Phone #: (352) 213-8700

Email: lisa@saigebrook.com

Second Email: ajcarpen@gmail.com

Date: June 01, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

RE: 2017 Competitive Housing Tax Credit (HTC) Application for Payton Senior, TDHCA Number: 17305

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17305, Payton Senior

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Difference between Requested and Awarded:	0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
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Section 4:

Final Score Awarded to Application by Department staff:	155
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Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

NA

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. No evidence of an accessible playground or accessible route to park was provided; no evidence of an accessible route to public transportation was provided; the Fort Hood November 5 Memorial is not a museum. (Items Selected 8, Items Qualified 5)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Thursday, June 8, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

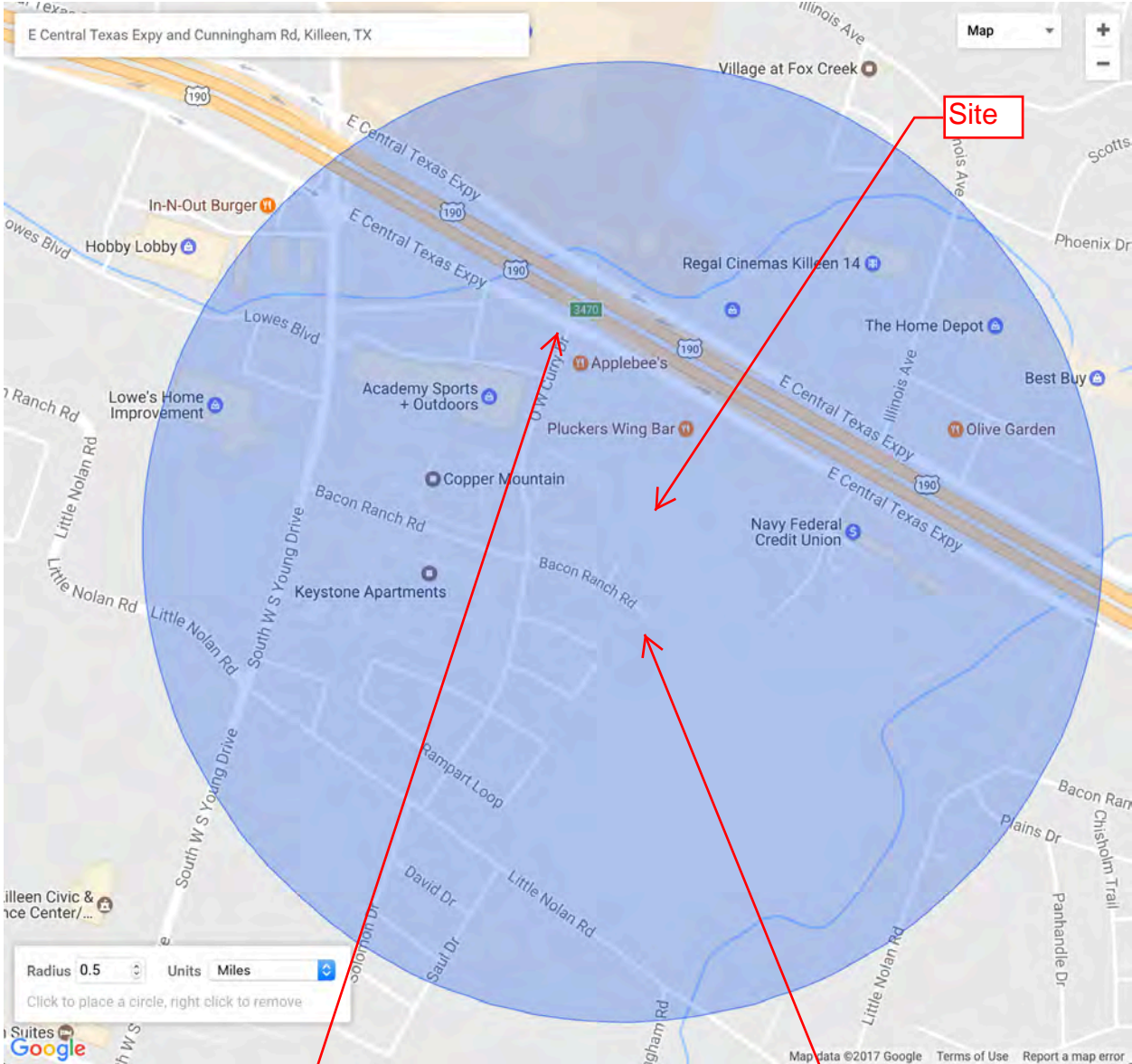
Sincerely,

Sharon Gamble

Sharon Gamble

9% Competitive HTC Program Administrator

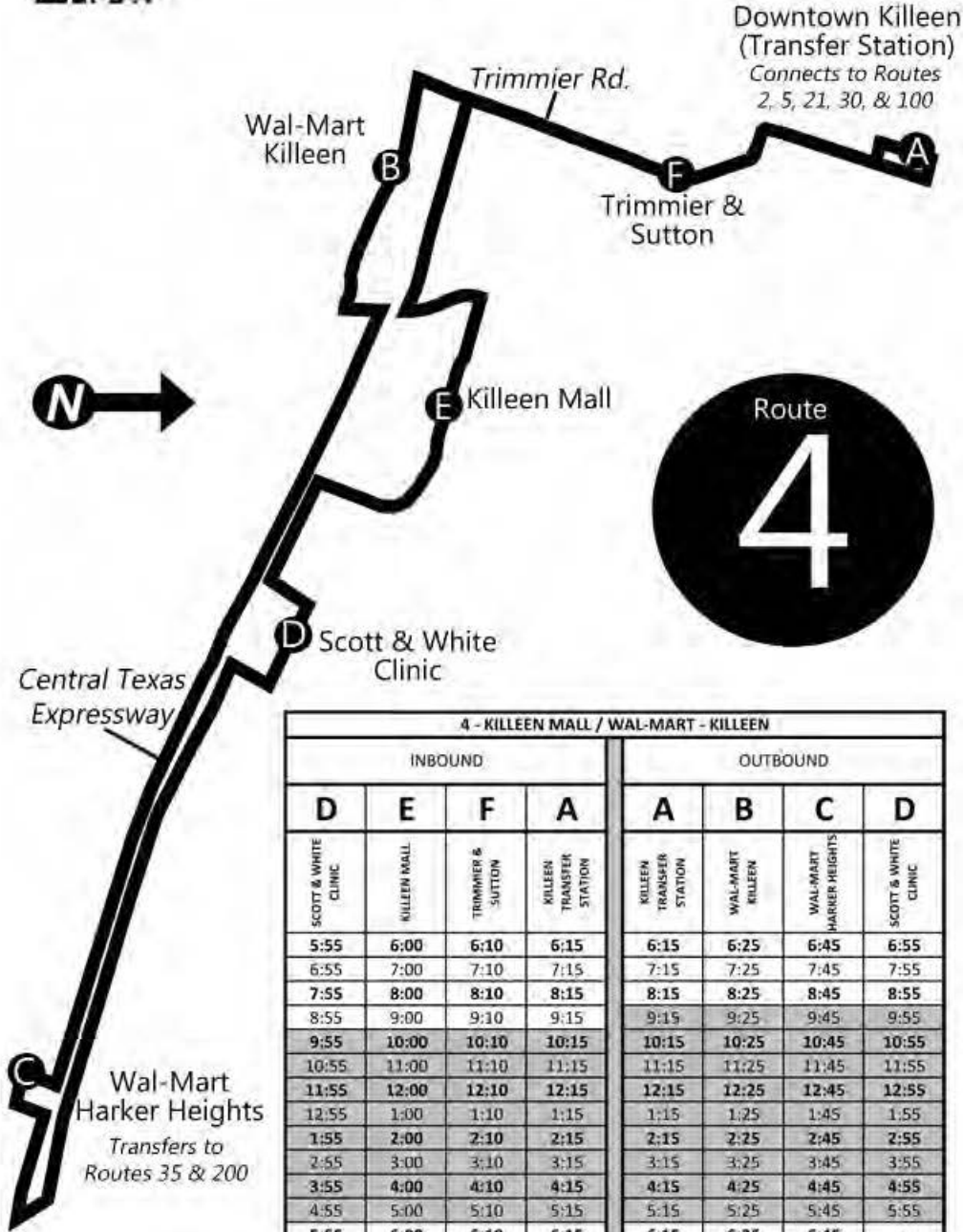
Payton Senior Opportunity Index



(II) Site located less than 1/2 mile on accessible from Route 4 bus stop

(I) Site located less than 1/2 mile on accessible route from public park with 2010 ADA playground

(Hover mouse cursor over route number for route description.)



4 - KILLEEN MALL / WAL-MART - KILLEEN							
INBOUND				OUTBOUND			
D	E	F	A	A	B	C	D
SCOTT & WHITE CLINIC	KILLEEN MALL	TRIMMIER & SUTTON	KILLEEN TRANSFER STATION	KILLEEN TRANSFER STATION	WAL-MART KILLEEN	WAL-MART HARKER HEIGHTS	SCOTT & WHITE CLINIC
5:55	6:00	6:10	6:15	6:15	6:25	6:45	6:55
6:55	7:00	7:10	7:15	7:15	7:25	7:45	7:55
7:55	8:00	8:10	8:15	8:15	8:25	8:45	8:55
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3:55	4:00	4:10	4:15	4:15	4:25	4:45	4:55
4:55	5:00	5:10	5:15	5:15	5:25	5:45	5:55
5:55	6:00	6:10	6:15	6:15	6:25	6:45	--

SATURDAY SERVICE



www.takethehop.com
(254) 933-3700



Administration Office
204 N. East St. Suite A
Belton, TX 76513
Office: 254.939.3466
Fax: 254.939.2103

March 1, 2017

To Whom It May Concern:

This letter is to confirm that the park at 2812 Bacon Ranch Road, Killeen, TX 76542 is open to the public. Please feel free to contact me at 254.939.3466 with any questions regarding this property.

Sincerely,

Kami L. Diaz, LCSW
Executive Director

Mission: Assist troubled children, youth and families toward development of their full potential through provision of quality community-based services.

Bacon Ranch Park

Playground meets 2010 ADA standards with an accessible route into it as well as an ADA compliant transfer station. Playground has three different ground level play experiences that include climbing, sliding, and sensory and at least one of each is accessible from the ground level or the transfer station. The surface of the playground is an Engineered Wood Fiber product that meets the requirements for fall protection and accessibility for the disabled. A minimum 72" wide accessible route exists around all pieces of playground equipment.



on Ranch Park



Central Texas Youth Services

Privately Owned Park

Open To The Public

Contact Number: 254-939-3466





17305

Applicant Appeal to
Executive Director



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Appeal Election Form: 17305, Payton Senior


Note: If you do not wish to appeal this notice, do not submit this form.

I am in receipt of my 2017 scoring notice and am filing a formal appeal to the Executive Director on or before Thursday, June 8, 2017.

If my appeal is denied by the Executive Director:

I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.

I do not wish to appeal to the Board of Directors.

Signed 

Title President of O-SDA Industries

Date 6-5-17

**Please email to Sharon Gamble:
<mailto:sharon.gamble@tdhca.state.tx.us>**



5714 Sam Houston Circle Austin, TX 78731 (830) 330-0762 megan@o-sda.com

June 7, 2017

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701
E-Mail: tim.irvine@tdhca.state.tx.us

Re: Payton Senior LLC; 2017 Application Number 17305

Dear Mr. Irvine:

This letter is written on behalf of Payton Senior LLC, TDHCA No. 17305 (“Applicant”) to appeal the decision made by TDHCA as evidenced by the Scoring Notice dated June 1, 2017 (“Notice”). This appeal is filed pursuant to the provisions of Sections 10.902(a)(2) and 10.902(c) of the 2017 Uniform Multifamily Rules (“Rules”).

Background

Applicant Payton Senior LLC (“Applicant”) received a Scoring Notice on June 1, 2017. The Notice stated the Applicant will receive five (5) of the eight (8) §11.7 Tie-Breaker items requested and identified the difference as follows: *“No evidence of an accessible playground or accessible route to park was provided; no evidence of an accessible route to public transportation was provided; the Fort Hood November 5 Memorial is not a museum. (Items Selected 8, Items Qualified 5).”* The Scoring Notice was transmitted via Email by Ms. Sharon Gamble with the statement *“In order to save time on a deficiency notice, it includes a tie-breaker item that may be reinstated if you submit evidence supporting the request with your appeal.”* This appeal addresses the items specifically cited in the Scoring Notice.

Mr. Tim Irvine

June 7, 2017

Page 2 of 4

Subsequent to the Scoring Notice, the Applicant received an Administrative Deficiency Notice on June 6, 2017, which was related to the above three (3) Tie-Breaker items. The Applicant will respond to the specific items of the Deficiency Notice by the June 13, 2017, due date.

Evidence of Accessible playground and accessible route to park

Applicant should be awarded the additional Opportunity Index Tie-Breaker Point by virtue of Applicant's development site being located less than one-half mile on an accessible route from a public park with an accessible playground. The Application includes a map of the park and playground in relation to the development site, photographs of the playground, a letter that confirms that the park is open to the public, and an explanation of how the playground meets 2010 ADA standards.

In response to the Scoring Notice and email, please find a certification from an accessibility professional that confirms that both the playground and the route to the playground meet 2010 ADA standards.

Evidence of Accessible route to public transportation

Applicant should be awarded the additional Opportunity Index Tie-Breaker Point by virtue of the development site being located less than one-half mile of an accessible route from public transportation. The Application includes a map of the bus stop in relation to the development site, the bus schedule, and the plan to extend the existing sidewalk over a drainage swale to the bus stop.

In response to the Scoring Notice and email, please find a certification from an accessibility professional that confirms that the route to the bus stop meets 2010 ADA standards.

The Fort Hood November 5 Memorial as a museum

Applicant should be awarded the additional Opportunity Index Tie-Breaker Point by virtue of the development site being located within 2 miles of a museum as described by the QAP. The museum indicated in the Application is the Fort Hood November 5 Memorial and the documentation in the Application includes a map of the museum in relation to the development site, information and photographs from the museum website, and a news article regarding the museum dedication. As indicated in the documentation, the Memorial includes a stone gazebo, 13 statues symbolizing those killed in the shooting, and a flag.

Mr. Tim Irvine

June 7, 2017

Page 3 of 4

Section 11.9(c)(4)(B)(i)(X) of the QAP states a point may be awarded if the “Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.” The Fort Hood Memorial meets this definition. The Memorial is permanent, exhibits sculptures made by a local artist, and educates visitors about the historical event that was the Fort Hood shooting and victims. The objects at the Memorial have historical and artistic value. This is not unlike a place that exhibits objects of artistic and historical value like a history museum.

Section 11.1(d) of the QAP defines “Definitions” as “Defined terms when not capitalized, are to be read in context and construed according to common usage.” According to the Merriam Webster dictionary, a “museum” is defined as “an institution devoted to the procurement, care, study, and display of objects of lasting interest or value; also: a place where objects are exhibited.” The Memorial meets this definition. It is a place where objects of lasting interest and value are exhibited. The Memorial is a permanent covered gazebo building with artistic bronze sculptures symbolizing each person killed as well as historical information about the events of November 5, 2009. Photos of the Memorial are attached. The \$400,000 Memorial was funded through donations and in-kind services and is located next to the Killeen Civic Center on property owned by the City of Killeen. Donations for the Memorial were accepted by the 501(c)(3) organization Killeen Volunteers Inc., which is a nonprofit organization operating exclusively to accomplish the public purpose of the City of Killeen. The Killeen City Council approved the building of the Memorial and formed the planning committee.

The Memorial also meets the requirements of the QAP. The Memorial (i) was funded and sponsored by a government-related nonprofit and the City of Killeen, (ii) is a permanent institution open to the public, (iii) is not an ancillary part of an organization, and (iv) has the primary purpose of the acquisition, conservation, study, exhibition, and educational interpretation of objects (the sculptures) having historical (remembering the November 5, 2009 shooting and victims) and artistic (the sculptures) value.

The 2017 Competitive HTC Application Cycle FAQ has a question and answer regarding museums:

Q: The rule states that the museum cannot be “an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value”. Please explain this carve-out and if possible specific examples of museums that would not qualify based on this provision.

A: The carve-out is simply “it has to be a museum”. If you tour a bakery, and at some point in the tour there is a room that has all of the bread-making equipment since 1943 on display, that does not

Mr. Tim Irvine

June 7, 2017

Page 4 of 4

make the bakery a museum. It is a bakery that has a room where they display things. However, a free-standing "The Museum of 20th Century Baking" that operates as an independent organization would qualify as a museum for this point item.

The Memorial is a free-standing permanent structure that is an independent facility on property owned by the City of Killeen. Because the Memorial meets the definitions and common usage definition of "museum" and also meets the requirements as outlined in the QAP, the Tie-Breaker Point should be awarded for this item.

Conclusion

Thank you for the opportunity to provide evidence and explanation regarding these Tie-Breaker items. We believe that all three (3) items should be reinstated. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Megan Lasch". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Megan Lasch
Applicant



Alyssa Carpenter <ajcarpen@gmail.com>

17305 Scoring Notice

Sharon Gamble <sharon.gamble@tdhca.state.tx.us>
To: "lisa@saigebrook.com" <lisa@saigebrook.com>
Cc: "ajcarpen@gmail.com" <ajcarpen@gmail.com>

Thu, Jun 1, 2017 at 11:39 AM

Your scoring is notice attached. In order to save time on a deficiency notice, it includes a tie-breaker item that may be reinstated if you submit evidence supporting the request with your appeal.

No response needed if an appeal is not being filed.

Regards,

Sharon D. Gamble MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
(512) 936-7834

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)).

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

2 attachments**17305_2017 Final Scoring Notice 9%HTC.pdf** 33K**17305_2017 Appeal Election Form.pdf** 16K



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Lisa Stephens

Phone #: (352) 213-8700

Email: lisa@saigebrook.com

Second Email: ajcarpen@gmail.com

Date: June 01, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

RE: 2017 Competitive Housing Tax Credit (HTC) Application for Payton Senior, TDHCA Number: 17305

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17305, Payton Senior

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Difference between Requested and Awarded:	0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
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Section 4:

Final Score Awarded to Application by Department staff:	155
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Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

NA

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. No evidence of an accessible playground or accessible route to park was provided; no evidence of an accessible route to public transportation was provided; the Fort Hood November 5 Memorial is not a museum. (Items Selected 8, Items Qualified 5)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Thursday, June 8, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon Gamble

Sharon Gamble

9% Competitive HTC Program Administrator



Alejandro (ALEX) Arreguin
REGISTERED ACCESSIBILITY SPECIALIST
RAS Lic # 396



1901 Convent Ave
Laredo, TX 78040-4852
(956) 723-0290 Fax 602-0340
Jando342@yahoo.com

3 June 2017

Ms. Megan Lasch
Payton Senior, LLC
Suite 1504
421 W. 3rd St.
Austin, TX. 78701

RE: 2010 ADA Accessible Sidewalk Route to Park and Transit Stop and 2010 ADA Accessible Playground Within ½ Mile of Proposed Payton Senior Development in Killeen, TX.

Ms. Lasch,

I have reviewed the location of the Payton Senior development site, in Killeen, TX, the engineer prepared site plan and the route to the accessible public park and transit stop located within 1/2 mile of the development site as indicated on the attached map. I have confirmed that the site fencing will include a pedestrian gate to allow a sidewalk connection point, behind building 3, to the existing sidewalk route for the park. As such I can confirm that the routes meet 2010 ADA accessibility standards from the proposed site location to the transit stop and park, respectively, as indicated on the map.

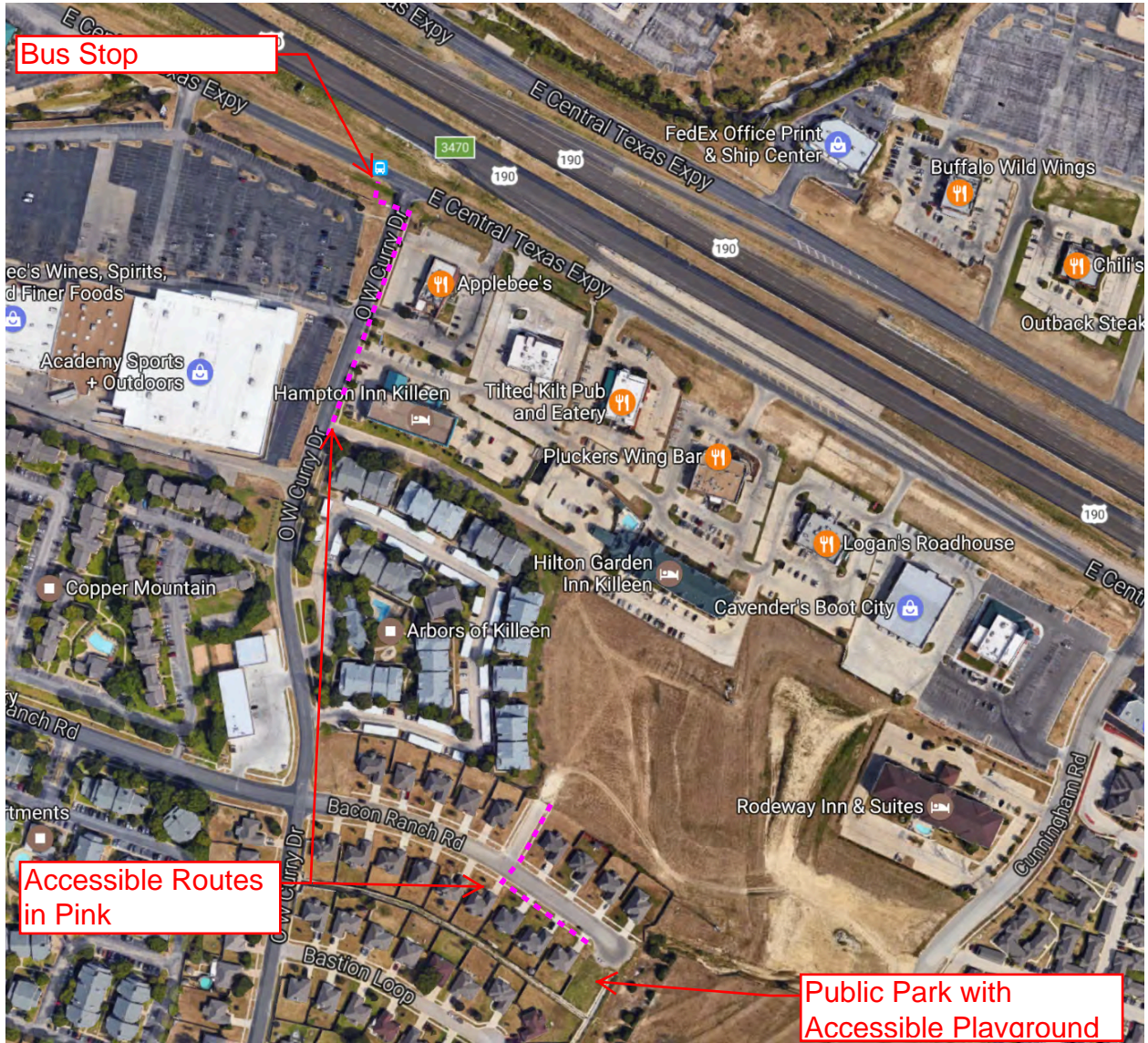
I have also reviewed the public playground at the park location indicated on the map and can confirm that the playground and engineered mulch surface beneath meets 2010 ADA standards.

A handwritten signature in black ink, appearing to read 'Alex Arreguin', written over the word 'Sincerely,'.

Sincerely,

Alex Arreguin RAS #396

Payton Senior Opportunity Index



PREPARE FOR YOUR FUTURE

http://www.forthoodsentinel.com/news/killeen-nov-memorial-dedicated/article_31aa1804-eb8f-11e5-90b3-9f0ff606c9df.html

FEATURED

Killeen Nov 5 memorial dedicated

Nick Conner, Sentinel News Editor Mar 17, 2016



Photos by Nick Conner, Sentinel News Editor

The completed memorial stands amid a sea of flags next to the Killeen Civic Center Friday.

Hundreds of friends and Families packed the Killeen Civic Center Friday for the memorial dedication to those killed and wounded during the Nov. 5, 2009, Fort Hood shooting.

It has been more than six years since a former Army psychiatrist opened fire inside a Soldier Readiness Center on the installation, killing 13 Soldiers and Army civilians and wounding 32 others.

The memorial, a stone gazebo with 13 bronze statues that reflect each of the fallen, binds Fort Hood with the Central Texas communities that shared in the grief of that day, said Maj. Gen. John Uberti, III Corps deputy commanding general.

“This ceremony reflects the magnitude of what happened on the 5th of November and the memorial itself will always be a sobering reminder of who we lost,” Uberti said. “It reminds us all of the pride, joy and meaning that they brought to their Families, to their brothers and sisters-in-arms and everyone that knew them best and keeps them in their hearts.”

Attended by local, state and military leaders, the dedication ceremony was an emotional culmination to the years of work by civic groups and private individuals to honor those killed and remember those who still struggle to heal.

"It's very bittersweet," said Leila Hunt-Willingham, who lost her brother, Spc. Jason Hunt. "It's a beautiful way to remember the actual people that were killed that day, instead of just the event."

The \$400,000 memorial was funded through a mix of corporate and private donors and features individual bronze sculptures by artist Troy Kelly. Each one tells a unique story, the artist told the crowd. The Scooby-Doo sculpture for Pfc. Fransheska Velez wraps itself around a smaller Scooby-Doo for the baby the 21-year-old Soldier was carrying when she was killed. Witness testimony during the gunman's trial stated her last words were, "My baby, my baby."

Shooting survivor Sgt. 1st Class Joy Clark returned to Fort Hood for the dedication ceremony. A reservist, she was wounded during that attack and has required numerous surgeries to repair damage that may never fully heal. She said the ceremony gave her the chance to reconnect with the people she now considers Family.

"It's kind of interesting in how in a world that is as small as the Army is, something like this can bring everyone a little closer together," she said.

Killeen Mayor Scott Casper read from a city proclamation that declared March 11, 2016, as the November 5, 2009, Fort Hood Memorial Day.

"May this memorial be a bright light of hope that overcomes the darkness behind us and lets us never forget the resilience of the victims, their Families and our communities," the mayor said.

Texas governor Greg Abbot awarded Texas Purple Hearts, the state's version of the Purple Heart, to the Families of the fallen and to those in attendance who were wounded in the attack.

The medal, a gold star surrounded with green laurels on a background of purple under a relief of the Alamo, symbolized the tenacity and warrior spirit displayed by those impacted by the shooting, Abbott said.

"It is a perpetual way to recognize not only the fallen, not only the injured, but to recognize the way this community comes together to celebrate those who put service first," the governor said.

Through a poem written by Maj. Michael O'Donnell, a Vietnam veteran, Uberti shared O'Donnell's thoughts on loss and grief that resonated with the memorial crowd.

"Be not ashamed to say that you loved them," the general quoted. "Take what they have left and what they have taught you with their passing and keep it with your own."

FHS Nick Conner



5 November 2009
Ft. Hood Memorial - Killeen, Texas

At 13:20 on a sunny Thursday afternoon on the 5th of November, 2009, Soldiers at the Fort Hood Soldier Readiness Processing Center Medical facility were attacked by one of their own. An active-duty Army medical officer, dressed in his uniform and armed with a semi-automatic pistol with laser sights, a revolver and more than 300 specialty rounds of ammunition, opened fire on fellow soldiers.

The attack lasted for approximately ten minutes and ended in a gun battle with two Fort Hood civilian police officers. Twelve soldiers, one civilian contractor, and one unborn child were murdered. Thirty Soldiers and one police officer were wounded and left with life-altering injuries. There were many heroes that day: those who charged the gunman, led the wounded to safety and provided life-saving support and warnings to others.

During the decades long wars in Iraq and Afghanistan, this was the first terrorist attack on an Army post at home and the most deadly since the attacks of September 11, 2001.

Thank you for being here to honor and remember the fallen, wounded, first responders, and countless others affected by this tragedy who are living with wounds both seen and unseen. We especially want to honor those who gave their lives that day. They will be remembered for their dedication and selfless service to this nation.

May this memorial convey the honor they so richly deserve.

"When attacked at home, we did not falter. Civilian and Soldier together, we protected, we fought, and we healed."

- From the families of the fallen, wounded, and many others affected by this tragedy

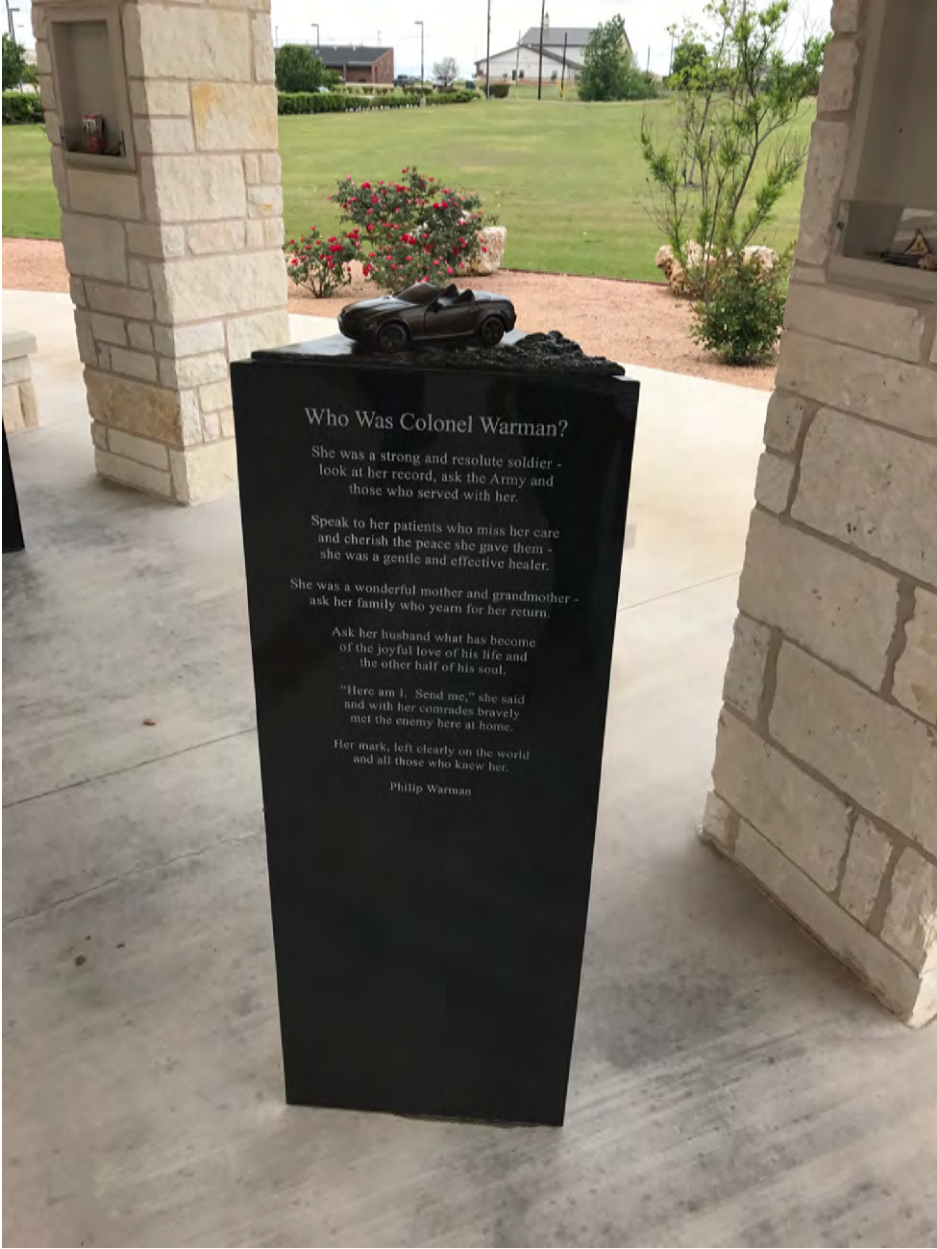


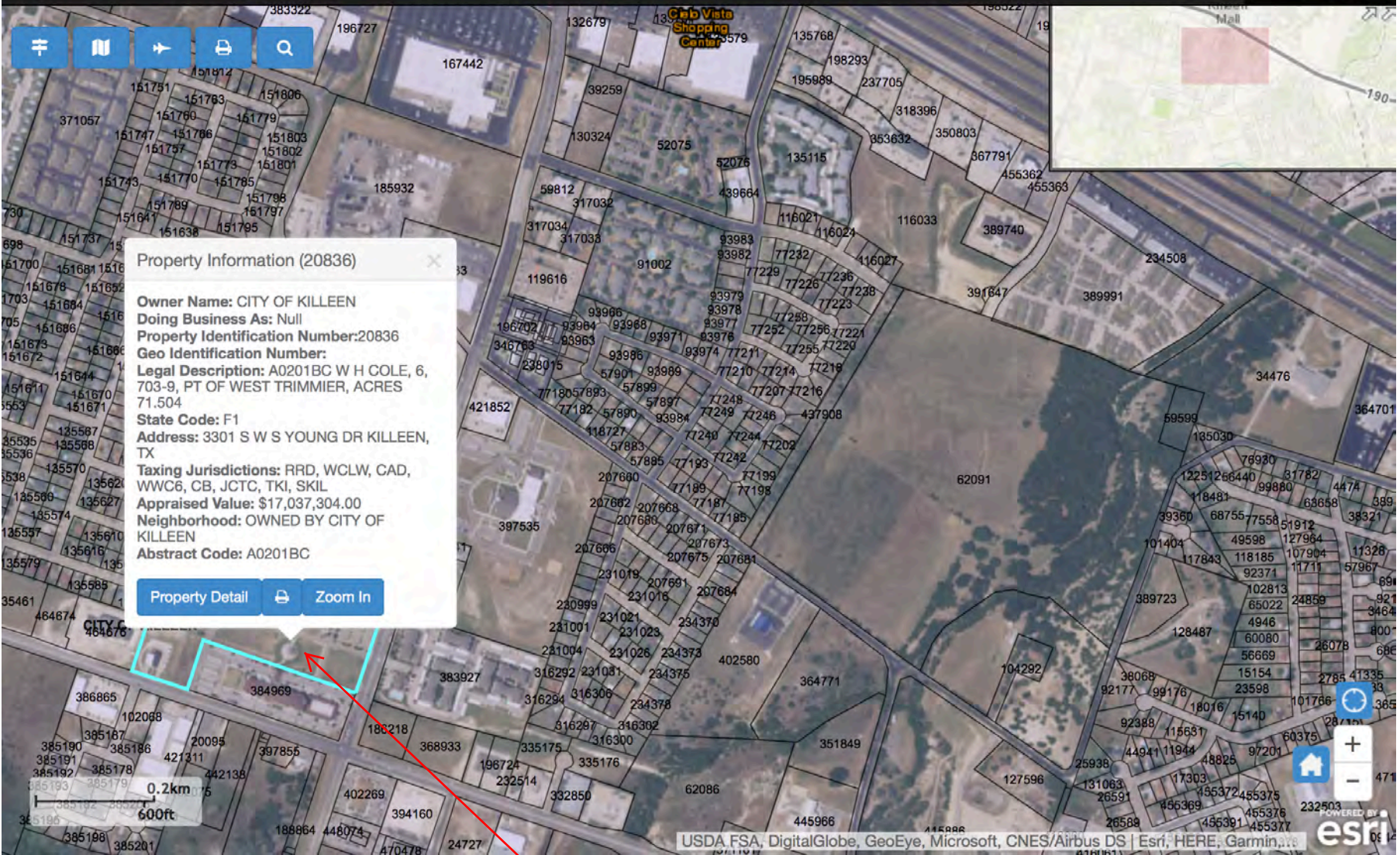
MICHAEL G.
CAHILL

U.S. ARMY (RETIRED)
CHIEF WARRANT OFFICER TWO
CIVILIAN - SRP MEDICAL

16 JUL 47
05 NOV 09

SECRETARY OF THE ARMY
AWARD FOR VALOR





Property Information (20836)

Owner Name: CITY OF KILLEEN
Doing Business As: Null
Property Identification Number: 20836
Geo Identification Number:
Legal Description: A0201BC W H COLE, 6, 703-9, PT OF WEST TRIMMIER, ACRES 71.504
State Code: F1
Address: 3301 S W S YOUNG DR KILLEEN, TX
Taxing Jurisdictions: RRD, WCLW, CAD, WWC6, CB, JCTC, TKI, SKIL
Appraised Value: \$17,037,304.00
Neighborhood: OWNED BY CITY OF KILLEEN
Abstract Code: A0201BC

Property Detail Zoom In

Fort Hood Memorial

FILED
In the Office of the
Secretary of State of Texas

ARTICLES OF AMENDMENT

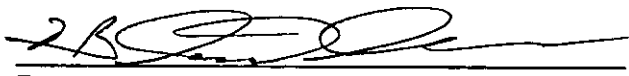
JUL 01 1993

Pursuant to the provisions of Article 4.03 of the Texas Non-Profit Corporation Act, ^{Corporations Section} the undersigned corporation adopts the following Articles of Amendment:

- 1. The name of the corporation is Killeen Works, Charter number 1270682.
- 2. The title "Articles of Incorporation of Killeen Works" in the Articles of Incorporation dated May 18, 1993, is hereby amended to read "Articles of Incorporation of Killeen Volunteers, Inc."

The first paragraph of the Articles of Incorporation of Killeen Works dated May 18, 1993, is hereby amended by deleting "Killeen Works" and inserting the words "Killeen Volunteers, Inc."

- 3. Article I of the Articles of Incorporation for Killeen Works dated May 18, 1993 is hereby amended to read "The name of the corporation is Killeen Volunteers, Inc."
- 4. These amendments were duly adopted by a vote of a majority of the directors in office at a meeting of the board of directors held on June 30, 1993.
- 5. There are no members having voting rights.



D. A. Blackburn
Secretary/Treasurer, Killeen Works

FILED
In the Office of the
Secretary of State of Texas

ARTICLES OF INCORPORATION

MAY 18 1993

OF

Corporations Section

KILLEEN WORKS

The undersigned natural person, of the age of eighteen (18) years or more, acting as incorporator of a corporation under the Texas Non-Profit Corporation Act, does hereby adopt the following Articles of Incorporation for Killeen Works (hereinafter the "Corporation"):

ARTICLE I

The name of the corporation is Killeen Works.

ARTICLE II

The period of its duration is perpetual.

ARTICLE III

The Corporation is a non-profit corporation.

ARTICLE IV

The Corporation is organized exclusively for charitable, educational and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (or the corresponding provision of any future United States Internal Revenue Law.) More specifically, but without limiting the purposes stated above, the Corporation is organized and is to be operated for the exclusive purpose of benefiting and accomplishing a public purpose of the City of Killeen (a home rule city and corporate and political subdivision of the State of Texas, existing pursuant to Article XI, Section 5 of the Texas Constitution, by providing the leadership to improve the looks and image of the City of Killeen and support and encourage other organizations in the common goal for a better community.

ARTICLE V

The street address of the initial registered office of the corporation is 200 East Avenue D, Killeen, Bell County, Texas 76541. The name and address of its initial registered agent at such address is David A. Blackburn.

ARTICLE VI

The number of directors constituting the initial board of directors is three (3), and the names and addresses of the persons who are to serve as the initial directors are:

- | | | | |
|----|--------------------|-------------------|----------------------|
| 1. | Mark A. Manning | 309 North College | Killeen, Texas 76541 |
| 2. | Pat Patton | 1101 CTE | Killeen, Texas 76541 |
| 3. | David A. Blackburn | 200 East Avenue D | Killeen, Texas 76541 |

ARTICLE VII

The name and address of the incorporator is:

- | | | | |
|----|--------------------|-------------------|----------------------|
| 1. | David A. Blackburn | 200 East Avenue D | Killeen, Texas 76541 |
|----|--------------------|-------------------|----------------------|

ARTICLE VIII

No part of the net earnings of the corporation shall inure to the benefit of or be distributable to, its members, directors, officers, or other private persons except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Four hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal Income Tax under Section 501(c)(3) of the Federal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 or the corresponding provisions of any future United States Internal Revenue Law.

ARTICLE IX

Upon the dissolution of the corporation, the board of Directors shall, after paying or making provision for the payment of all the liabilities of the corporation, dispose of all the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue Law) as the board of Directors shall determine. Any such assets not so disposed of shall be disposed

of by the appropriate court of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations as said Court shall determine, which are organized and operated exclusively for such purposes.

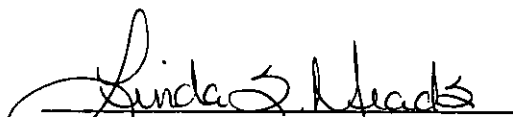
IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May, 1993.


David A. Blackburn, Incorporator

THE STATE OF TEXAS §
 §
COUNTY OF BELL §

I, Linda S. Meads a Notary Public in and for said County and State, do hereby certify that on the 18th day of May, 1993, personally appeared before me, David A. Blackburn who being by me first duly sworn, severally did declare that he is a person who signed the foregoing instrument as incorporator and that the statements therein contained are true and correct.




Notary Public, State of Texas

My Commission Expires: 12-21-94



Volunteer Services (pg. 60)

Key Function	Allocation
Administration and oversight of Volunteer Services and Killeen Community Center.	\$151,929
Seven program committees: Killeen Volunteers, Inc., Keep Killeen Beautiful, Killeen Volunteer Corps., Youth Advisory Commission, Rodeo, Celebrate Killeen and Fort Hood Memorial	\$160,000
Organize and execute community-wide programs: Don't Mess with Texas Trash Off, Youth & Community Conference, Presidential Service Awards, Waterway Clean Up, Make a Difference Day, Arbor Day and Volunteer Service Awards, YAC Summit	\$75,650
Celebrate Killeen Festival	\$35,000
Holiday Under the Stars, Christmas Parade, and A Night Under the Mistletoe	\$23,000
Adopt a Park and Road Program	\$3,000
Rodeo	\$9,000
Nonprofit Network Orientation (2) Volunteer Orientations (4)	\$4,000
Operational Support Services	\$8,350
Galaxy Digital (Volunteer Tracking Software)	\$2,000
	\$311,929

City of Killeen
Regular City Council Meeting
Killeen City Hall
February 12, 2013
5:00 p.m.

Presiding: Mayor Daniel A. Corbin

Attending: Mayor Pro-Tem Michael Lower, Councilmembers Elizabeth Blackstone, Jared Foster, Wayne Gilmore, Jonathan Okray, and Jose Segarra

Also attending were City Manager Glenn Morrison, City Attorney Kathryn Davis, City Secretary Paula Miller, and Sergeant-at-Arms Troy Fulgham

Tardy: Councilmember Terry Clark

Mayor Corbin gave the invocation, and Councilmember Segarra led everyone in the pledge of allegiance.

Approval of Agenda

Mayor Pro-Tem Lower moved to approve the agenda as written, seconded by Councilmember Blackstone. The motion was approved 6-0.

Councilmember Clark entered the meeting at this time.

Presentations

PR-1 Introduce Texas Department of Transportation Waco District Engineer and Receive Update on US Hwy190 Project

Bobby G. Littlefield, Jr., the new Waco District Engineer, introduced Andy Petters and Kevin Dickey, also with the District. Mr. Dickey presented an overview of the U.S. 190 corridor from Copperas Cove through Killeen.

Consent Agenda

CA-1 Consider minutes of Regular City Council Meeting of January 22, 2013.

CA-2 Consider a memorandum/resolution [13-013R] authorizing the City Manager to execute an Interlocal Agreement with the Killeen Independent School District and Central Texas College District for election services.

This is the annual contract with KISD and CTC to share expenses and resources involved with the election.

CA-3 Consider a memorandum/resolution [13-014R] authorizing the award of construction contract Bid No. 13-03 for Bending Trail drainage improvements phase 2 to McLean Construction, Inc.

There were nine bids submitted on this project, and staff recommends awarding the bid to the lowest responsible bidder, McLean Construction, in the amount of \$335,000.20.

CA-4 Consider a memorandum/resolution [13-015R] authorizing the sale of real property located at 1105.5 North 18th Street.

The City Council authorized staff to advertise this property for sale, and one bid was submitted in the amount of \$3,500.00. Staff recommends sale of the property to Jane Kim.

CA-5 Consider a memorandum/resolution [13-016R] approving procurement of service truck with crane and valve exerciser through Texas Buy Board for the Water Distribution Division.

\$155,319.00 has been budgeted for replacement of this thirteen-year-old service truck, and a new one can be purchased for \$150,444.82, leaving a balance of approximately \$5,000.

CA-6 Consider a memorandum/resolution [13-017R] establishing a November 5, 2009 Memorial Project Ad Hoc committee.

Committee members are: Timothy Hancock, Chair; Ralph Cossey, Don Farek, Joleen Cahill, Fred Latham, Otis Evans, Dick Young, Brockley Moore, and Brian Vanicek.

Mayor Pro-Tem Lower moved to approve the above items on the Consent Agenda, seconded by Councilmember Okray. The motion was approved unanimously.

Public Hearings / Ordinances

PH-1 **HOLD** a public hearing and consider an ordinance as requested by Yeon Ok Lee (Case #Z12-50) to rezone Lot 1, Block 1, Lee Plaza from B-5 (Business District) to B-C-1 (General Business and Alcohol Sales District) for on premises sale and consumption of alcoholic beverages. The property known as R&B Karaoke and Heavenly Cafe located at 410 East Avenue A, Killeen Texas.

Citing a conflict of interest since the applicant has been a client of his law firm for many years, Mayor Corbin stepped down from the dais, and Mayor Pro-Tem Lower assumed the chair.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-5 (BUSINESS DISTRICT) TO B-C-1 (GENERAL BUSINESS AND ALCOHOL SALES DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This rezoning request has been submitted to allow for on-premises consumption of alcoholic beverages in the entire building, not just the portion of R&B Karaoke currently covered by a SUP. There were two letters in opposition and one in support returned in response to the 240 letters of notification. The building is more than 300 feet from the closest church-owned property. A check with the Police Department indicated no calls for this property have occurred since 2011. The Planning and Zoning Commission recommended approval of the request for the footprint of the building only.

Mayor Pro-Tem Lower opened the public hearing. James Stapler, Corbin & Associates, appeared in support of the request. With no one else appearing, the public hearing was closed.

Councilmember Gilmore moved to approve the ordinance [13-012], seconded by Councilmember Segarra. The motion was approved 6-0.

Mayor Corbin returned to Council deliberations.

Ordinances / Resolutions

OR-1 Consider an ordinance ordering a Charter amendment election on May 11, 2013.

The caption of the ordinance was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN ORDERING THE HOLDING OF AN ELECTION IN THE CITY OF KILLEEN, TEXAS, FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF THE CITY PROPOSED AMENDMENTS TO THE HOME RULE CHARTER OF THE CITY; SPECIFYING THAT THE PROVISIONS OF THE GENERAL ELECTION LAWS SHALL CONTROL ALL QUESTIONS PERTAINING TO SUCH ELECTION; PRESCRIBING THE CONTENTS OF THE OFFICIAL BALLOT; DESIGNATING THE POLLING PLACES AND NAMING THE ELECTION JUDGES AND ALTERNATE JUDGES OF EACH OF THE POLLING PLACES; PROVIDING FOR POSTING AND PUBLICATION OF NOTICE OF SAID ELECTION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND PROVIDING AN OPEN MEETINGS CLAUSE.

Deputy City Attorney Traci Briggs advised the City Council has reviewed the charter over the past several months, and several public hearings have been held. The only change since the last meeting was to clarify Proposition 8 so that an Assistant City Manager would only be authorized to countersign checks in the event the City Manager was also Finance Director.

Mayor Pro-Tem Lower moved to approve the ordinance [13-013], seconded by Councilmember Blackstone. The motion was approved 6-1 (Councilmember Clark in opposition).

Adjournment

With no further business, upon motion being made by Mayor Pro-Tem Lower, seconded by Councilmember Gilmore, and unanimously approved, the meeting was adjourned at 5:27 p.m. into a workshop session.

Daniel A. Corbin, Mayor

Paula Miller, City Secretary

17305
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

June 12, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Ms. Megan Lasch
O-SDA Industries
5714 Sam Houston Circle
Austin, TX 78731

RE: APPEAL OF SCORING NOTICE: 17305 PAYTON SENIOR, KILLEEN, TEXAS

Dear Ms. Lasch:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated June 7, 2017, of the scoring notice for the above referenced Application. This Application was denied three tie-breaker items under 10 TAC §11.9(c)(4) of the 2017 Qualified Allocation Plan ("QAP"), related to Opportunity Index, because although the Application did include a map of the area, radius, and routes to the park/playground and public transportation, the Application did not include complete evidence of an accessible playground or accessible route to a public park and evidence of an accessible route to public transportation. Also, staff found that the Fort Hood November 5 Memorial does not meet the standard of a museum as defined in this subsection.

Regarding the memorial, it does not meet the definition given in §11.9(c)(4) as neither the City of Killeen nor Killeen Volunteers, Inc. has a primary purpose of "the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value." Further, the memorial is not an institution, as a history museum would be. The City of Killeen could have built a museum to honor those affected by the disaster at Fort Hood, it chose, however, to build a memorial.

Consistent with a similar decision made by the Department's Governing Board at its May 25, 2017, meeting, I am granting the appeal of the deficiency determination for the park and for public transportation routes, and allowing the clarification called for by Department staff in the scoring notice e-mail to provide the additional "evidence supporting the request" with the appeal, which was provided in the form of a report from an accessibility specialist regarding the accessibility of the routes and playground. I am, however, denying the appeal for the museum. You will receive a revised scoring notice indicating two additional tie-breaker points for the Application. Should you have any questions, please contact Sharon



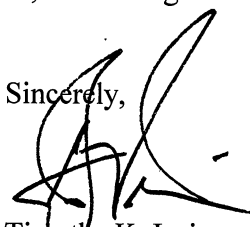
17305 PAYTON SENIOR

June 12, 2017

Page 2

Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,

A handwritten signature in black ink, appearing to read 'TKI', with a horizontal line extending from the end of the signature.

Timothy K. Irvine
Executive Director

17322 Provision at Wilcrest

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

17323 Skyway Gardens

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

17327 Legacy Trails of Lindale

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, discussion, and possible action on timely filed scoring appeals under 10 TAC §10.901 et seq. of the Department's Multifamily Program Rules (Subchapter G) related to Fee Schedule, Appeals and other Provisions.

RECOMMENDED ACTION

WHEREAS, a 9% Housing Tax Credit Application #17331, for Westwind of Killeen was submitted to the Department by the Full Application Delivery Date;

WHEREAS, staff determined that the Application does not qualify for three tie-breaker items requested under §11.9(c)(4) of the 2017 Qualified Allocation Plan ("QAP"), related to Opportunity Index, because the Application did not provide sufficient evidence that the Meadows Gallery at the Vive les Arts Theater is a museum, that the Development Site is less than ½ mile on an accessible route from a public park with an accessible playground, and that the Development Site is less than ½ mile on an accessible route from public transportation;

WHEREAS, a Competitive HTC scoring notice was provided to the Applicant;

WHEREAS, the Applicants timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Application #17331, Westwind of Killeen is denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Ch. 2306, §42 of the Internal Revenue Code (the "Code"), and other criteria established in a manner consistent with ch. 2306 and §42 of the Code.

Pursuant to 10 TAC §11.10 of the Qualified Allocation Plan related to Third party Request for Administrative Deficiency, staff reviewed the Application to determine whether it qualified for four tie-breakers. Staff determined that the Application did not provide sufficient evidence that the Meadows Gallery at the Vive les Arts Theater is a museum, that the Lions Clubs Senior Center Library at Lions Club Park is a public library, that the Development Site is less than ½ mile on an accessible route from a public park with an accessible playground, and that the Development Site is less than ½ mile on an accessible route from public transportation. A scoring notice was issued to

the Applicant, and the Applicant appealed staff's decision. The Executive Director determined that the Lions Club Senior Center Library at Lions Club Park is a public library under the rule and granted the Applicant's appeal for that item. The Executive Director denied the appeal for the other three items, and the Applicant is appealing the scoring result.

§11.9(c)(4), Opportunity Index

(B) An application that meets the foregoing criteria may qualify for additional points (for a maximum of seven (7) points) for any one or more of the following factors. Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits:

(i) For Developments located in an Urban Area, an Application may qualify to receive points through a combination of requirements in clauses (I) through (XIII) of this subparagraph.

(I) The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards. (1 point)

(II) The Development Site is located less than 1/2 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service. (1 point)

(X) Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value. (1 point). (1 point)

The Applicant was issued an Administrative Deficiency notice directing the Applicant to provide evidence to support the selections. After reviewing the response, the Department determined that the Application did not provide sufficient evidence that the Meadows Gallery at the Vive les Arts Theater is a museum, that the Development Site is less than 1/2 mile on an accessible route from a public park with an accessible playground, and that the Development Site is less than 1/2 mile on an accessible route from public transportation.

The Vive Les Arts Theater does not meet the QAP requirements for a museum as the organization's primary purpose is "live theatrical performance." Any artwork displayed is ancillary to that purpose.

Staff determined that the accessible route to the park was not been proven, as the availability of accessible transportation cannot substitute for the required accessible route, and the Applicant cannot promise to build a sidewalk on property not controlled by the Applicant. The appeal includes a letter which states that the land owner gives permission for the Applicant to construct a sidewalk that will connect to existing sidewalks. Unless the Applicant has obtained a legal easement through the City of Killeen that would allow the Applicant to construct such a sidewalk, the letter is unenforceable and the Department cannot rely on it. Finally, the accessible route to public transportation remains unproven as the HOP transportation service does not provide service on Sundays and therefore, does not meet the rule requirement that service be provided on weekends.

Staff recommends the Board deny the appeal.

17331

Westwind of Killeen

17331
Scoring Notice and
Documentation



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Kelly Garrett

Phone #: (903) 450-1520

Email: kelly@salemclark.com

Second Email: dru@dharmadevelop.com

Date: June 27, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2017 Competitive Housing Tax Credit (HTC) Application for Westwind of Killeen, TDHCA Number:
17331**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17331, Westwind of Killeen

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Difference between Requested and Awarded:	0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
--	---

Section 4:

Final Score Awarded to Application by Department staff:	155
--	------------

Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

NA

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. Vive Les Arts does not meet the QAP requirements for a museum; the library at the Lions Club is not a public library; accessible route to the park has not been proven, as the Applicant cannot promise to build a sidewalk on property not controlled by the Applicant; public transportation service does not meet the requirements as there is no Sunday service. (Items Selected 8, Items Qualified 4)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Wednesday, July 5, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon Gamble

Sharon Gamble
 9% Competitive HTC Program Administrator



© 2016 Europa Technologies
© 2016 Google

Google earth

February __26____, 2017

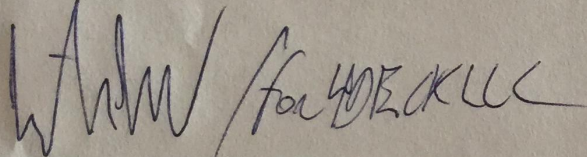
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701
Attn: Tim Irvine
Executive Director – Via Email – tim.irvine@tdhca.state.tx.us

Re: Westwind of Killeen

Dear Mr. Irvine,

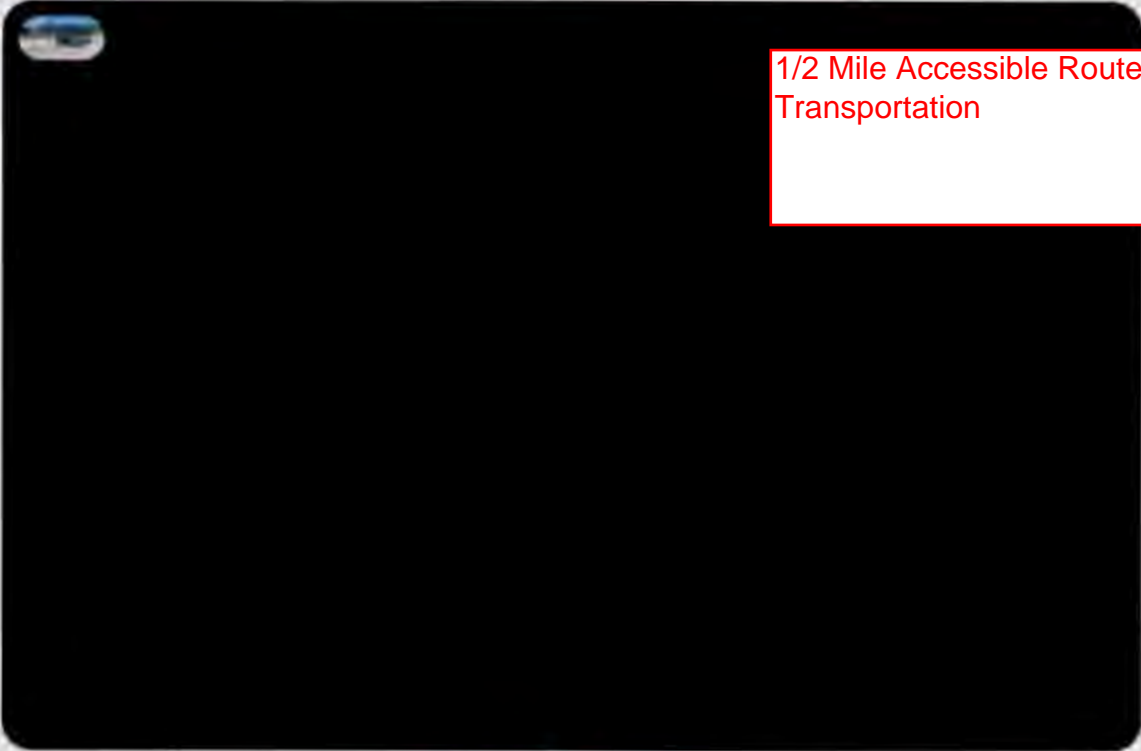
As the owner of the land at 1200 E Stan Schlueter and W Stan Schlueter LP Killeen Texas, I am giving SCF Killeen 17, LP permission to install a sidewalk in front of my property that will connect the existing sidewalks to provide an ADA accessible path for pedestrians in the area.

Sincerely,



William D. Morris/4 DECK LLC

cc: Zach Krochtengel – zach@salemclark.com



1/2 Mile Accessible Route to Public Transportation



Welcome to The HOP

Operated by Hill Country Transit District

Hill Country Transit District (HCTD) operates The HOP, a regional public transit system that started in the 1960's as a volunteer transit service that has since grown to serve a nine-county area covering over 9,000 square miles. In the last decade, the system has experienced significant growth and consists of three divisions: the nine-county Rural Division, the Killeen Urban Division consisting of Copperas Cove, Harker Heights, and Killeen; and the Temple Urban Division consisting of Belton and Temple.

The HOP coordinates many types of trips. Service is provided to passengers with disabilities via the Special Transit Service (STS) which often connects with the Fixed Route Service (FRS). The HOP partners with many area social service agencies to provide transportation to their clients.

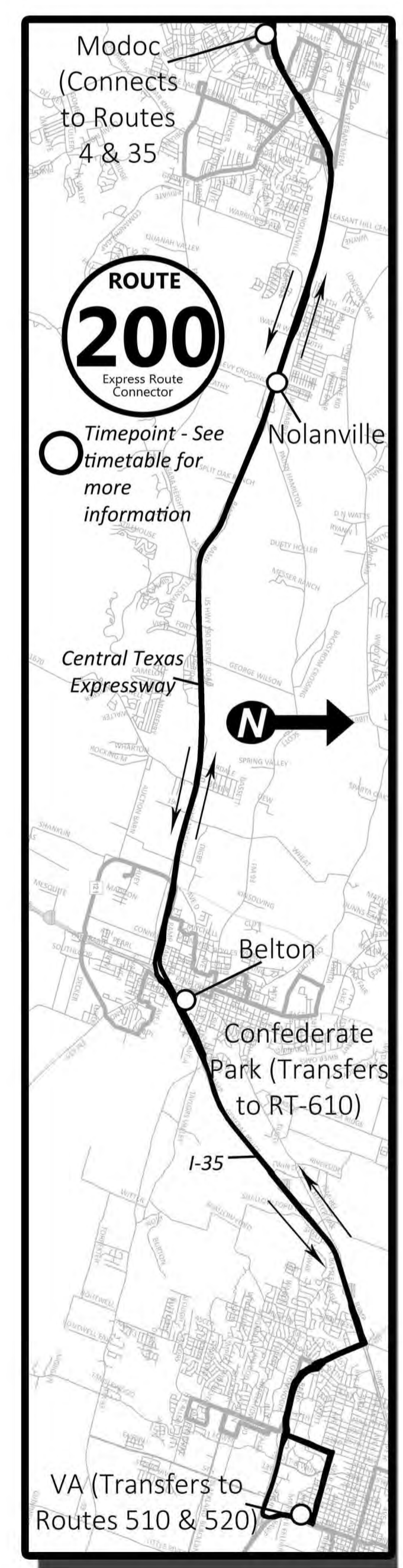
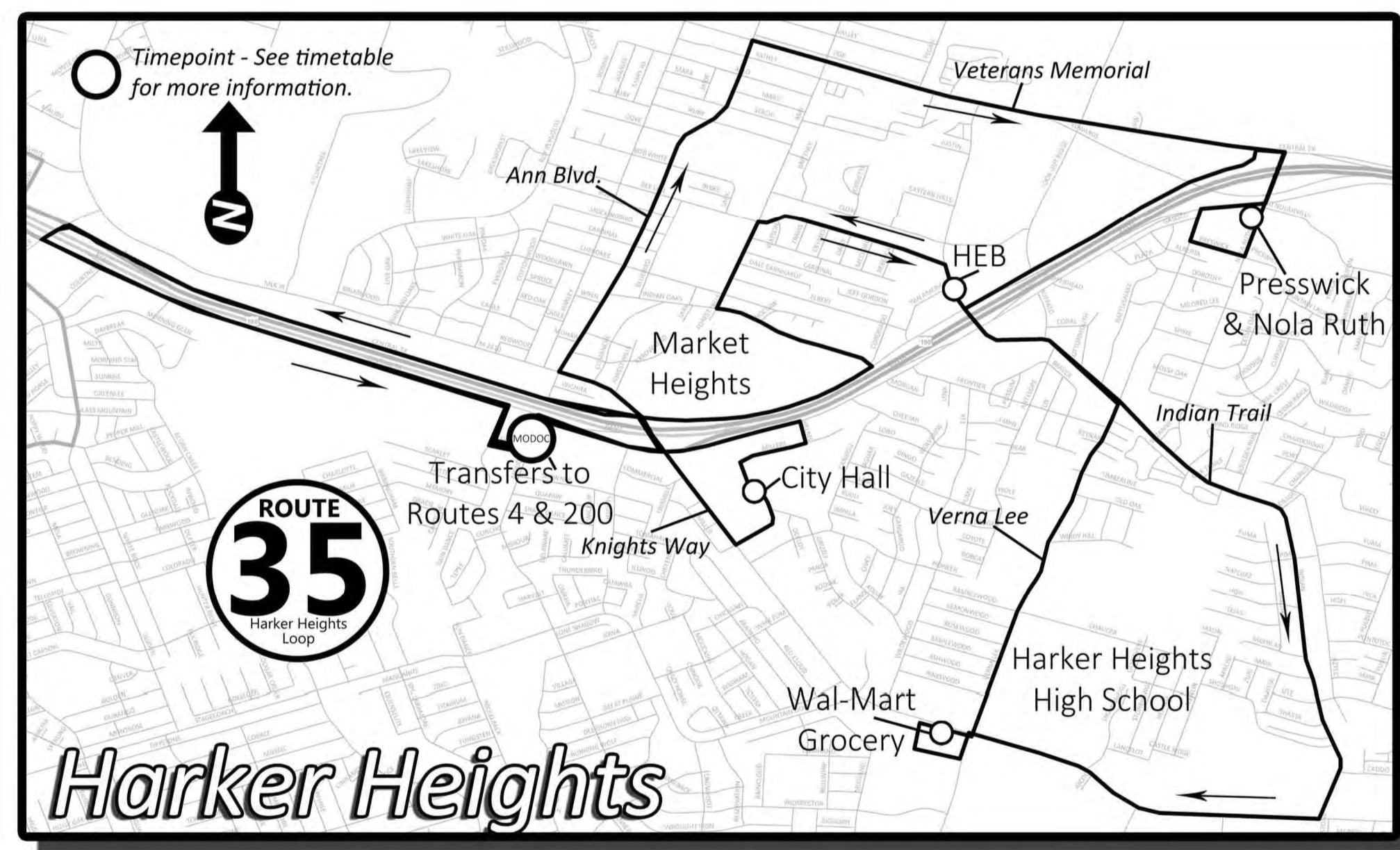
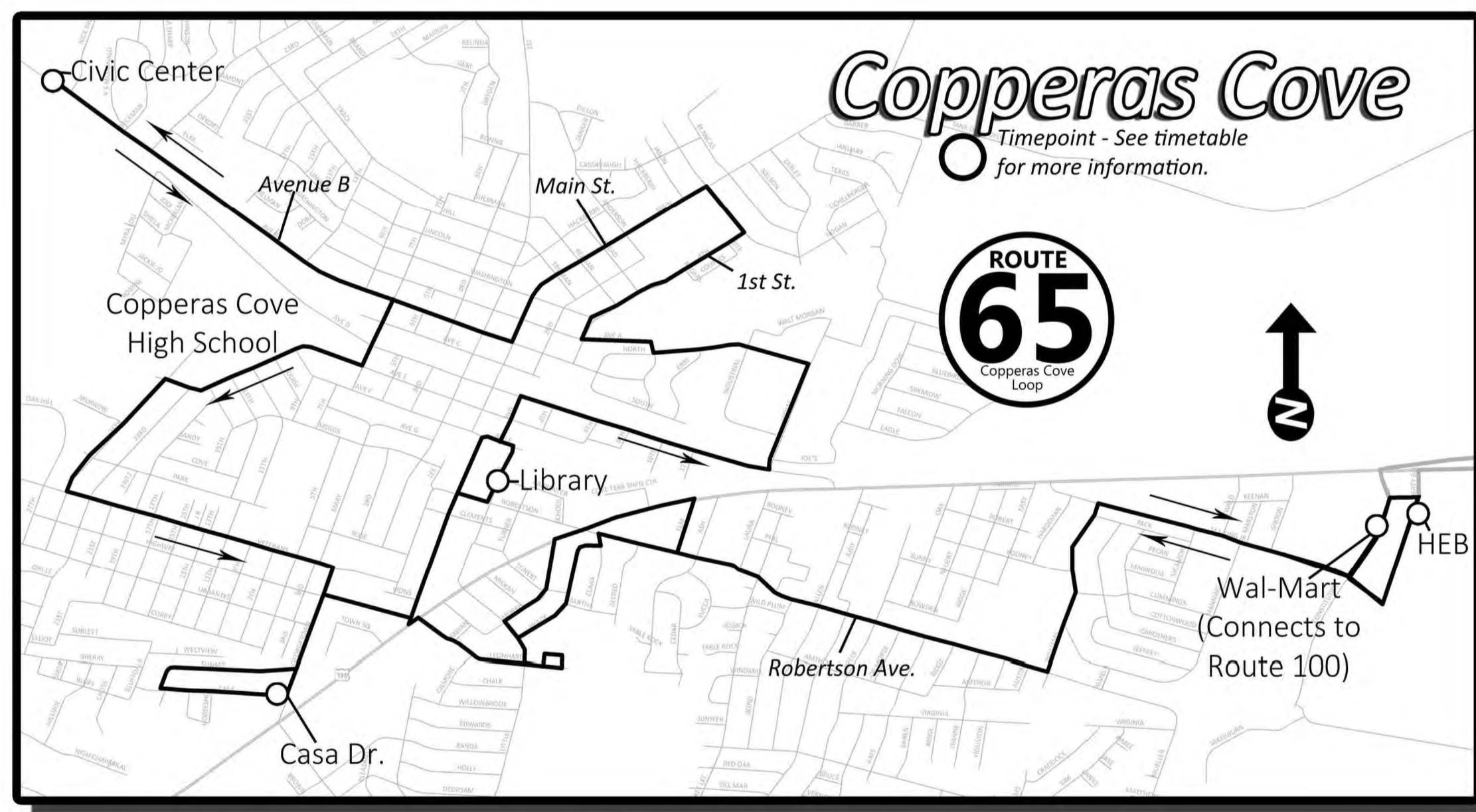
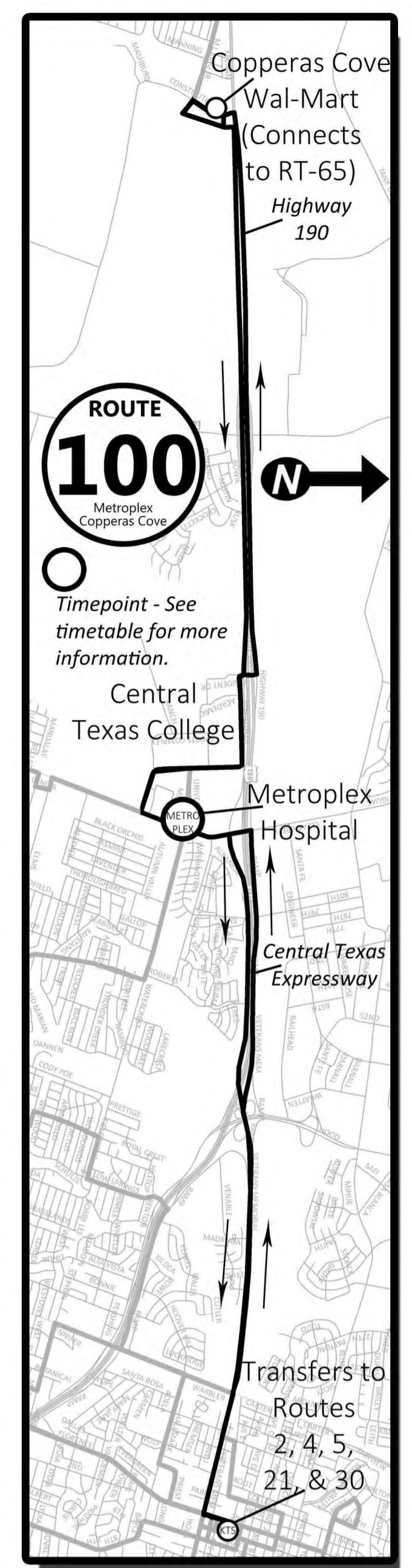
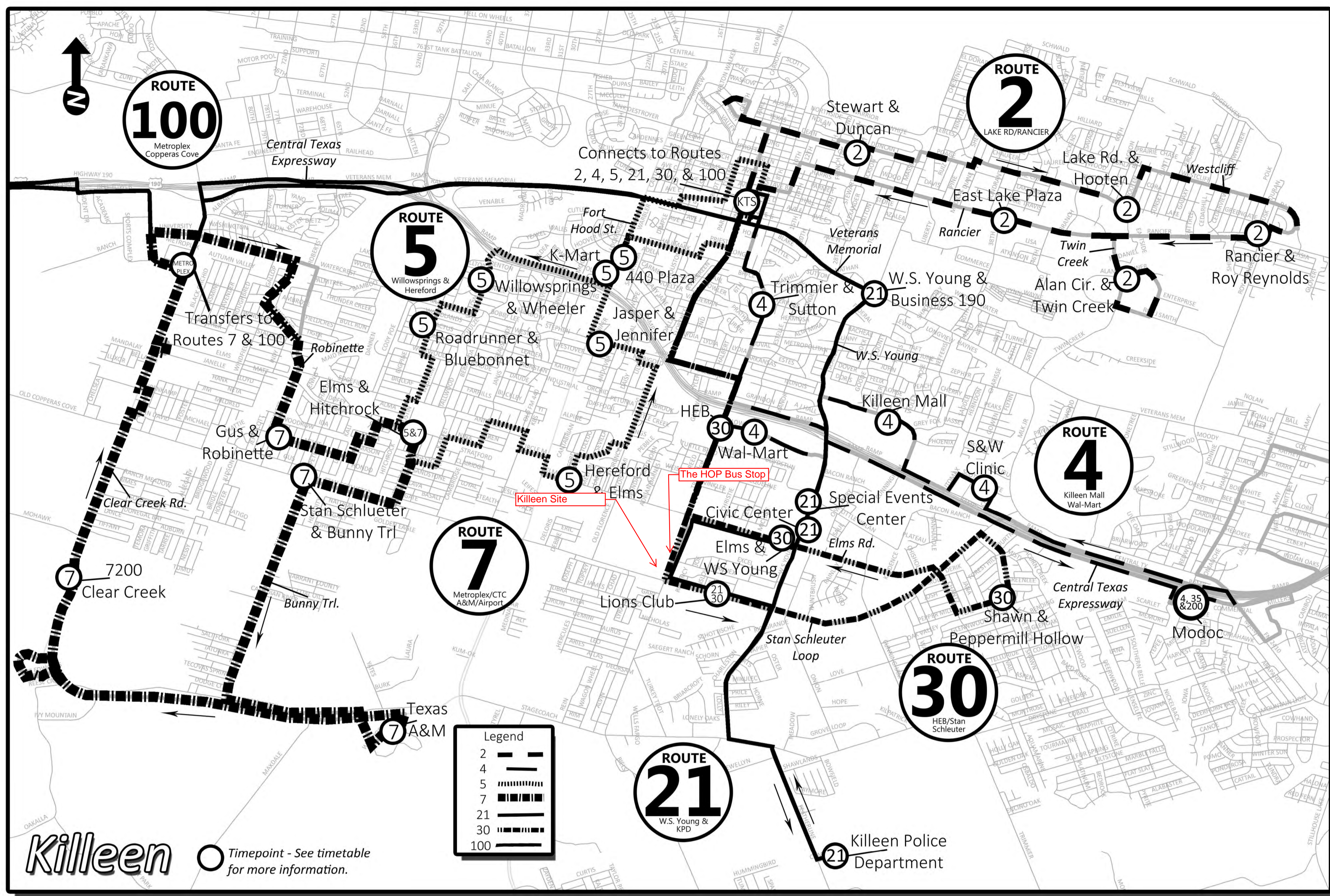
The local time is:
12:19:58 pm

Inclement Weather:

Thanks to KWTX in Waco, the following link has been provided in order to notify our passengers of any service delays: [KWTX Closings](#)

Mission Statement

Hill Country Transit District, a political subdivision of the State of Texas, is a regional transit system whose mission is to build, refine, and operate a safe, dependable, and effective transportation network that provides mobility, improves the quality of life, and stimulates economic development through the provision of rural, urban fixed route, and ADA complementary paratransit service for citizens and visitors of the Central Texas area.



2 - LAKE RD / RANCIER AVE - KILLEEN

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
5:42	5:50	6:58	6:15	6:15	6:22	6:33	6:42
6:42	6:50	7:58	7:15	7:15	7:22	7:33	7:42
7:42	7:50	8:58	8:15	8:15	8:22	8:33	8:42
8:42	8:50	9:58	9:15	9:15	9:22	9:33	9:42
9:42	9:50	10:58	10:15	10:15	10:22	10:33	10:42
10:42	10:50	11:58	11:15	11:15	11:22	11:33	11:42
11:42	11:50	12:58	12:15	12:15	12:22	12:33	12:42
12:42	12:50	1:58	1:15	1:15	1:22	1:33	1:42
1:42	1:50	2:58	2:15	2:15	2:22	2:33	2:42
2:42	2:50	3:58	3:15	3:15	3:22	3:33	3:42
3:42	3:50	4:58	4:15	4:15	4:22	4:33	4:42
4:42	4:50	5:58	5:15	5:15	5:22	5:33	5:42
5:42	5:50	-	-	5:55	5:58	6:03	6:15

SATURDAY SERVICE

4 - KILLEEN MALL / WAL-MART - KILLEEN

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
5:55	6:00	6:10	6:15	6:15	6:25	6:45	6:55
6:55	7:00	7:10	7:15	7:15	7:25	7:45	7:55
7:55	8:00	8:10	8:15	8:15	8:25	8:45	8:55
8:55	9:00	9:10	9:15	9:15	9:25	9:45	9:55
9:55	10:00	10:10	10:15	10:15	10:25	10:45	10:55
10:55	11:00	11:10	11:15	11:15	11:25	11:45	11:55
11:55	12:00	12:10	12:15	12:15	12:25	12:45	12:55
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1:55	2:00	2:10	2:15	2:15	2:25	2:45	2:55
2:55	3:00	3:10	3:15	3:15	3:25	3:45	3:55
3:55	4:00	4:10	4:15	4:15	4:25	4:45	4:55
4:55	5:00	5:10	5:15	5:15	5:25	5:45	5:55
5:55	6:00	6:10	6:15	6:15	6:25	6:45	-

SATURDAY SERVICE

5 - WILLOWSPRINGS RD & HERFORD - KILLEEN

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
5:30	5:36	5:50	5:58	6:15	6:15	6:22	6:25
6:30	6:36	6:50	6:58	7:15	7:15	7:22	7:25
7:30	7:36	7:50	7:58	8:15	8:15	8:22	8:25
8:30	8:36	8:50	8:58	9:15	9:15	9:22	9:25
9:30	9:36	9:50	9:58	10:15	10:15	10:22	10:25
10:30	10:36	10:50	10:58	11:15	11:15	11:22	11:25
11:30	11:36	11:50	11:58	12:15	12:15	12:22	12:25
12:30	12:36	12:50	12:58	1:15	1:15	1:22	1:25
1:30	1:36	1:50	1:58	2:15	2:15	2:22	2:25
2:30	2:36	2:50	2:58	3:15	3:15	3:22	3:25
3:30	3:36	3:50	3:58	4:15	4:15	4:22	4:25
4:30	4:36	4:50	4:58	5:15	5:15	5:22	5:25
5:30	5:36	5:50	-	5:55	5:58	6:03	6:15

SATURDAY SERVICE

7 - METROPLEX / CTC / A&M / AIRPORT - KILLEEN

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
5:44	5:50	5:56	6:08	6:08	6:39	6:55	-
6:55	6:56	6:56	7:08	7:08	7:39	7:55	-
7:44	7:50	7:56	8:08	8:08	8:39	8:55	-
8:44	8:50	8:56	9:08	9:08	9:39	9:55	-
9:44	9:50	9:56	10:08	10:08	10:39	10:55	-
10:44	10:50	10:56	11:08	11:08	11:39	11:55	-
11:44	11:50	11:56	12:08	12:08	12:39	12:55	-
12:44	12:50	12:56	1:08	1:08	1:39	1:55	-
1:44	1:50	1:56	2:08	2:08	2:39	2:55	-
2:44	2:50	2:56	3:08	3:08	3:39	3:55	-
3:44	3:50	3:56	4:08	4:08	4:39	4:55	-
4:44	4:50	4:56	5:08	5:08	5:39	5:55	-

NO SATURDAY SERVICE

21 - W.S. YOUNG - KILLEEN

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
5:45	5:50	5:55	6:05	6:15	6:15	6:20	6:30
6:45	6:50	6:55	7:05	7:15	7:15	7:20	7:30
7:45	7:50	7:55	8:05	8:15	8:15	8:20	8:30
8:45	8:50	8:55	9:05	9:15	9:15	9:20	9:30
9:45	9:50	9:55	10:05	10:15	10:15	10:20	10:30
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11:45	11:50	11:55	12:05	12:15	12:15	12:20	12:30
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3:45	3:50	3:55	4:05	4:15	4:15	4:20	4:30
4:45	4:50	4:55	5:05	5:15	5:15	5:20	5:30
5:45	5:50	5:55	6:05	6:15	-	-	-

SATURDAY SERVICE

30 - HEB/STAN SCHLEUTER - KILLEEN

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
5:45	5:57	6:03	6:15	6:15	6:25	6:31	6:45
6:45	6:57	7:03	7:15	7:15	7:25	7:31	7:45
7:45	7:57	8:03	8:15	8:15	8:25	8:31	8:45
8:45	8:57	9:03	9:15	9:15	9:25	9:31	9:45
9:45	9:57	10:03	10:15	10:15	10:25	10:31	10:45
10:45	10:57	11:03	11:15	11:15	11:25	11:31	11:45
11:45	11:57	12:03	12:15	12:15	12:25	12:31	12:45
12:45	12:57	1:03	1:15	1:15	1:25	1:31	1:45
1:45	1:57	2:03	2:15	2:15	2:25	2:31	2:45
2:45	2:57	3:03	3:15	3:15	3:25	3:31	3:45
3:45	3:57	4:03	4:15	4:15	4:25	4:31	4:45
4:45	4:57	5:03	5:15	5:15	5:25	5:31	5:45
5:45	5:57	6:03	6:15	6:15	6:25	6:31	6:45

SATURDAY SERVICE

35 - HARKER HEIGHTS LOOP

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
6:20	6:33	6:45	6:45	6:50	7:05	7:20	-
7:20	7:33	7:45	7:45	7:50	8:05	8:20	-
8:20	8:33	8:45	8:45	8:50	9:05	9:20	-
9:20	9:33	9:45	9:45	9:50	10:05	10:20	-
10:20	10:33	10:45	10:45	10:50	11:05	11:20	-
11:20	11:33	11:45	11:45	11:50	12:05	12:20	-
12:20	12:33	12:45	12:45	12:50	1:05	1:20	-
1:20	1:33	1:45	1:45	1:50	2:05	2:20	-
2:20	2:33	2:45	2:45	2:50	3:05	3:20	-
3:20	3:33	3:45	3:45	3:50	4:05	4:20	-
4:20	4:33	4:45	4:45	4:50	5:05	5:20	-
5:20	5:33	5:45	5:45	5:50	6:05	6:20	-
6:20	6:33	6:45	6:45	6:50	7:05	7:20	-

NO SATURDAY SERVICE

65 - COPPERAS COVE LOOP

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
6:59	7:16	7:26	7:45	6:45	6:52	6:59	-
7:59	8:16	8:26	8:45	7:45	7:52	7:59	-
8:59	9:16	9:26	9:45	8:45	8:52	8:59	-
9:59	10:16	10:26	10:45	9:45	9:52	9:59	-
10:59	11:16	11:26	11:45	10:45	10:52	10:59	-
11:59	12:16	12:26	12:45	11:45	11:52	11:59	-
12:59	1:16	1:26	1:45	1:45	1:52	1:59	-
2:59	3:16	3:26	3:45	2:45	2:52	2:59	-
3:59	4:16	4:26	4:45	3:45	3:52	3:59	-
4:59	5:16	5:26	5:45	4:45	4:52	4:59	-
5:59	6:16	6:26	6:45	5:45	5:52	5:59	-

NO SATURDAY SERVICE

100 - METROPLEX / COPPERAS COVE

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
6:45	6:57	7:15	7:15	6:27	6:45	-	-
7:45	7:57	8:15	8:15	7:27	7:45	-	-
8:45	8:57	9:15	9:15	8:27	8:45	-	-
9:45	9:57	10:15	10:15	9:27	9:45	-	-
10:45	10:57	11:15	11:15	10:27	10:45	-	-
11:45	11:57	12:15	12:15	11:27	11:45	-	-
12:45	12:57	1:15	1:15	1:27	1:45	-	-
1:45	1:57	2:15	2:15	2:27	2:45	-	-
2:45	2:57	3:15	3:15	3:27	3:45	-	-
3:45	3:57	4:15	4:15	4:27	4:45	-	-
4:45	4:57	5:15	5:15	5:27	5:45	-	-
5:45	5:57	6:15	-	6:15	6:27	6:45	-

NO SATURDAY SERVICE

200 - CONNECTOR

INBOUND				OUTBOUND			
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
-	-	6:20	6:45	6:45	6:50	7:10	7:35
-	-	7:40	8:10	8:10	8:45	8:45	9:10
-	-	9:40	10:10	10:20	10:45	10:4	



The Hop Bus Stop

Killeen Site

© 2016 Europa Technologies
© 2016 Google

Google Earth

The Meadows Gallery

2 Miles Non-Profit Museum

The Meadows Gallery

Located at the Vive Les Arts Lobby, the gallery features art pieces created by our local artists and local arts organizations.

Killeen Civic Art Guild

Mission Statement:

The purpose for which this corporation is formed is to stimulate and encourage artistic endeavor and a general interest in art and crafts in the greater Killeen, Texas area, to provide an association for artists, craftsmen, and laymen of varying skills, styles, schools, and interests in the arts, and to sponsor art shows and exhibits for the general public.

Studio hours are Monday and Thursday, 5-8pm, Saturday 10am-2pm, our general membership meetings are the third Monday of the month and we host several workshops, contests, art challenges and other fun events throughout the year.

Location: 802 N 2ND ST, Suite D Killeen, Texas 76541-4711

***If you are a local artist looking to showcase your talents in our gallery, please email traci@vlakilleen.org or call 254-526-9090!*

Mission Statement

Vive Les Arts is a non-profit 501C3 community theatre in Killeen, one hour northwest of Austin, Texas. We provide quality, live performance, programming for adults and families year around. We have been an established community organization since 1976 and continue to enrich our community with cultural arts.

Our Mission:

The VIVE LES ARTS SOCIETE is dedicated to excellence in the fine arts and to enriching the cultural experience of the citizens of Central Texas through quality presentations.

The Vive Les Arts Season is supported by funds from the City of Killeen Arts Commission and a grant from the Texas Commission on the Arts. Vive Les Arts Societe is a non-profit 501(c)3 corporation founded in 1976 for the support of the arts in the Greater Killeen area.



17331

Applicant Appeal to
Executive Director



**MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application**

Appeal Election Form: 17331, Westwind of Killeen

Note: If you do not wish to appeal this notice, do not submit this form.

I am in receipt of my 2017 scoring notice and am filing a formal appeal to the Executive Director on or before Wednesday, July 5, 2017.

If my appeal is denied by the Executive Director:

- I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.
- I do not wish to appeal to the Board of Directors.

Signed *Kelly Barrett*

Title *applicant*

Date *7-5-17*

**Please email to Sharon Gamble:
<mailto:sharon.gamble@tdhca.state.tx.us>**

SALEM | CLARK

July 5, 2017

Via Email

Timothy Irvine, Esq.
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78711

Re: Appeal: TDHCA #17331; Westwind of Killeen, Killeen, Texas

Dear Mr. Irvine:

SCF Killeen 17, LP (“Project Owner”) submitted a competitive housing tax credit application (the “Application”) to develop Westwind of Killeen (the “Project”) on a site located in Killeen, Texas (the “Development Site”). I have been requested by Kelly Garrett, President of the general partner of the Project Owner, to appeal the conclusions of a revised Scoring Notice (the “Scoring Notice”) issued by the Texas Department of Housing and Community Affairs (“TDHCA”) on June 27, 2017. Particularly, Project Owner appeals the denial of points claimed for Opportunity Index amenities under Section 11.9(c)(4)(B)(i) of the Qualified Allocation Plan (“QAP”) that are being used for Tie-Breaker purposes pursuant to Section 11.7 of the QAP. A copy of the Scoring Notice is attached hereto as **Exhibit “A”**.

TDHCA Staff (“Staff”) claims that the Project Owner is ineligible for points associated with the Development Site’s proximity to the following Opportunity Index amenities:

1. Museum- Meadows Gallery at Vive Les Arts

Section 11.9(c)(4)(B)(i)(X) of the QAP awards one (1)-point if the Development Site is located within 2 miles of:

“a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition conservation, study, exhibition and educational interpretation of objects having scientific, historical, or artistic value.”

The Project Owner provided evidence in the Application of Meadow Gallery at Vive Les Arts, a museum located within 2 miles of the Development Site. The Scoring Notice states that Vive Les Arts does not meet the QAP requirements for a museum with no further discussion. Based on a determination notice from TDHCA dated June 22, 2017 (the “Determination Notice”) relating to Third Party Requests for Administrative Deficiencies (“RFAD”) that predated the Scoring Notice, Staff stated that the museum does not meet the requirements of the QAP because the “organization’s primary purpose is *“live theatrical performance”* and the artwork displayed is *“ancillary to that purpose”*. A copy of the Determination Notice is attached hereto as **Exhibit “B”**.

In a letter from the City of Killeen to TDHCA dated June 6, 2017 (the “City Confirmation Letter”) made a part of the Project Owner’s response to the Administrative Deficiency Notice dated June 8, 2017 requesting information relating to the RFADs (the “RFAD Response”), the City confirmed that The

Meadows Gallery at Vive Les Arts is a museum, and that the facility is dedicated to the arts. The City of Killeen also stated that such art exhibits are not “*ancillary, but an integral part*” of the Vive Les Arts mission in the community. The artwork is available to be viewed Tuesday through Thursday 9am-5pm and attached as **Exhibit “C”** are advertisements and social media postings related to exhibitions at The Meadows Gallery at Vive Les Arts. As set forth on its website and in the Application, the mission statement of Vive Les Arts is as follows:

“The VIVE LES ARTS SOCIETE is dedicated to excellence in the fine arts and to enriching the cultural experience of the citizens of Central Texas through quality presentations.”

There is nothing in either the mission statement or the City Confirmation Letter that would lead to Staff’s conclusion that the museum’s primary purpose is “*live theatrical performance*” or that the artwork displayed is “*ancillary to that purpose*”. A copy of the City Confirmation Letter is attached hereto as **Exhibit “D”** and a copy of the RFAD Response is attached hereto as **Exhibit “E”**. For the reasons stated, I respectfully request on behalf of the Project Owner your reconsideration of Staff’s denial of one (1)-point for having a Development Site within 2-miles of a museum, as defined in Section 11.9(c)(4)(B)(i)(X) of the QAP.

2. Library – Lions Club Senior Center Library at Lions Club Park

Section 11.9(c)(4)(B)(i)(VII) of the QAP awards one (1)-point if the Development Site is located within 1 mile of “*a public library*”.

The Scoring Notice states that the library is not a public library. As confirmed by the City of Killeen in the City Confirmation Letter the Senior Center Library at Lions Club Park is “*free*” and “*open to the public*”. The only restriction is that the public library is available to anyone who is 55 years or older or married to anyone 55 years or older. There is nothing in the QAP or Multifamily Rules that includes restrictions on the age of persons using any of the Opportunity Index amenities. Several applicants have used age restricted amenities and Staff has accepted these public facilities in spite of any applicable age restrictions. This same reasoning should apply to a public library.

The City of Killeen views this facility as a public library as stated in the City Confirmation Letter, and in the newspaper article attached as **Exhibit “F”** as well as stated in the RFAD Response. The Library has regular hours with books available for check-out, computers for internet access as well as a place to read and enjoy the books available. For the reasons stated, I respectfully request on behalf of the Project Owner your reconsideration of Staff’s denial of one (1)-point for having a Development Site within 1-miles of a public library as defined in Section 11.9(c)(4)(B)(i)(VII) of the QAP.

3. Accessible Route to Public Park – Lions Club Park

Section 11.9(c)(4)(B)(i)(I) of the QAP awards one (1)-point if the Development Site is located “less than ½ mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards.” The Scoring Notice states that the Department has determined that “*the accessible route to the park has not been proven, as the Applicant cannot promise to build the sidewalk on property not controlled by the Applicant.*”

Timothy Irvine, Esq.
Executive Director, TDHCA
#17331-Appeal
July 5, 2017
Page -3-

SALEM | CLARK

As set forth in the Application and reconfirmed by Quintero Engineering, LLC in the RFAD Response the route to Lions Club Park is accessible. Furthermore, the Project Owner acknowledged in the Application that a 100 ft. section of the accessible route is incomplete and provided a letter from the owner of the land containing the missing section (the "Accessible Route Letter"). The Accessible Route Letter grants permission to the Project Owner to install a sidewalk across his property that will connect to the existing sidewalks to provide an ADA accessible path. A copy of the Accessible Route Letter is attached as **Exhibit "G"**. The Project Owner also obtained a letter from a local engineer confirming the route using the sidewalk as well as an accessible route using HOP Fixed Route Public Transportation available to Lions Club Park. The Engineer's letter that was supplied as part of the RFAD Administrative Deficiency Response is attached as **Exhibit "H"** For the reasons stated, I respectfully request on behalf of the Project Owner your reconsideration of Staff's denial of one (1)-point for having a Development Site within 1/2-miles on an accessible route from a public park, as defined in Section 11.9(c)(4)(B)(i)(I) of the QAP.

4. Accessible Route from Public Transportation – the HOP

Section 11.9(c)(4)(B)(i)(II) of the QAP awards one (1)-point if the Development Site is located less than ½ mile on an accessible route from:

"Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service."

The HOP Bus Stop adjacent to our site provides Saturday service which we believe should qualify as weekend service and would follow the requirements set forth in the QAP. For the reasons stated, I respectfully request on behalf of the Project Owner your reconsideration of Staff's denial of one (1)-point for having a Development Site within 1/2-mile on an accessible route from Public Transportation, as defined in Section 11.9(c)(4)(B)(i)(II) of the QAP.

As you are aware, these appeals may be granted by you as the Executive Director. If you determine that one or more of these request should be denied, then the Project Owner hereby requests that your decision be appealed to the Board and that this letter be made the basis for the appeal of your decision for consideration at the next Board meeting scheduled for July 13, 2017.

Very truly yours,



Kelly Garrett

Schedule of Exhibits (A-H)

John Shackelford (via email)
Donna Rickenbacker (via email)
Dru Childre (via email)
Marni Gamble (via email)
Sharon Gamble (via email)

Exhibit A



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Kelly Garrett

Phone #: (903) 450-1520

Email: kelly@salemclark.com

Second Email: dru@dharmadevelop.com

Date: June 27, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2017 Competitive Housing Tax Credit (HTC) Application for Westwind of Killeen, TDHCA Number:
17331**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - REVISED 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17331, Westwind of Killeen

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	122
Difference between Requested and Awarded:	0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
--	---

Section 4:

Final Score Awarded to Application by Department staff:	155
--	------------

Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

NA

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. Vive Les Arts does not meet the QAP requirements for a museum; the library at the Lions Club is not a public library; accessible route to the park has not been proven, as the Applicant cannot promise to build a sidewalk on property not controlled by the Applicant; public transportation service does not meet the requirements as there is no Sunday service. (Items Selected 8, Items Qualified 4)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Wednesday, July 5, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon Gamble

Sharon Gamble
 9% Competitive HTC Program Administrator

Exhibit B



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, *Member*
Asusena Reséndiz, *Member*
Sharon Thomason, *Member*
Leo Vasquez, *Member*

June 22, 2017

Writer's direct phone # (512) 475-1676
Email: marni.holloway@tdhca.state.tx.us

Kelly Garrett
Salem Clark
7801 Jack Finney Blvd, Ste101
Greenville, TX 75402

RE: REQUESTS FOR ADMINISTRATIVE DEFICIENCY: 17331 WESTWIND OF KILLEEN

Dear Kelly Garrett:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of three Third Party Requests for Administrative Deficiency ("RFAD") requesting that the Department review the Application above to determine whether it should be awarded three tie-breaker items under 10 TAC §11.9(c)(4), related to Opportunity Index. The request asserts that the Application did not contain sufficient documentation of several community assets used to claim the tie-breakers. Consistent with similar decisions made by the Department's Governing Board at its May 25, 2017, meeting an Administrative Deficiency was determined to be appropriate for the Application. The Department issued a deficiency notice on June 5, 2017, and the response was received timely.

After reviewing the response, the Department has determined that the Boys and Girls Club qualifies as outdoor recreation as the rules do not include restrictions on the age of persons using the amenity, and the HEB grocery store qualifies as amenities under significant construction at the time of application, and may be allowed. In this case, the store is built and operating.

Regarding the museum amenity, the Department has determined that Vive Les Arts does not meet the QAP requirements for a museum as the organization's primary purpose is "live theatrical performance" and the artwork displayed is ancillary to that purpose. The Department has determined that the library at the Lions Club is not a public library, and the accessible route to the park has not been proven, as the Applicant cannot promise to build a sidewalk on property not controlled by the Applicant. Since the rules require that public transportation be available on weekends (i.e. Saturday and Sunday) the service does not meet this requirement as there is no Sunday service.



I find that the response clearly demonstrated that the Application qualifies for two of the tie-breakers in question. While the RFAD process does not include a mechanism by which an Applicant can appeal this decision, you will be issued a revised scoring notice that does include such. For purposes of the request, the matter is considered closed. If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', with a long horizontal flourish extending to the right.

Marni Holloway
Multifamily Division Director

Cc: Robert Picerne
Henry Flores
Lisa Stephens

Exhibit C

Reflections of a Fiber Artist

by Pauline Barrett

Vive Les Arts Theatre – Exhibit

FEB 4

Posted by [paulinebarrettfineartquilts](#)

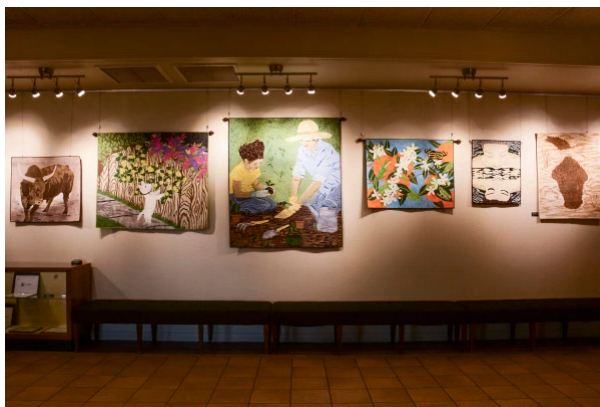
I was invited by the Vive Les Arts Theatre in Killeen, Texas to exhibit my art for the grand opening of the Mucisal “Beehive”. Opening night is February 6th, 2015 at 7pm.



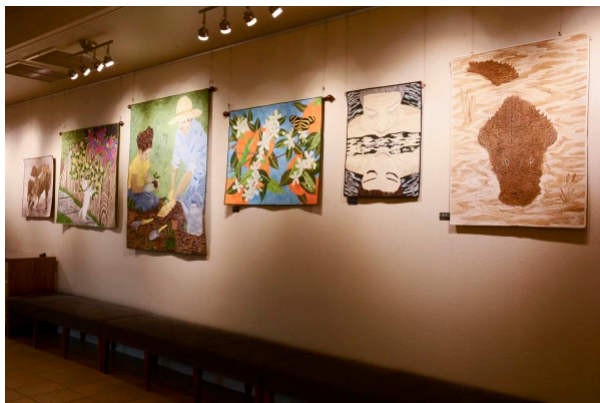
<https://reflectionsofافیberartist.files.wordpress.com/2015/02/vive-les-arts-theatre.jpg>



https://reflectionsofافیberartist.files.wordpress.com/2015/02/quilts_vla_3.jpg



https://reflectionsofafiberartist.files.wordpress.com/2015/02/quilts_vla_2.jpg



https://reflectionsofafiberartist.files.wordpress.com/2015/02/quilts_vla_1.jpg

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Posted on February 4, 2015, in [Uncategorized](#) and tagged [art exhibit](#), [art show](#), [exhibit](#), [fiber art](#), [fiber art exhibit](#), [fiber artist](#), [fine art quilt exhibit](#), [fine art quilter](#), [fine art quilts](#), [killeen artist](#), [killeen quilter](#), [Killeen texas exhibit](#), [pauline barrett](#), [quilt](#), [quilt exhibit](#), [Texas artist](#), [Texas exhibit](#), [theatre](#), [Vive Les Arts Theatre](#). Bookmark the [permalink](#). [1 Comment](#).

○ **Leave a comment**

○ **Comments 1**

Essie Maduro | February 4, 2015 at 1:05 pm

http://kdhnews.com/living/arts_and_entertainment/artist-s-work-on-display-at-vla/article_6ee1f226-6c42-528e-871d-dc24e185ddd0.html

Artist's work on display at VLA

Colleen Flaherty The Killeen Daily Herald Sep 24, 2010

By Colleen Flaherty

Killeen Daily Herald

Painter Sally Grasse-Fanto Williams has devoted most of her artistic life to art instruction, but starting today she's showing her own work at Vive Les Arts Theatre's Meadows Gallery.

The show features 11 works, mostly ethereal but natural watercolors, including one 40-foot-long painting called "Texas Garden of Eden Guarded by Two Angels."

"I painted that because I was sitting on my back porch drinking coffee," said the artist, whose "painting name" is Grasse-Fanto. "My husband came out and said, 'What are you doing?' and I told him, 'I see a painting.'"

"He said, 'Why don't you paint it?'" she recounted, laughing.

One hundred hours of work and several hundred dollars of paint later, she had her painting. It fills an entire gallery wall.

Other natural scenes fill the opposing wall.

"I'm primarily a landscape painter," she said. "I'm an outdoor person."

One of her paintings features a scene from a dream she once had, however.

That painting, "The Soldier's Dream," features a dove flying toward the heavens.

"I paint what I see," she said. "It's about a Texas soldier."

Grasse-Fanto, a Pennsylvania native who moved around the country with her first, now deceased husband, spent most of her life teaching art.

She doesn't believe that art is beyond anyone's reach, as all children are artists, she said.

"Have you ever heard a child say, 'I don't paint?'" she asked.

All that's required is stimulation of the creative mind, she said.

"Once you put paint on a canvas," she said, "it starts becoming part of you."

Grasse-Fanto settled in Killeen late last year with her second husband and has already taught adult education and children's art classes at Central Texas College.

Vive Les Arts Director Eric Shephard saw Grasse-Fanto's work this summer and asked her to show it at the Meadows Gallery at Vive Les Arts Theatre.

"There was a real natural quality about it," said Shephard, who wants to feature more regional artists in the gallery. "It was appealing to me in its simplicity."

"Even though she's a trained artist, there's a quality in the art that makes it seem like folk art," he added.

Grasse-Fanto was flattered.

"I'm in awe that I was even asked," she said, "because artists go through an entire life and nobody recognizes them."

Grasse-Fanto's show opens tonight at Vive Les Arts, with a reception from 5:30 to 7.

Contact Colleen Flaherty at colleenf@kdhnews.com or (254) 501-7559. Follow her on Twitter at [KDHfeatures](#).

Art Exhibit Event

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Art Showing at Vive Les Arts

[+ Create Event](#)



NOV 26 **Art Showing at Vive Les Arts**
Public · Hosted by Krysta Lyssy Art

 November 26, 2016 – December 10, 2016
Nov 26, 2016 at 10 PM to Dec 10, 2016 at 5 PM

 **Vive Les Arts Theatre** [Show Map](#)
3401 S W S Young Dr, Killeen, Texas 76542

[About](#) [Discussion](#)

Art Exhibit Event

Map > Five Hills Art Guild > VLA Art Reception



PROMOTE THIS EVENT

FIND TICKETS
tickets.vendini.com

Vive Les Arts Theatre
3401 S W S Young Dr, Killeen, 76542, TX, United States

Leaflet | © OpenStreetMap Contributors

PLACES TO STAY

Art Exhibit Event



ABSTRACT



EYE



THE

👑 **VLA EXHIBITION FOR BLACK HISTORY MONTH** 👑

TIME: February 3rd to March of 2012

ART EXHIBITION, ART, ETHNIC MASKS AND DOLLS ON DISPLAY, ALL OF FEBRUARY TILL THE FIRST WEEK OF MARCH 2012.

LOCATION: VLA (Vive Les Arts Theatre)

**3401 South W.S. Young Drive
Killeen, TX (76542)**

What: Art exhibit

**Where: Vive Les Arts Theatre, 3401 S. W.S. Young Drive,
Killeen.**

When: 9 a.m. to 5 p.m. Tuesday and Friday. The exhibit is open to the public when the theater opens for shows, typically at 7 p.m. Fridays and Saturdays and 2 p.m. Sundays.

More information: (254) 526-9090.

Exhibit D



**CITY OF KILLEEN
COMMUNITY DEVELOPMENT**

June 6, 2017

Marni Holloway
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

RE: Application #17331 Westwind of Killeen, Located in Killeen, Texas

Dear Ms. Holloway:

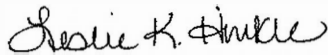
The applicant for Westwind of Killeen has requested that I confirm the validity of their opportunity index amenities as it relates to their application for 2017 tax credit funding. I have reviewed the administrative deficiency issued by the department on June, 5th 2017 and my responses are found below.

1. The Meadows Gallery at Vive Les Arts- The Applicant submitted The Meadows Gallery at Vive Les Arts which displays art by local artists and is overseen by the Killeen Civic Arts Guild. The art work displayed is usually corresponding to the live theater performances that are taking place in the theater. The displays rotate regularly and are available to be viewed by the public 9am-5pm Tuesday through Friday. Vive Les Arts is an entire building dedicated to the arts, including live performances and artist exhibitions. This should qualify as a museum under the QAP because the exhibition of artwork is not ancillary, but an integral part of Vive Les Arts mission in the community.
2. Lions Club Senior Center Library at Lions Club Park- The Applicant submitted the Senior Center Library at Lions Club Park as a public library. This facility is free and available to anyone who is 55 years or older or married to anyone 55 years or older. There are books available to be checked out as well as computers for public use. Although there is an age restriction this library is open to the public and an important resource to our community.
3. Accessible Route to Lions Club Park-The Applicant has stated they will provide an engineer's letter stating this route is ADA accessible.
4. Boys and Girls Club- The Applicant submitted The Boys and Girls Club as an outdoor recreation facility. The Boys and Girls Club provides various outdoor activities for the children of Killeen. There is a membership fee of \$20/year but there are no further requirements. Anyone in the general public can enroll their children in the Boys and Girls Club. Outdoor activities available at the Boys and Girls Club include Flag Football Leagues, a playground and cheerleading programs. While many of the programs are age restricted to children, there are many ways for adults to participate such as volunteering in the afternoons or coaching in the various leagues. As the Applicant is proposing a Family deal in Killeen we believe this is a great Outdoor Recreation facility for the children of future tenants and a great way for the public to be involved.

5. Weekend Public Transportation-The Applicant's proposed development site is situated at the corner of Trimmier Rd and Stan Schlueter Loop adjacent to the Route 30 Bus Stop. The Route 30 bus runs Monday through Saturday and provides fixed route service throughout Killeen. This particular bus route provides weekend service.
6. HEB Grocery Store-The HEB grocery store located on Stan Schlueter Loop that the Applicant submitted is open and operating. A grand opening was held on April 21, 2017.

The City of Killeen supports Westwind of Killeen and we are available to answer any questions you may have regarding these amenities or any other matters. Feel free to contact me at 254-501-7847 or via email at lhinkle@killeentexas.gov.

Regards,



Leslie K. Hinkle
Executive Director of Community Development

Exhibit E

Marque Real Estate Consultants
710 North Post Oak Road, Suite 400
Houston, TX 77024
(713) 560-0068 – p
(713) 583-8858 – f
donna@marqueconsultants.com

June 8, 2017

Via Serv-U Portal

Nicole Fisher
Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: TDHCA No. 17331-Westwind of Killeen

Dear Nicole,

The following is in response to your Administrative Deficiency Notice dated 06/05/17 for information in connection with your Eligibility/Selection/Threshold review of the above-described application.

1. The requestor states that the Vive Les Arts museum does not qualify. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that the Vive Les Arts Museum qualifies under the QAP and how it qualifies.

Response: See attached letter from the City of Killeen

2. The requestor states that the Lions Club Library is not a public library. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that the Lions Club Library is a public Library.

Response: See attached letter from the City of Killeen

3. The requestor states that there is not accessible route to the park. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that the ½ mile route between the site and the Lions Club Park is accessible.

Response: See attached letter from Quintero Engineering, LLC

4. The requestor states that the Boys/Girls club is for the general public. Provide evidence in the form of a certification from the city or from another professional certified to make such a determination that the Boys/Girls club is for the general public.

Response: See attached letter from the City of Killeen

Nicole Fisher – TDHCA
Application No. 17331
June 8, 2017
Page -2-

5. The requestor states that there is no weekend service for the public transportation. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that public transportation is available on the weekend.

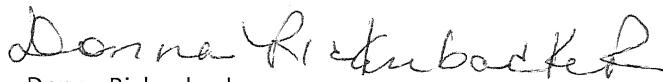
Response: See attached letter from the City of Killeen

6. The requester states that the grocery store is under construction. Provide evidence in the form of a certification from the city or from another professional certified to make such a determination that the HEB is not under construction and/or when it is open for business.

Response: See attached letter from the City of Killeen

Thank you for allowing us the opportunity to clarify the described administrative deficiency. In the event you have any additional questions or comments, please feel free to contact us.

Sincerely,



Donna Rickenbacker

cc: Kelly Garrett (Via Email)
Dru Childre (Via Email)

Exhibit F

http://kdhnews.com/living/director-says-senior-centers-are-killeen-s-best-kept-secret/article_025efeda-d88a-11e3-8f7e-001a4bcf6878.html

TOP STORY

Director says senior centers are Killeen's best-kept secret

Natalie Stewart | Herald staff writer May 11, 2014



Miguel Vasquez lines up his shot during a game of pool at the Lions Club Senior Center on Thursday May 8, 2014.

Buy Now

Bryan Correira | Herald

When people walk through the doors of the Lions Club Park Senior Center, the staff knows them by name. They also know how to say "good morning" to seniors who are from various parts of the world in their native language.

"We're the best-kept secret in Killeen," said Debbie Edwards, senior center manager.

When residents join the center, they gain access to the Lions Club facility and the Bob Gilmore Senior Center, both of which provide a wide array of activities to peak the interest of all seniors.

The centers offer art and pottery classes, exercise classes, computer classes, scrapbooking, dance classes, yoga and tai chi, and knitting and crocheting. There's something for everyone.

"When seniors come through the front door, they leave their status, they leave their infirmities and all their hang-ups at the door," Edwards said. "We're here to have a good time, that's it."

The centers also host games from dominos and bridge to pinochle and bingo. They have weekly billiards tournaments, and are equipped with a fitness room and **a library for people who just want to sit in a quiet place and read a book.**

"All these things keep seniors busy

and active in life," Edwards said. "The most wonderful compliment we receive is that this doesn't feel like a senior center. We don't want it to feel like a senior center. Seniors are still active and participating in life. We're still having fun."

In April, Edwards said more than 4,200 seniors went through the Lions Club center doors.

"As a person ages, they have to re-direct their life. Once a person retires, they feel they have to find meaning," she said. "The healthiest ones are those who get out of the house and get active whether they're volunteering or participating."

Edwards said the elderly have a crucial purpose, and that's to be an example to youth — showing them how to live their lives up until their last breaths.

"We don't age here," she said. "Your body can physically age, but don't let your spirit age. When you stop participating in life, that's when you become old."

The Lions Club Park Senior Center, 1700-B E. Stan Schlueter Loop, is open from 8 a.m. to 4 p.m. Monday through Friday. On Tuesdays, the center stays open until 9:30 p.m. Joining the center is free; the only requirement is that a person be 55 or older. Call 254-501-6399.

The Bob Gilmore Senior Center, 2205 E. Veterans Memorial Blvd., is open from 8 a.m. to 4 p.m. Monday through Friday. Call 254-699-1717.

Contact Natalie Stewart at nstewart@kdhnews.com or 254-501-7555

Natalie Stewart

Exhibit G

February __26____, 2017

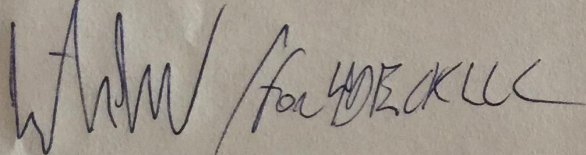
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701
Attn: Tim Irvine
Executive Director – Via Email – tim.irvine@tdhca.state.tx.us

Re: Westwind of Killeen

Dear Mr. Irvine,

As the owner of the land at 1200 E Stan Schlueter and W Stan Schlueter LP Killeen Texas, I am giving SCF Killeen 17, LP permission to install a sidewalk in front of my property that will connect the existing sidewalks to provide an ADA accessible path for pedestrians in the area.

Sincerely,



William D. Morris/4 DECK LLC

cc: Zach Krochtengel – zach@salemclark.com

Exhibit H



June 7, 2017

Marni Holloway
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

RE: Application #17331 Westwind of Killeen, Located in Killeen, Texas

Dear Ms. Holloway:

The applicant for Westwind of Killeen has engaged with our firm to provide professional services to address the validity of the 2010 ADA Accessible Path from their site to Lions Club Park. We reviewed the administrative deficiency issued by the department on June 6th, 2017, and our evaluation determinations are noted below.

Accessible Route to Lions Club Park - There are two known ADA accessible routes from the applicant's subject site located at the northwest corner of the Trimmier Road and Stan Schlueter Loop intersection in Killeen, Texas. The two accessible routes consist of a public transit route and pedestrian sidewalk route as noted below.

The public transit route consists of utilizing a local regional public transit system known as the Hill Country Transit District, The HOP. The HOP currently has two fixed service routes known as Route 21 and Route 30 that have designated bus stops at each site connecting the two sites, please Exhibit A attached. The applicant's site plan reflects that they will connect to the existing sidewalk allowing for an accessible route to the bus stop fronting their site. The HOP's bus service is ADA accessible and the next stop is Lions Club Park. From the bus stop there is an accessible route to the ADA accessible playground. This can be seen in the aerial attached as Exhibit B.

The pedestrian sidewalk route is a public accessible route providing access from the site to the park utilizing existing pedestrian infrastructure consisting of sidewalks, pedestrian signing, striping and signalization at the intersection crossings. There is one portion of sidewalk missing on vacant tract of land that the Applicant has shown they have permission to furnish and construct. If this portion of sidewalk is installed there will be an accessible route available to Lions Club Park. This route can be seen in the aerial attached as Exhibit C.

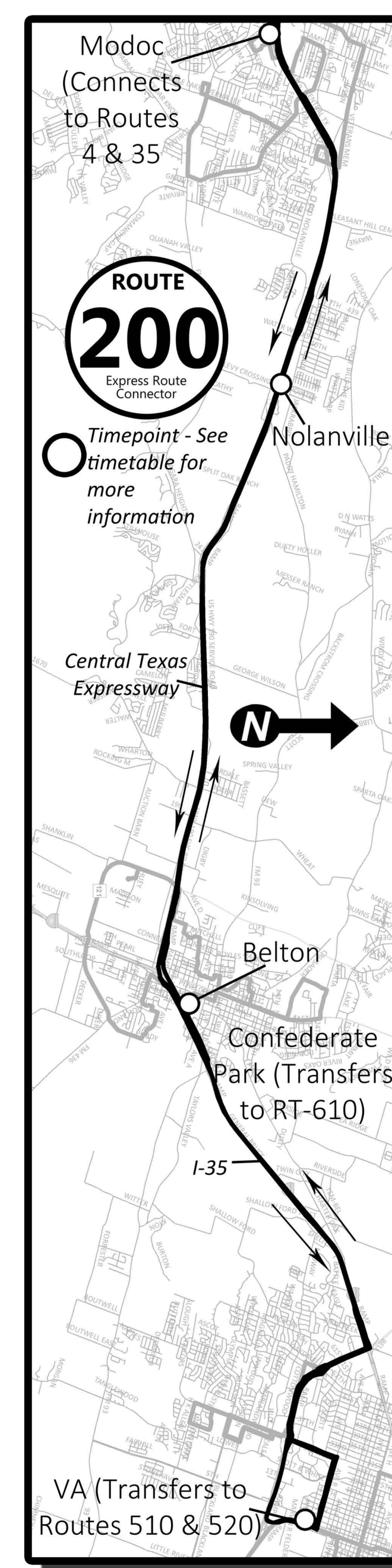
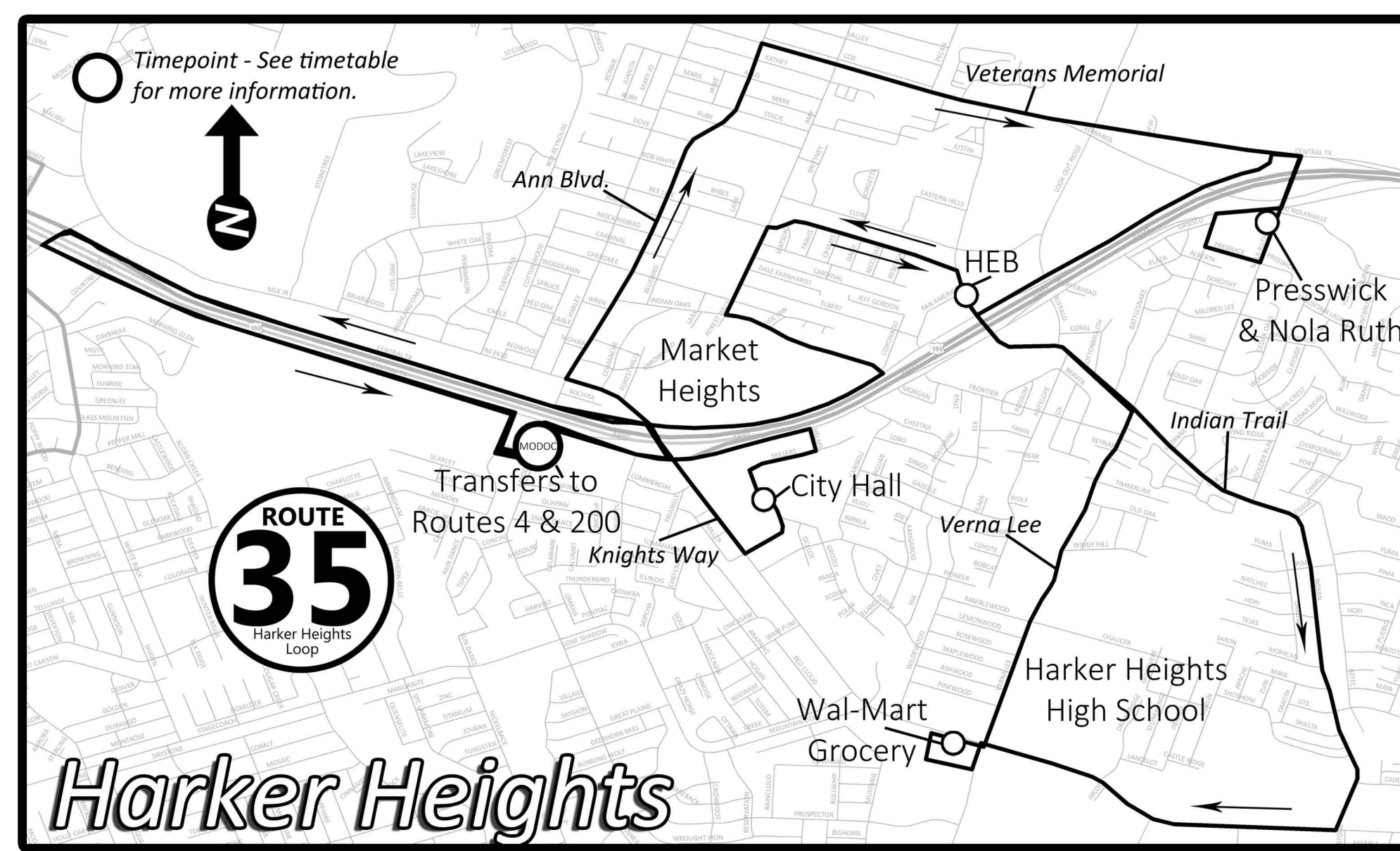
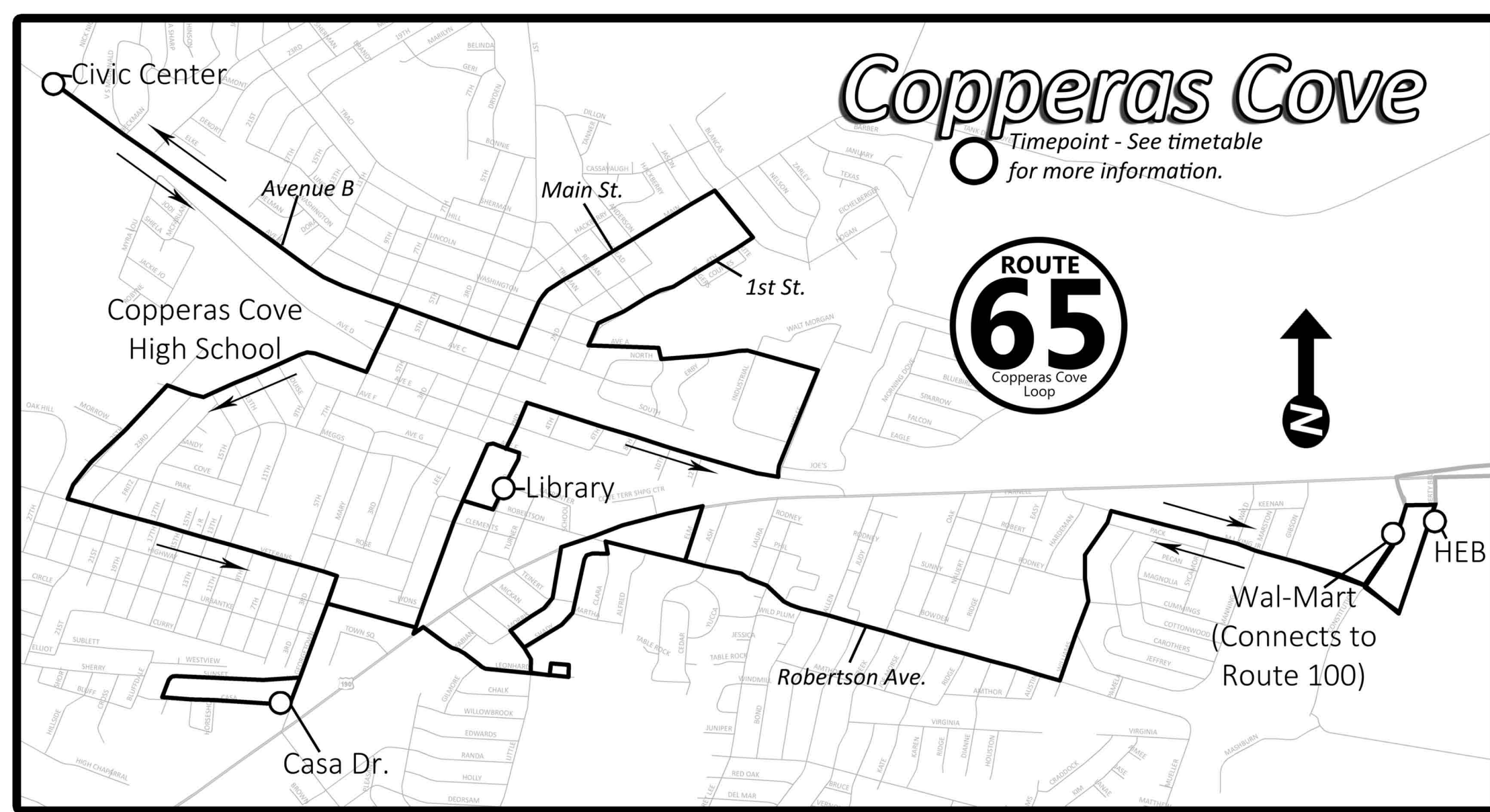
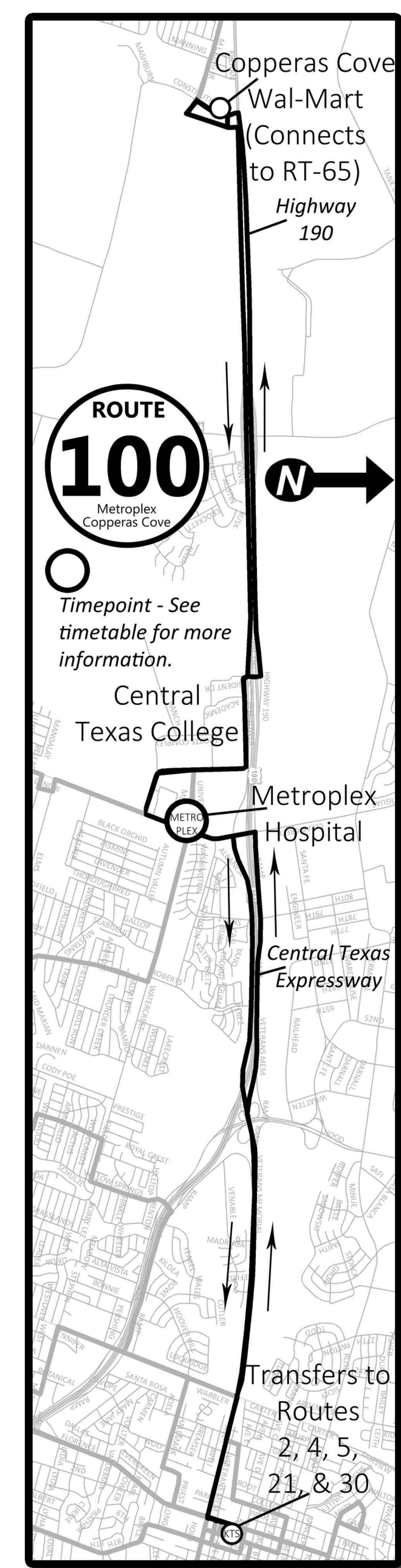
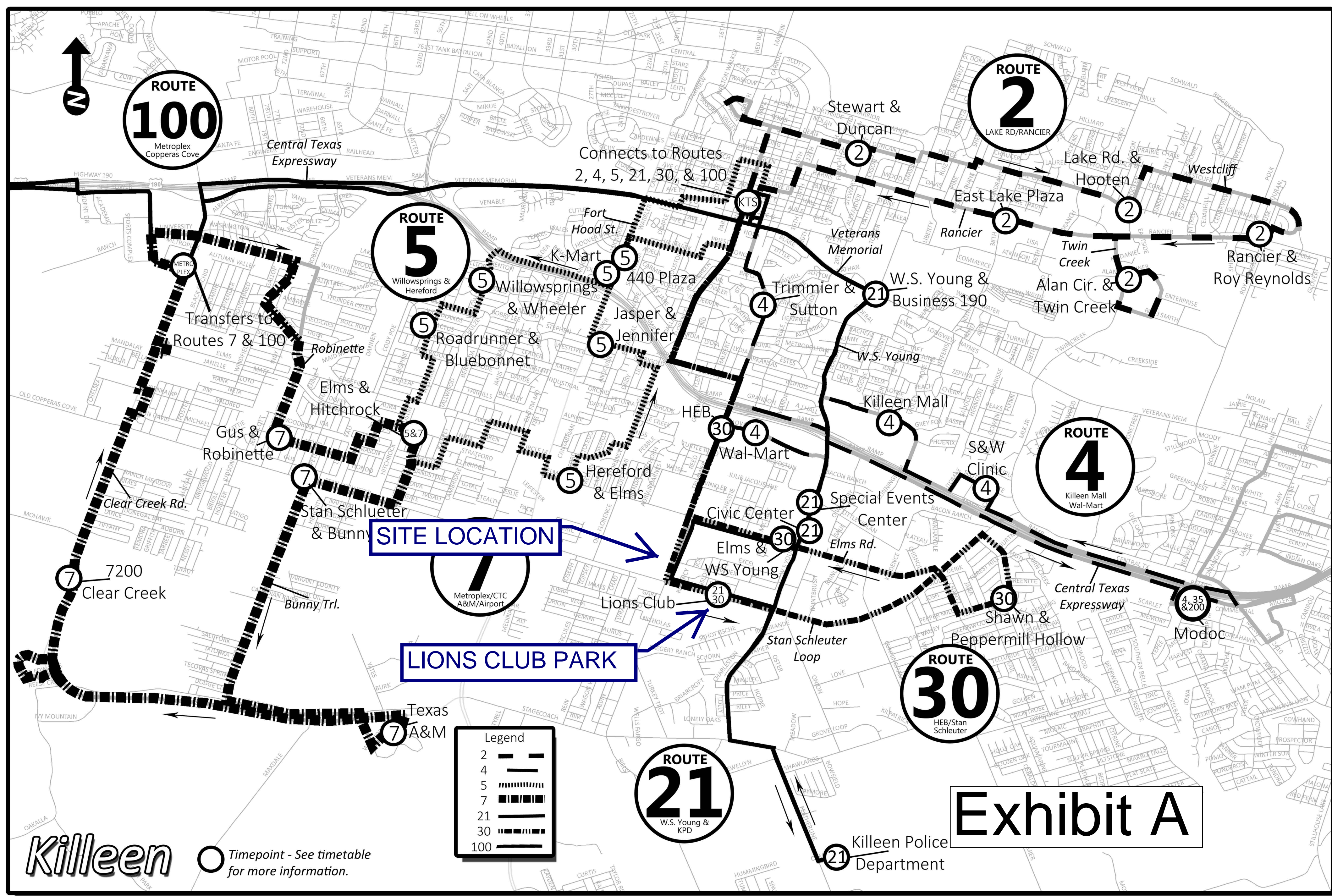
Should you have any questions, please don't hesitate to contact me.

Respectfully,

A handwritten signature in blue ink that reads "Pedro Quintero, P.E." in a cursive style.

Pedro Quintero, P.E.
President

Attachments: Exhibit A, B & C



2 - LAKE RD / RANCIER AVE - KILLEEN

INBOUND				OUTBOUND			
FAIRVIEW / RANCIER	LAKE RD / RANCIER	LAKE RD / RANCIER	LAKE RD / RANCIER	LAKE RD / RANCIER	LAKE RD / RANCIER	LAKE RD / RANCIER	LAKE RD / RANCIER
5:42	5:50	6:58	6:15	6:15	6:22	6:33	6:42
6:42	6:50	7:58	7:15	7:15	7:22	7:33	7:42
7:42	7:50	8:58	8:15	8:15	8:22	8:33	8:42
8:42	8:50	9:58	9:15	9:15	9:22	9:33	9:42
9:42	9:50	10:58	10:15	10:15	10:22	10:33	10:42
10:42	10:50	11:58	11:15	11:15	11:22	11:33	11:42
11:42	11:50	12:58	12:15	12:15	12:22	12:33	12:42
12:42	12:50	1:58	1:15	1:15	1:22	1:33	1:42
1:42	1:50	2:58	2:15	2:15	2:22	2:33	2:42
2:42	2:50	3:58	3:15	3:15	3:22	3:33	3:42
3:42	3:50	4:58	4:15	4:15	4:22	4:33	4:42
4:42	4:50	5:58	5:15	5:15	5:22	5:33	5:42
5:42	5:50	-	-	5:55	5:22	5:33	5:42

SATURDAY SERVICE

4 - KILLEEN MALL / WAL-MART - KILLEEN

INBOUND				OUTBOUND			
HEB / WAL-MART	KILLEEN MALL	KILLEEN MALL	KILLEEN MALL	HEB / WAL-MART	KILLEEN MALL	KILLEEN MALL	HEB / WAL-MART
5:55	6:00	6:10	6:15	6:15	6:25	6:45	6:55
6:55	7:00	7:10	7:15	7:15	7:25	7:45	7:55
7:55	8:00	8:10	8:15	8:15	8:25	8:45	8:55
8:55	9:00	9:10	9:15	9:15	9:25	9:45	9:55
9:55	10:00	10:10	10:15	10:15	10:25	10:45	10:55
10:55	11:00	11:10	11:15	11:15	11:25	11:45	11:55
11:55	12:00	12:10	12:15	12:15	12:25	12:45	12:55
12:55	1:00	1:10	1:15	1:15	1:25	1:45	1:55
1:55	2:00	2:10	2:15	2:15	2:25	2:45	2:55
2:55	3:00	3:10	3:15	3:15	3:25	3:45	3:55
3:55	4:00	4:10	4:15	4:15	4:25	4:45	4:55
4:55	5:00	5:10	5:15	5:15	5:25	5:45	5:55
5:55	6:00	6:10	6:15	6:15	6:25	6:45	-

SATURDAY SERVICE

5 - WILLOWSPRINGS RD & HEREFORD - KILLEEN

INBOUND				OUTBOUND				
HEB / WAL-MART	WILLOWSPRINGS	WILLOWSPRINGS	WILLOWSPRINGS	HEB / WAL-MART	WILLOWSPRINGS	WILLOWSPRINGS	HEB / WAL-MART	
5:39	5:46	5:50	5:58	6:15	6:15	6:22	6:31	6:39
6:39	6:46	6:50	6:58	7:15	7:15	7:22	7:31	7:39
7:39	7:46	7:50	7:58	8:15	8:15	8:22	8:31	8:39
8:39	8:46	8:50	8:58	9:15	9:15	9:22	9:31	9:39
9:39	9:46	9:50	9:58	10:15	10:15	10:22	10:31	10:39
10:39	10:46	10:50	10:58	11:15	11:15	11:22	11:31	11:39
11:39	11:46	11:50	11:58	12:15	12:15	12:22	12:31	12:39
12:39	12:46	12:50	12:58	1:15	1:15	1:22	1:31	1:39
1:39	1:46	1:50	1:58	2:15	2:15	2:22	2:31	2:39
2:39	2:46	2:50	2:58	3:15	3:15	3:22	3:31	3:39
3:39	3:46	3:50	3:58	4:15	4:15	4:22	4:31	4:39
4:39	4:46	4:50	4:58	5:15	5:15	5:22	5:31	5:39
5:39	5:46	5:50	-	-	-	-	-	-

SATURDAY SERVICE

7 - METROPLEX / CTC / A&M / AIRPORT - KILLEEN

INBOUND				OUTBOUND			
HEB / WAL-MART	WILLOWSPRINGS	WILLOWSPRINGS	WILLOWSPRINGS	HEB / WAL-MART	WILLOWSPRINGS	WILLOWSPRINGS	HEB / WAL-MART
5:44	5:50	5:56	6:08	6:08	6:39	6:55	6:55
6:55	6:50	6:56	7:08	7:08	7:39	7:55	7:55
7:44	7:50	7:56	8:08	8:08	8:39	8:55	8:55
8:44	8:50	8:56	9:08	9:08	9:39	9:55	9:55
9:44	9:50	9:56	10:08	10:08	10:39	10:55	10:55
10:44	10:50	10:56	11:08	11:08	11:39	11:55	11:55
11:44	11:50	11:56	12:08	12:08	12:39	12:55	12:55
12:44	12:50	12:56	1:08	1:08	1:39	1:55	1:55
1:44	1:50	1:56	2:08	2:08	2:39	2:55	2:55
2:44	2:50	2:56	3:08	3:08	3:39	3:55	3:55
3:44	3:50	3:56	4:08	4:08	4:39	4:55	4:55
4:44	4:50	4:56	5:08	5:08	5:39	5:55	5:55

NO SATURDAY SERVICE

21 - W.S. YOUNG - KILLEEN

INBOUND				OUTBOUND				
HEB / WAL-MART	W.S. YOUNG	W.S. YOUNG	W.S. YOUNG	HEB / WAL-MART	W.S. YOUNG	W.S. YOUNG	HEB / WAL-MART	
5:45	5:50	5:55	6:05	6:15	6:15	6:20	6:30	6:45
6:45	6:50	6:55	7:00	7:15	7:15	7:20	7:30	7:45
7:45	7:50	7:55	8:05	8:15	8:15	8:20	8:30	8:45
8:45	8:50	8:55	9:05	9:15	9:15	9:20	9:30	9:45
9:45	9:50	9:55	10:05	10:15	10:15	10:20	10:30	10:45
10:45	10:50	10:55	11:05	11:15	11:15	11:20	11:30	11:45
11:45	11:50	11:55	12:05	12:15	12:15	12:20	12:30	12:45
12:45	12:50	12:55	1:05	1:15	1:15	1:20	1:30	1:45
1:45	1:50	1:55	2:05	2:15	2:15	2:20	2:30	2:45
2:45	2:50	2:55	3:05	3:15	3:15	3:20	3:30	3:45
3:45	3:50	3:55	4:05	4:15	4:15	4:20	4:30	4:45
4:45	4:50	4:55	5:05	5:15	5:15	5:20	5:30	5:45
5:45	5:50	5:55	6:05	6:15	-	-	-	-

SATURDAY SERVICE

30 - HEB / STAN SCHLUETER - KILLEEN

INBOUND				OUTBOUND			
HEB / WAL-MART	STAN SCHLUETER	STAN SCHLUETER	HEB / WAL-MART	HEB / WAL-MART	STAN SCHLUETER	STAN SCHLUETER	HEB / WAL-MART
5:45	5:57	6:03	6:15	6:15	6:25	6:31	6:45
6:45	6:57	7:03	7:15	7:15	7:25	7:31	7:45
7:45	7:57	8:03	8:15	8:15	8:25	8:31	8:45
8:45	8:57	9:03	9:15	9:15	9:25	9:31	9:45
9:45	9:57	10:03	10:15	10:15	10:25	10:31	10:45
10:45	10:57	11:03	11:15	11:15	11:25	11:31	11:45
11:45	11:57	12:03	12:15	12:15	12:25	12:31	12:45
12:45	12:57	1:03	1:15	1:15	1:25	1:31	1:45
1:45	1:57	2:03	2:15	2:15	2:25	2:31	2:45
2:45	2:57	3:03	3:15	3:15	3:25	3:31	3:45
3:45	3:57	4:03	4:15	4:15	4:25	4:31	4:45
4:45	4:57	5:03	5:15	5:15	5:25	5:31	5:45
5:45	5:57	6:03	6:15	6:15	6:25	6:31	6:45

SATURDAY SERVICE

35 - HARKER HEIGHTS LOOP

INBOUND				OUTBOUND			
WAL-MART	CITY HALL	HEB	WAL-MART	WAL-MART	HEB	CITY HALL	WAL-MART
-	-	-	-	6:05	6:20	-	-
6:20	6:33	6:45	6:45	6:50	7:05	7:20	-
7:20	7:33	7:45	7:45	7:50	8:05	8:20	-
8:20	8:33	8:45	8:45	8:50	9:05	9:20	-
9:20	9:33	9:45	9:45	9:50	10:05	10:20	-
10:20	10:33	10:45	10:45	10:50	11:05	11:20	-
11:20	11:33	11:45	11:45	11:50	12:05	12:20	-
12:20	12:33	12:45	12:45	12:50	1:05	1:20	-
1:20	1:33	1:45	1:45	1:50	2:05	2:20	-
2:20	2:33	2:45	2:45	2:50	3:05	3:20	-
3:20	3:33	3:45	3:45	3:50	4:05	4:20	-
4:20	4:33	4:45	4:45	4:50	5:05	5:20	-
5:20	5:33	5:45	5:45	5:50	6:05	6:20	-
6:20	6:33	6:45	6:45	6:50	7:05	7:20	-

NO SATURDAY SERVICE

65 - COPPERAS COVE LOOP

INBOUND				OUTBOUND			
LIBRARY	CITY CENTER	CASA DRIVE	WAL-MART	WAL-MART	HEB	LIBRARY	
6:59	7:16	7:26	7:45	6:45	6:52	6:59	
7:59	8:16	8:26	8:45	7:45	7:52	7:59	
8:59	9:16	9:26	9:45	8:45	8:52	8:59	
9:59	10:16	10:26	10:45	9:45	9:52	9:59	
10:59	11:16	11:26	11:45	10:45	10:52	10:59	
11:59	12:16	12:26	12:45	11:45	11:52	11:59	
12:59	1:16	1:26	1:45	1:45	1:52	1:59	
1:59	2:16	2:26	2:45	2:45	2:52	2:59	
2:59	3:16	3:26	3:45	3:45	3:52	3:59	
3:59	4:16	4:26	4:45	4:45	4:52	4:59	
4:59	5:16	5:26	5:45	5:45	5:52	5:59	
5:59	6:16	6:26	6:45	-	-	-	

NO SATURDAY SERVICE

100 - METROPLEX / COPPERAS COVE

INBOUND				OUTBOUND			
COPPERAS COVE	WAL-MART	HEB	WAL-MART	COPPERAS COVE	WAL-MART	HEB	WAL-MART
6:45	6:57	7:15	7:15	7:27	7:45	-	-
7:45	7:57	8:15	8:15	8:27	8:45	-	-
8:45	8:57	9:15	9:15	9:27	9:45	-	-
9:45	9:57	10:15	10:15	10:27	10:45	-	-
10:45	10:57	11:15	11:15	11:27	11:45	-	-
11:45	11:57	12:15	12:15	12:27	12:45	-	-
12:45	12:57	1:15	1:15	1:27	1:45	-	-
1:45	1:57	2:15	2:15	2:27	2:45	-	-
2:45	2:57	3:15	3:15	3:27	3:45	-	-
3:45	3:57	4:15	4:15	4:27	4:45	-	-
4:45	4:57	5:15	5:15	5:27	5:45	-	-
5:45	5:57	6:15	-	-	-	-	-

NO SATURDAY SERVICE

200 - CONNECTOR

INBOUND				OUTBOUND			
TRINITY VA HOSPITAL	BECLON	CONFEDERATE PARK	INDIANVILLE	HEB / WAL-MART	INDIANVILLE	BECLON	TRINITY VA HOSPITAL
-	-	6:20	6:45	6:45	6:50	7:10	7:35
7:40	8:10	8:20	8:45	8:45	8:50	9:10	9:35
9:40	10:10	10:20	10:45	10:45	10:50	11:10	11:35
11:40	12:10	12:20	12:45	12:45	12:50	1:10	1:35
1:40	2:10	2:20	2:45	2:45	2:50	3:10	3:35
3:40	4:10	4:20	4:45	4:45	4:50	5:10	5:35
5:40	6:10						

Exhibit B



21/30
Bus
Stop

21/30
Bus
Stop

Proposed Site

Accessible
Playground

- — — Bus Route
- — — Walking Path

Exhibit C

Proposed Site



- Existing Path
- Additional Sidewalk to be installed

Accessible Playground

17331
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

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July 10, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Kelly Garrett
Salem Clark
7801 Jack Finney Blvd, Ste101
Greenville, TX 75402

RE: SCORING APPEAL RESPONSE: 17331 WESTWIND OF KILLEEN

Dear Kelly Garrett:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated July 5, 2017, of the scoring notice for the above referenced Application. This Application was denied four tie-breaker items under 10 TAC §11.9(c)(4), related to Opportunity Index, because the Application did not provide sufficient evidence that the Meadows Gallery at the Vive les Arts Theater is a museum, that the Lions Clubs Senior Center Library at Lions Club Park is a public library, that the Development Site is less than ½ mile on an accessible route from a public park with an accessible playground, and that the Development Site is less than ½ mile on an accessible route from public transportation.

After reviewing the appeal, the Department has determined that the Lions Club Senior Center Library at Lions Club Park is considered a public library under the rules. Though not in the statute that addresses Low Income Housing Tax Credits, Tex. Gov't Code §441.122(12) defines "public library" as a library operated by a single public agency or board that is freely open to the public and receives its funding (at least in part) from public funds. Since TDHCA's rules do not further or particularly define "public library," the definition that does exist, even though outside Tex. Gov't Code ch. 2306, provides an appropriate basis for how the term should be defined. Lions Club Park and the Senior Center at Lions Club Park are part of the City of Killeen parks and recreation department; so the library is eligible.

Regarding the museum amenity, the appeal states that included Department has determined that the Vive Les Arts Theater does not meet the QAP requirements for a museum as the organization's primary purpose is "live theatrical performance" and the artwork displayed is ancillary to that purpose. The definition of what a museum must be for the purposes of this scoring item is specific:

(X) Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value. (1 point)



The website of the Vive les Arts Theater describes the gallery thusly:

“The Meadows Gallery”

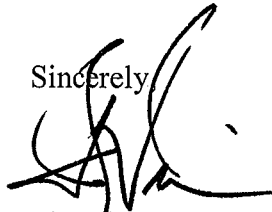
“Located at the Vive Les Arts Lobby, the gallery features art pieces created by our local artists and local arts organizations”

Clearly, the gallery is an ancillary part of the theater and as such is not a museum.

The Department determined that the accessible route to the park was not been proven, as the availability of accessible transportation cannot substitute for the required accessible route, and the Applicant cannot promise to build a sidewalk on property not controlled by the Applicant. The appeal includes a letter which states that the land owner gives permission for the Applicant to construct a sidewalk that will connect to existing sidewalks. Unless the Applicant has obtained a legal easement through the City of Killeen that would allow the Applicant to construct such a sidewalk, the letter is unenforceable and the Department cannot rely on it. Finally, the accessible route to public transportation remains unproven as the HOP transportation service does not provide service on Sundays and therefore, does not meet the rule requirement that service be provided on weekends.

I find that the Application qualifies for the library, and I am granting the appeal for that item. I must deny the appeal for the park, public transportation, and museum as those items have not been proven. You have indicated that you wish for this appeal to be heard by the Department’s Governing Board, and the appeal has been placed on the agenda for the board meeting of July 13, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely



Timothy K. Irvine
Executive Director

TKI

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, discussion, and possible action on timely filed scoring appeals under 10 TAC §10.901 et seq. of the Department's Multifamily Program Rules (Subchapter G) related to Fee Schedule, Appeals and other Provisions.

RECOMMENDED ACTION

WHEREAS, a 9% Housing Tax Credit Application #17356, for The Acacia was submitted to the Department by the Full Application Delivery Date;

WHEREAS, staff determined that the Application does not qualify for three tie-breaker items requested under §11.9(c)(4) of the 2017 Qualified Allocation Plan ("QAP"), related to Opportunity Index, because although the Application did include a map of the area, radius, and identified the park/playground and public transportation stop, the Application did not include complete evidence of an accessible route to a public park and evidence of an accessible route to public transportation.. Also, staff found that the street art displayed around the city does not meet the standard of a "museum" as defined in this subsection;

WHEREAS, a Competitive HTC scoring notice was provided to the Applicant identifying tie-breakers that the Applicant elected but did not qualify to receive under 10 TAC §11.9 related to Competitive HTC Selection Criteria;

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Application 17356, for The Acacia is denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, ch. 2306, §42 of the Internal Revenue Code (the "Code"), and other criteria established in a manner consistent with ch. 2306 and §42 of the Code.

Pursuant to 10 TAC §11.10 of the Qualified Allocation Plan related to Third party Request for Administrative Deficiency, staff reviewed the Application to determine whether it qualified for three tie-breakers. Staff determined that while the Application did include a map of the area, radius, and identified the park/playground and public transportation stop, the Application did not include

complete evidence of an accessible route to a public park and evidence of an accessible route to public transportation. Also, staff found that the street art displayed around the city does not meet the standard of a “museum” as defined in this subsection. A scoring notice was issued to the Applicant, and the Applicant appealed staff’s decision on July 5, 2017. The Executive Director found that the appeal established that there is an accessible route from the Development Site to public transportation. The appeal for the accessible route to the park and the museum was denied, and the Applicant is appealing the scoring result.

The accessible route to the park described in the appeal results in a route from the Development Site to the park that is more than ½ mile, making it not an eligible route for the tie-breaker item (the language of §11.9(c)(4)(B)(i)(I) requires the site be located “less than ½ mile on an accessible route from a public park . . .”).

Pursuant to §11.9(c)(4)(B)(X), an Application may score one point if the “Development Site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.” On its face, single pieces of art displayed around the City of San Antonio do not, each, meet the definition of a “permanent institution” so as to constitute a “museum.” The City’s Department of Arts and Culture chose to disperse some outdoor-appropriate art around the city, rather than collecting them at a single location. While this decision may meet the city’s desire to, as the appeal states, “foster San Antonio’s creative community by supporting local arts organizations and individual artists,” it cannot be said to transform each and every municipally installed sculpture, monument, or artistic creation into a “museum” for purposes of the Opportunity Index.

Staff recommends the Board deny the appeal.

17356
The Acacia

17356

Scoring Notice and
Documentation



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Manish Verma

Phone #: (210) 530-0090

Email: manishv@versadevco.com

Second Email: janiced@versadevoco.com

Date: June 01, 2017

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

RE: 2017 Competitive Housing Tax Credit (HTC) Application for The Acacia, TDHCA Number: 17356

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2017 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that four scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the five scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, §11.9(d)(6) Input from Community Organizations, and §11.9(d)(7) Concerted Revitalization Plan.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score and tie-breakers as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(4) "Leveraging of Private, State, and Federal Resources", 11.9(b)(1)(A) "Unit Sizes", 11.9(b)(1)(B) "Unit and Development Features", 11.9(c)(1) "Income Levels of Tenants", 11.9(c)(2) "Rent Levels of Tenants", 11.9(e)(1) "Financial Feasibility", 11.9(e)(3) "Pre-Application Participation", and may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 17356, The Acacia

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	124
Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2017 QAP):	124
Difference between Requested and Awarded:	0

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4
Points Awarded for §11.9(d)(7) Concerted Revitalization Plan:	0

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
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Section 4:

Final Score Awarded to Application by Department staff:	157
--	------------

Section 5:

Explanation for difference between points requested and points awarded by the Department as well as penalties assessed:

NA

Explanation for difference between requested tie-breakers and tie-breakers qualified by the Department:

§11.7 Tie-break Factors. No evidence of an accessible route to park was provided; no evidence of an accessible route to public transportation was provided; the art displayed around the City is not a museum. (Items Selected 8, Items Qualified 5)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Thursday, June 8, 2017. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

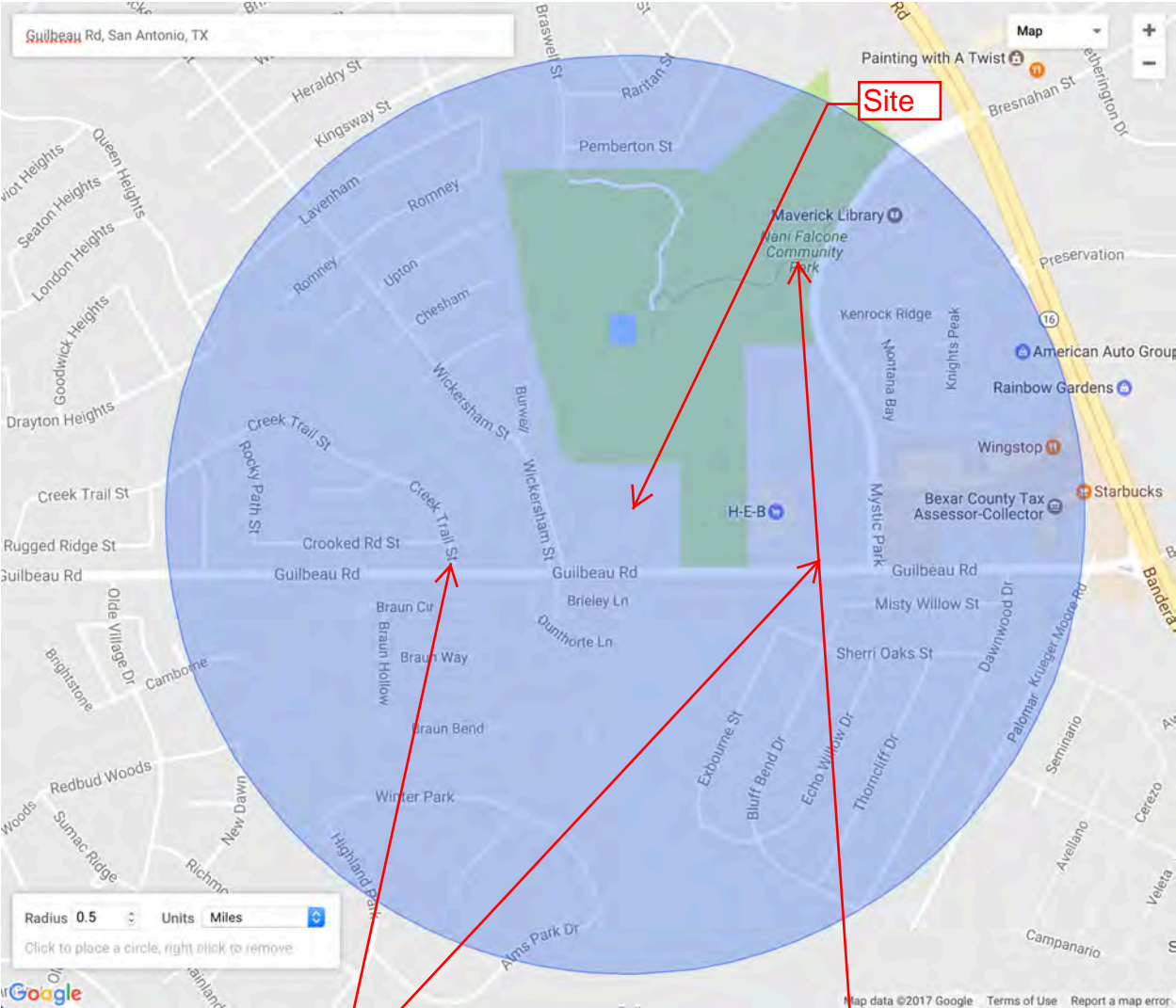
If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Sharon Gamble at (512) 936-7834 or by email at <mailto:sharon.gamble@tdhca.state.tx.us>.

Sincerely,

Sharon Gamble

Sharon Gamble
 9% Competitive HTC Program Administrator

The Acacia Opportunity Index



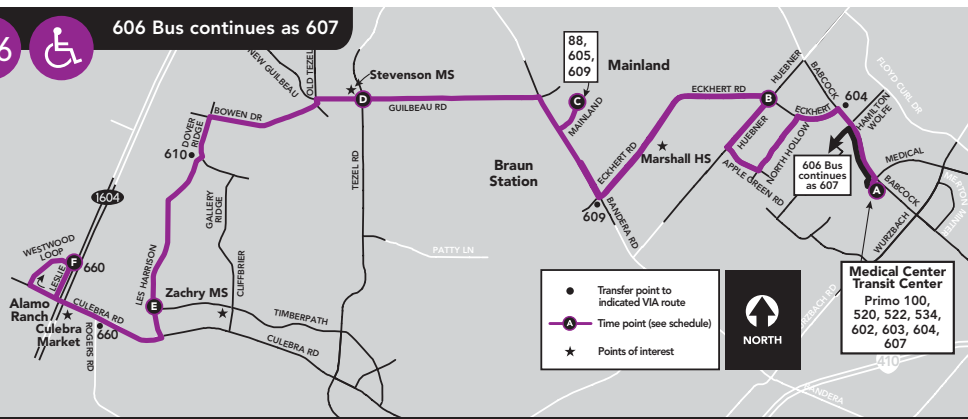
(II) Site is located less than 1/2 mile on accessible route from Via Metro Transit Rte 606 Bus Stop

(I) Site is located less than 1/2 mile on accessible route from Nani Falcone accessible playground that meets 2010 ADA standards

606



606 Bus continues as 607



MONDAY - FRIDAY

WESTBOUND: TRAVELS FROM A → F

	A	B	C	D	E	F
	Medical Center Transit Center	Eckhart & Huebner	Mainland	Guilbeau & Tezel	Les Harrison & Timberpath	Westwood Loop & Leslie
AM						
FG 5:10	5:20	5:35	5:41	5:50	5:57	
6:05	6:15	6:35	6:42	6:52	7:00	
7:05	7:16	7:35	7:42	7:53	8:02	
8:05	8:16	8:35	8:42	8:53	9:02	
9:05	9:16	9:35	9:42	9:52	10:00	
10:05	10:16	10:35	10:42	10:52	11:00	
11:05	11:16	11:35	11:42	11:52	12:00	
PM						
12:05	12:16	12:35	12:42	12:52	1:00	
1:05	1:16	1:35	1:42	1:52	2:00	
2:05	2:16	2:35	2:42	2:52	3:00	
3:05	3:17	3:35	3:43	3:53	4:02	
4:05	4:17	4:35	4:43	4:53	5:02	
5:05	5:17	5:35	5:43	5:53	6:02	
6:05	6:16	6:35	6:42	6:52	7:00	
7:05	7:16	7:35	7:42	7:52	8:00	
8:05	8:16	8:35	8:41	8:50	8:57	
9:05(1)	9:15	TG 9:23				

EASTBOUND: TRAVELS FROM F → A

	F	E	D	C	B	A
	Westwood Loop & Leslie	Les Harrison & Timberpath	Guilbeau & Tezel	Mainland	Eckhart & Huebner	Medical Center Transit Center
AM						
6:04	6:10	6:22	6:35	5:43	5:53	
7:00	7:07	7:20	7:35	6:44	6:55	
8:03	8:10	8:23	8:35	7:44	7:55	
9:05	9:11	9:22	9:35	8:44	8:55	
10:05	10:11	10:22	10:35	9:44	9:55	
11:05	11:11	11:22	11:35	10:44	10:55	
PM						
12:05	12:11	12:22	12:35	12:44	12:55	
1:05	1:11	1:22	1:35	1:44	1:55	
2:05	2:11	2:22	2:35	2:44	2:55	
3:05	3:12	3:24	3:35	3:45	3:57	
4:05	4:12	4:24	4:35	4:45	4:57	
5:05	5:12	5:24	5:35	5:45	5:57	
6:05	6:12	6:23	6:35	6:44	6:55	
7:05	7:12	7:23	7:35	7:44	7:55	
8:05	8:12	8:23	8:35	8:43	8:53	
9:05(1)	9:11	9:21	TG 9:26			

FG & TG - From or to VIA garage located at 1021 San Pedro

(1) - To Bandera & Mainland only

HOLIDAY SCHEDULES
 Bus service on VIA observed holidays will be provided as follows:

Saturday Schedule - Martin Luther King Day, Memorial Day & Friday after Thanksgiving

Sunday Schedule - New Year's Day, Labor Day, Thanksgiving and Christmas

Please look for notices on the bus, at www.viainfo.net or call Customer Service at 362-2020 (select option 5) for holiday service for Independence Day, Veteran's Day, Christmas Eve, and New Year's Eve.

LOOKING 4 ME?

Text your Bus Stop N° to: **52020**

GET REAL-TIME BUS ARRIVAL ESTIMATES ON YOUR MOBILE DEVICE

SERVICES FOR RIDERS WITH DISABILITIES: All VIA buses and many stops are now accessible to riders with disabilities. You can get bus schedule and other information in accessible formats. Please call 362-2020 or TTY 362-2019.

BIKE & RIDE: You and your bike can go anywhere VIA goes. On Primo there are bike racks inside the vehicle and on all other buses the bike rack is outside the bus in the front. It takes only seconds to load your bike and be on your way. Call Customer Service at 210-362-2020 for more information.

PERSONAL TRIP PLANNER: Plan your own trip online 24 hours a day at www.viainfo.net. You can also get directions by transit at maps.google.com. These online tools are easy to use and will provide step-by-step instructions and a map of your trip.

FOR YOUR SAFETY: If you're late, just wait. Chasing a moving bus can be dangerous and deadly.

ON BOARD SAFETY TIPS: Get a grip. Use handrails at all times as the bus may need to stop suddenly. Remain seated until the bus has completely stopped. Watch your footing, especially while boarding and exiting.

SATURDAY

WESTBOUND: TRAVELS FROM A → F

A	B	C	D	E	F
Medical Center Transit Center	Eckhart & Huebner	Mainland	Guilbeau & Tezel	Les Harrison & Timberpath	Westwood Loop & Leslie
AM					
FG 6:10	6:20	6:35	6:41	6:50	6:57
7:05	7:15	7:35	7:41	7:50	7:57
8:05	8:15	8:35	8:41	8:50	8:57
9:05	9:17	9:35	9:42	9:52	10:00
10:05	10:17	10:35	10:42	10:52	11:00
11:05	11:17	11:35	11:42	11:52	12:00
PM					
12:05	12:17	12:35	12:42	12:52	1:00
1:05	1:17	1:35	1:42	1:52	2:00
2:05	2:17	2:35	2:42	2:52	3:00
3:05	3:17	3:35	3:42	3:52	4:00
4:05	4:17	4:35	4:42	4:52	5:00
5:05	5:17	5:35	5:42	5:52	6:00
6:05	6:16	6:35	6:42	6:52	7:00
7:05	7:16	7:35	7:42	7:52	8:00
8:05	8:16	8:35	8:41	8:50	8:57
9:05(1)	9:20	TG 9:23			

EASTBOUND: TRAVELS FROM F → A

F	E	D	C	B	A
Westwood Loop & Leslie	Les Harrison & Timberpath	Guilbeau & Tezel	Mainland	Eckhart & Huebner	Medical Center Transit Center
AM					
FG 6:05	6:11	6:21	6:35	6:43	6:53
7:05	7:11	7:21	7:35	7:43	7:53
8:05	8:11	8:21	8:35	8:43	8:53
9:05	9:12	9:23	9:35	9:44	9:55
10:05	10:12	10:23	10:35	10:44	10:55
11:05	11:12	11:23	11:35	11:44	11:55
PM					
12:05	12:12	12:23	12:35	12:44	12:55
1:05	1:12	1:23	1:35	1:44	1:55
2:05	2:12	2:23	2:35	2:44	2:55
3:05	3:12	3:23	3:35	3:44	3:55
4:05	4:12	4:23	4:35	4:44	4:55
5:05	5:12	5:23	5:35	5:44	5:55
6:05	6:12	6:23	6:35	6:43	6:53
7:05	7:12	7:23	7:35	7:43	7:53
8:05	8:12	8:23	8:35	8:43	8:53
9:05(1)	9:11	9:21	TG 9:26		

SUNDAY

WESTBOUND: TRAVELS FROM A → F

A	B	C	D	E	F
Medical Center Transit Center	Eckhart & Huebner	Mainland	Guilbeau & Tezel	Les Harrison & Timberpath	Westwood Loop & Leslie
AM					
7:05	7:15	FG 6:35	6:41	6:50	6:57
8:05	8:15	7:35	7:41	7:50	7:57
9:05	9:17	8:35	8:41	8:50	8:57
10:05	10:17	9:35	9:42	9:52	10:00
11:05	11:17	10:35	10:42	10:52	11:00
11:05	11:17	11:35	11:42	11:52	12:00
PM					
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5:05	5:17	5:35	5:42	5:52	6:00
6:05	6:16	6:35	6:42	6:52	7:00
7:05	7:16	7:35	7:42	7:52	8:00
8:05	8:16	8:35	8:41	8:50	8:57
9:05(1)	9:15	TG 9:23			

EASTBOUND: TRAVELS FROM F → A

F	E	D	C	B	A
Westwood Loop & Leslie	Les Harrison & Timberpath	Guilbeau & Tezel	Mainland	Eckhart & Huebner	Medical Center Transit Center
AM					
7:05	7:11	7:22	FG 6:35	6:43	6:53
8:05	8:11	8:22	7:35	7:43	7:53
9:05	9:12	9:23	8:35	8:43	8:53
10:05	10:12	10:23	9:35	9:44	9:55
11:05	11:12	11:23	10:35	10:44	10:55
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8:05	8:12	8:22	8:35	8:43	8:54
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 TTY 362-2019
www.viainfo.net

VIA

TIPS TO RIDE BY:

- No smoking, eating or drinking on bus.
- Be your stop five minutes early.
- Have correct change ready.
- Operators do not carry change!
- Seatbelts must be worn at all times.
- Please sit in front seats to seniors and riders with disabilities.
- Exit through the rear door.
- Please do not drink alcohol on the bus.
- Stand behind yellow line on board.

DISCOUNTS: Discounted fares and passes available on the following: **Seniors** (65+), **Students** (with valid ID), **Children** (under 12), **Medical** recipients and children 5-11 (no ID required for children, 4 and under ride free). **REDUCED FARE ID:** A VIA Reduced Fare ID is required and must be presented when boarding in order to pay reduced fares or use discounted passes. **CALL CUSTOMER SERVICE:** For information on obtaining a VIA ID. **TRANSFERS:** Transfers, which allow you to connect from one bus to another, must be prearranged with Customer Service. **PASSES:** Passes and tickets are available online at www.viainfo.net, at all VIA Information Centers or by mail. In addition, there are convenient retail pass outlets throughout the city.

ADULT \$ 1.30
DISCOUNT* \$.65

BUS FARES: Metro, Frequent, Slip or Primo Service \$ 1.30
 Express Service 2.00
 Senior Pass 38.00
 Student Pass 19.00
 7-Day Pass 12.00
 One Day Pass 2.75

VALEANS PATRONS: FREE
 Includes their personal care attendant and a companion with VIA ID.
OFF-PEAK SPECIAL: for seniors and persons with limited mobility with VIA ID. Wednesdays 9 am to 3 pm. \$ 1.00
Senior Citizens: FREE

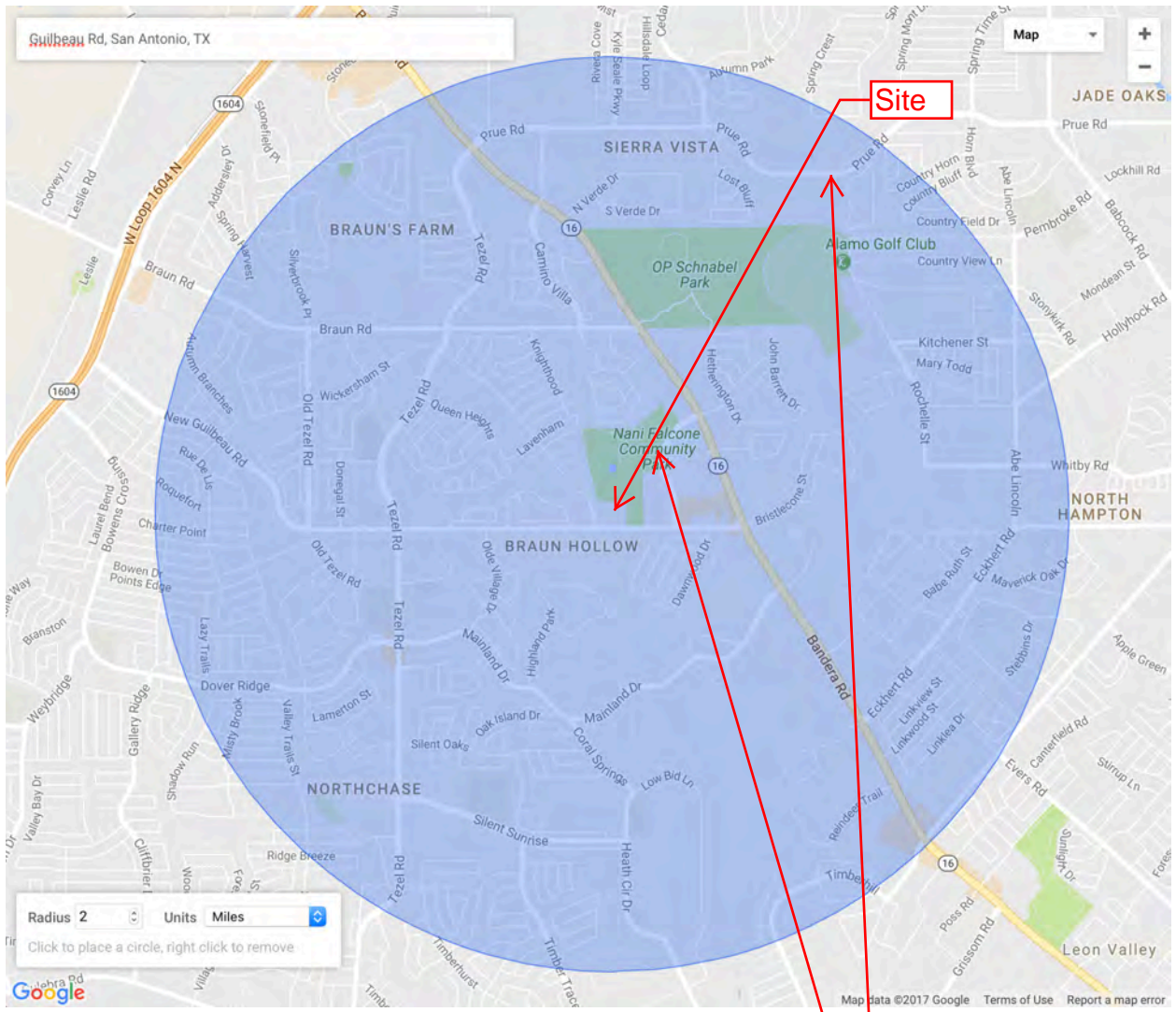
METRO SERVICE

606

MEDICAL CENTER / ALAMO RANCH

Medical Center Transit Center, Mainland, Braun Station, Alamo Ranch

EFFECTIVE: 12-17-2012 UPDATED



(X) City of San Antonio Public Art displays that are permanent and are for the exhibition of objects having artistic value



Alyssa Carpenter <ajcarpen@gmail.com>

Question or comment for Parks department

Sara Gruber (Parks) <Sara.Gruber@sanantonio.gov>
To: "ajcarpen@gmail.com" <ajcarpen@gmail.com>

Fri, Feb 3, 2017 at 11:34 AM

Good Morning Ms. Carpenter,

Thank you for reaching out. I checked with our park projects department and they confirmed that Nani Falcone Park does meet ADA requirements. They mentioned this question usually comes up in regards to the fibar surfacing which is commonly thought to not meet ADA regulations, but in fact does.

Hope this helps!

Sara

Sara Gruber
Special Projects Manager, Communications

SAN ANTONIO PARKS & RECREATION
114 W Commerce St. 11th Floor, San Antonio, TX 78205

P: 210.207.6122 · F: 210.207.8444
SAPARKSANDREC.COM

From: ajcarpen@gmail.com [mailto:ajcarpen@gmail.com]
Sent: Friday, February 03, 2017 8:58 AM
To: Sara Gruber (Parks)
Cc: ajcarpen@gmail.com
Subject: Question or comment for Parks department

Name: Alyssa Carpenter
Phone: 512 789 1295
Email Addr: ajcarpen@gmail.com

Subject: Sara.Gruber@sanantonio.gov (Parks, Trails, and Natural Areas)

Comments: Hello! Can you please tell me if the playground at Nani Falcone park meets 2010 ADA standards? Thank you!



(http://www.getcreativesanantonio.com/)

Select Language ▼

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(http://www.getcreativesanantonio.com/Opportunities-Resources)(http://www.getcreativesanantonio.com/Public-Art)

Public Art

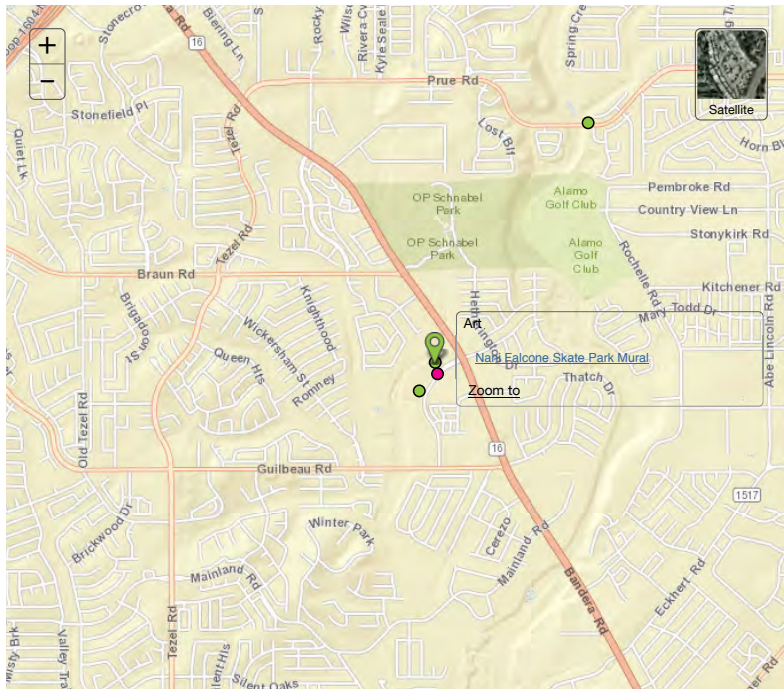
Home (http://www.getcreativesanantonio.com/) / Public Art (http://www.getcreativesanantonio.com/Public-Art) / Public Artworks Map (http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map)

PUBLIC ARTWORKS MAP



Public Artworks List (/PublicArt/PublicArtworksMap/PublicArtworksList.aspx)

Having trouble viewing the points on the Public Artworks map? Find out what you can do. (https://gis.sanantonio.gov/pasa/pasamaphelp.html)



(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Public-Artwork/Article/159/Nani-Falcone-Skate-Park-Mural)

NANI FALCONE SKATE PARK MURAL

(HTTP://WWW.GETCREATIVESANANTONIO.COM/PUBLIC-ART/PUBLIC-ARTWORKS-MAP/PUBLIC-ARTWORKS-LIST/PUBLIC-ARTWORK/ARTICLE/159/NANI-FALCONE-SKATE-PARK-MURAL)

Artist: Katie Pell

Category: Parks

(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Parks?Category=78)

Details: mural paintings (visual works), concrete, paint on stone/concrete

Year completed: 2011

Description:

Concrete skateboarding installation with painted design of a green snake.

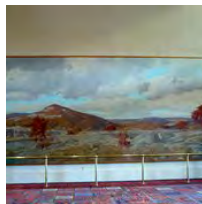
Read More...

(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Public-Artwork/Article/159/Nani-Falcone-Skate-Park-Mural)

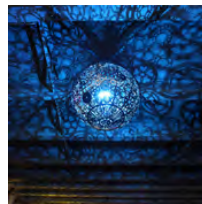
OTHER PUBLIC ARTWORKS



(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-Map/Public-Artworks-Map/Public-Artworks-Map)



(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-Map/Public-Artworks-Map/Public-Artworks-Map)



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(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-Map/Public-Artworks-Map/Public-Artworks-Map)



(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-Map/Public-Artworks-Map/Public-Artworks-Map)

portalid=3&moduleid=12016&mediaid=228&width=600&height=600)

List/Parks?Category=78)

Views: 2532

 Print

(<http://www.getcreativesanantonio.com/DesktopModules/PortalId=3&ModuleId=20231&Article=194>)

Accession#: 2007.HUE.1
 Artist First Name: Leticia
 Artist Last Name: Huerta
 More About Artist URL: <http://leticiahuerta.com/>
 Related Site URL:
 Type: bench
 Media 1: limestone
 Media 2: None
 Dimensions: 2' x 2' x 4'
 Completion Year: 2007
 Additional Information URL:
 Location Name: Nani Falcone Park
 Artwork Address: 7625 Mystic Park
 Zip Code: 78254
 Point X: -98.6436303329999
 Point Y: 29.5240483330001
 Additional Directions:
 Council District: 7
 Map Point Color: Green

FALCONE PARK BENCHES

Artist: Leticia Huerta

Category:  Parks

(<http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Parks?Category=78>)

Details: bench, limestone, None

Dimensions: 2' x 2' x 4'

Date completed: 2007

Description:

Limestone benches with carved native tree foliage and descriptive text: pecan, live oak, cedar elm and mesquite.

More About the Artist

(<http://leticiahuerta.com/>)

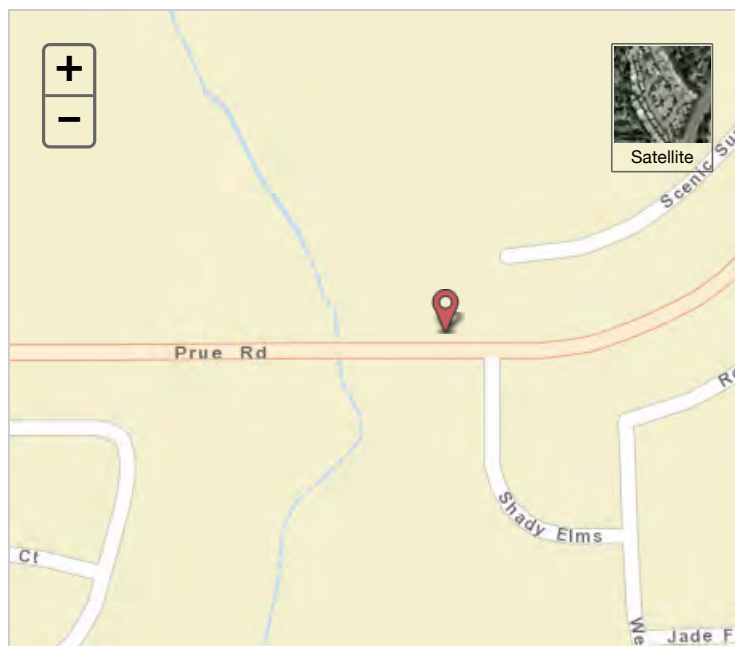




Prue Rd. and Howard W. Peak Greenway Trails at Leon Creek in northwest San Antonio.



/DesktopModules/DigArticle/MediaHandler.ashx?



17356

Applicant Appeal to
Executive Director



600 Congress, Suite 2200
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

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

June 8, 2017

Via Electronic Mail

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

Re: 17356 The Acacia (the "**Development**")

Dear Mr. Irvine:

We represent the Applicant for low-income housing tax credits for the Development. This letter responds to the scoring notice issued June 1, 2017 for the above referenced application. The scoring notice disqualified certain tie breaker items as follows:

§11.7 Tie-break Factors. No evidence of an accessible route to park was provided; no evidence of an accessible route to public transportation was provided; the art displayed around the City is not a museum. (Items Selected 8, Items Qualified 5)

Accessible Route to Park

The Applicant should qualify for a tie breaker factor for the following:

The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards.

The Applicant identified the Nani Falcone playground within the 1/2 mile radius. TDHCA has not objected to whether this is an accessible playground. The only question is whether the playground is on an accessible route. A competitor submitted a Third Party Request for Administrative Deficiency, questioning this point, with a report dated April 17, 2017 from Mr. Stephen Meyer, an accessibility consultant. The Applicant believes certain information in Mr. Meyer's report is in error. Please see an independent third party report from Alejandro Arreguin, stating that the Nani Falcone playground is on an accessible route, as **Exhibit A**. If clarification or supplementation is required, the Applicant is happy to respond to an Administrative Deficiency.

Accessible Route to Public Transportation

The Applicant should qualify for a tie breaker factor for the following:

The Development Site is located less than ½ mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service.

The Applicant identified a bus stop within the 1/2 mile radius. This bus stop is on an accessible route, as confirmed by the independent third party report from Alejandro Arreguin, attached as **Exhibit A**. If clarification or supplementation is required, the Applicant is happy to respond to an Administrative Deficiency.

Museum

The Applicant should qualify for a tie breaker factor for the following:

Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

The Applicant provided evidence that the Development site is within 2 miles of two different locations where art is publicly displayed in San Antonio. The is exhibit under the auspices of the City of San Antonio as follows:

The Department of Arts & Culture advocates for the growth of the local creative industry by increasing awareness of the impact and value of arts and culture to the city. Its mission is to foster San Antonio's creative community by supporting local arts organizations and individual artists. Helping to make San Antonio an exciting place to live and visit, the Department develops and markets a wide range of programs and events.

The Department of Arts & Culture is funded by the hotel occupancy tax and supported in part by the Texas Commission on the Arts and the National Endowment for the Arts. The department's policies and procedures are advised by the San Antonio Arts Commission, whose members are appointed by City Council and the Mayor.

The public art program provides ongoing art exhibits that are free and available to the community:

Public Art San Antonio (PASA) is the City of San Antonio's program that is responsible for managing public art projects and programs that express the vibrancy and diversity of our community through art and place-making. The public art projects managed include those associated with the City's capital

Mr. Tim Irvine
June 8, 2017
Page 3

improvement programs that connect to the community through exhibits, presentations, outreach and planning initiatives. PASA works directly with all City departments and supports local public art efforts of artists, community groups, partnership organizations and outside agencies.

These public art installations qualify as a tie breaker factor under the rule. They are government-sponsored and open to the public. The San Antonio Arts Commission manages these exhibitions to promote the acquisition, conservation, study, exhibits, and educational interpretation of objects having artistic value. TDHCA's objection seems to be that these art installations do not qualify as a "museum". Merriam-Webster defines a museum as "a place where objects are exhibited." This definition does not require a building or a collection of a particular size. It simply identifies a place and the exhibition of objects. San Antonio's public art exhibitions therefore qualify as a museum under this definition.

If clarification or supplementation is required, the Applicant is happy to respond to an Administrative Deficiency.

Request for Approval of Appeal

With that information, we respectfully request that all three items qualify for tie breaker factors. If additional information is required, please let us know. We appreciate your consideration of this presentation. Thank you very much.

Sincerely,



Cynthia L. Bast

cc: Versa Development

Exhibit A - Third Party Accessibility Report

Exhibit A
Third Party Accessibility Report

Alejandro (ALEX) Arreguin
REGISTERED ACCESSIBILITY SPECIALIST

1901 Convent Ave

Laredo, TX 78040-4852

(956) 285-4091 Fax (956) 602-0340



5 June 2017

VDC Guilbeau Bandera, LP
Attention: Manish Verma
4733 College Park, Ste. 200
San Antonio, Texas 78249

RE: The Acacia – ADA Accessibility Route to Bus Stop, Park, and Playground

Dear Mr. Verma,

I hereby confirm that there is an accessible route from the proposed development site for The Acacia to a Via Metro Transit Route 606 Bus Stop, to Nani Falcone Community Park, and to the playground located inside of Nani Falcone Community Park, and that all of them meet the 2010 ADA Accessibility Standards. Additionally, the playground located within Nani Falcone Community Park meets the 2010 ADA Accessibility Standards.

The sidewalks and ramps along the north side of Guilbeau Road to the bus stop located west of Mystic Park, and the sidewalks and ramps along the north side of Guilbeau Road, the east side of Mystic Park, and the west side of Mystic Park from Bandera Road to Nani Falcone Community Park from the proposed development site meet the 2010 ADA Accessibility Standards, as do the curb cuts / approaches located at the southern drive to Fire Station 49 and adjacent entrance to Nani Falcone Community Park. Please see Exhibit A for reference.

I am in receipt of the information contained in the report dated 4/17/17 prepared by Stephen Meyer. I reviewed this information and believe there are inconsistencies in the report. For instance, he states that he did not continue north on the sidewalk on the east side of Mystic Park beyond the park entrance. There is nothing that precludes a person from continuing down Mystic Park to the north, crossing at Bandera Road, and returning south down Mystic Park to Nani Falcone Community Park, which could serve as an additional accessible route. Further, Mr. Meyer's report is misleading in that on Page 4 of 10 there is an aerial photograph of a potential spot for the crossing of Mystic Park from the east side to the west side at the Nani Falcone Community Park entrance, but the photos of the measurements and curb cuts / approaches do not seem to be of the curb cuts / approaches shown in this aerial, they seem to be of those located further north on Mystic Park.

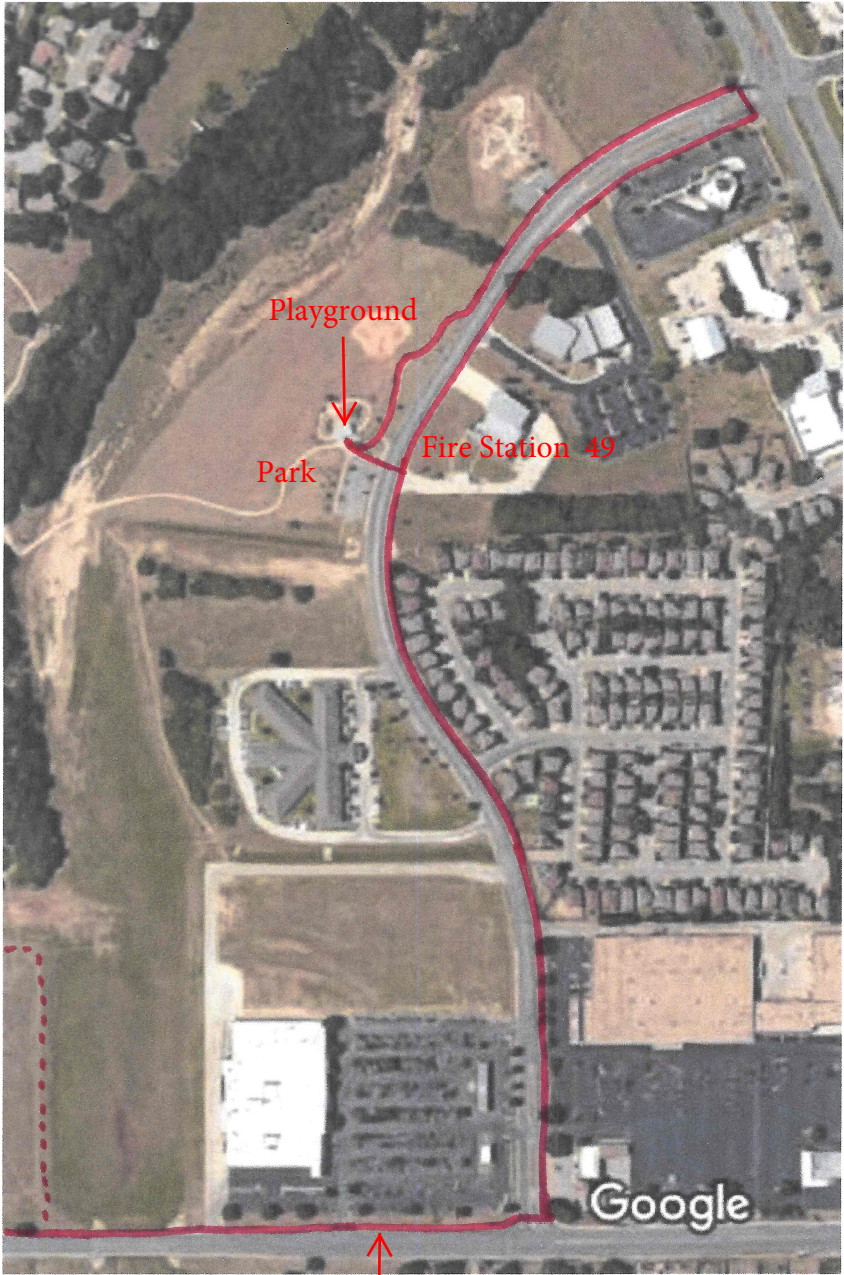
Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Arreguin'.

Alejandro Arreguin

TDLR License # 396

Exhibit A



Bus Stop



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2017 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Appeal Election Form: 17356, The Acacia

Note: If you do not wish to appeal this notice, do not submit this form.

I am in receipt of my 2017 scoring notice and am filing a formal appeal to the Executive Director on or before Thursday, June 8, 2017.

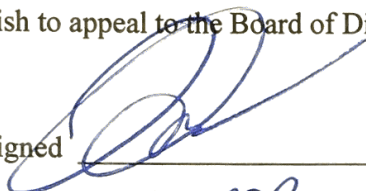
If my appeal is denied by the Executive Director:

- I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.
- I do not wish to appeal to the Board of Directors.

Signed

Title

Date



Auth REP

JUNE 8, 2017

Please email to Sharon Gamble:
<mailto:sharon.gamble@tdhca.state.tx.us>

17356
Executive Director's
Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

June 15, 2017

Writer's direct phone # (512) 475-3296
Email: tim.irvine@tdhca.state.tx.us

Ms. Cynthia Bast
Locke Lord
600 Congress Avenue, Ste 2200
Austin, TX 78701

RE: APPEAL OF SCORING NOTICES: 17356 THE ACACIA, SAN ANTONIO, TEXAS

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated June 8, 2017, of the scoring notice for the above referenced Application. This Application was denied three tie-breaker items under 10 TAC §11.9(c)(4) of the 2017 Qualified Allocation Plan ("QAP"), related to Opportunity Index, because although the Application did include a map of the area, radius, and identified the park/playground and public transportation stop, the Application did not include complete evidence of an accessible route to a public park and evidence of an accessible route to public transportation.. Also, staff found that the street art displayed around the city does not meet the standard of a "museum" as defined in this subsection.

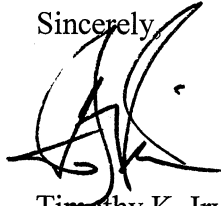
Pursuant to §11.9(c)(4)(B)(X), an Application may score one point if the "Development Site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value." On its face, single pieces of art displayed around the City of San Antonio do not, each, meet the definition of a "permanent institution" so as to constitute a "museum." The City's Department of Arts and Culture chose to disperse some outdoor-appropriate art around the city, rather than collecting them at a single location. While this decision may meet the city's desire to, as the appeal states, "foster San Antonio's creative community by supporting local arts organizations and individual artists," it cannot be said to transform each and every municipally installed sculpture, monument, or artistic creation into a "museum" for purposes of the Opportunity Index.

I have reviewed the letter from the accessibility specialist included in the appeal and the letter from the accessibility specialist submitted in the Request for Administrative Deficiency regarding this same Application. I find that the appeal has established that there is an accessible route from the Development Site to public transportation. Regarding the accessible route to the park, the route described in the appeal results in a route from the Development Site to the park that is more than ½ mile, making it not an eligible route for the tie-breaker item (the language of §11.9(c)(4)(B)(i)(I) requires the



site be located “less than ½ mile on an accessible route from a public park . . .”) Accordingly, I am granting the appeal for the route to public transportation, but I am denying the appeal for the route to the park. You will receive a revised scoring notice indicating one additional tie-breaker point for the Application. You have indicated that you wish to appeal this decision directly to the Governing Board. Therefore, the appeal has been placed on the agenda for the next meeting scheduled for June 29, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,

A handwritten signature in black ink, appearing to read 'TKI', with a large, stylized flourish extending upwards and to the right.

Timothy K. Irvine
Executive Director

TKI

17376 The Bristol

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

17388 West Pecan Village

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

17390 Las Palomas

**THIS ITEM HAS BEEN PULLED
FROM THE AGENDA**

4d

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JULY 13, 2017

Presentation, discussion, and possible action regarding amenities used for scoring points under 10 TAC §11.9(c)(4), related to Opportunity Index for Application #17327, Legacy Trails of Lindale, Lindale

RECOMMENDED ACTION

WHEREAS, a report regarding Third Party Requests for Administrative Deficiency ("RFAD") was made to the Board at the June 29, 2017, meeting;

WHEREAS, the report included an RFAD submitted regarding the farmer's market used for outdoor recreation points in Application #17327, Legacy Trails of Lindale;

WHEREAS, the Board requested that staff bring back an Action Item regarding this amenity; and

WHEREAS, staff has compiled and reviewed the information originally consulted for the RFAD determination, and recommends that the farmer's market be found eligible for an outdoor recreation point;

NOW, therefore, it is hereby

RESOLVED, the farmer's market as described in Application #17327, Legacy Trails of Lindale is found to be eligible to receive a point as outdoor recreation under 10 TAC §11.9(c)(4), related to Opportunity Index.

BACKGROUND

The RFAD submitted asks the Department to review requested points under 10 TAC §11.9(c)(4), related to Opportunity Index, and 10 TAC §11.7(3), related to Tie Breaker factors. Among other concerns, the requestor contends that because the Farmers Market used for Outdoor Recreation Facility does not qualify because of its periodic nature and it does not have a permanent facility.

An Administrative Deficiency was issued regarding the questions raised in the RFAD, and the Applicant submitted letters from the City of Lindale and the Lindale Farmer's Market regarding the eligibility of the farmer's market. After reviewing the response, staff determined that the Lindale Farmer's Market does qualify under the current rule as an outdoor recreation facility. The responses described the location as a closed street and the adjacent city-owned parking. In addition, activities such as bounce houses, live music, and arts and crafts are available. The letter from the Farmer's Market indicates that they are open throughout the year, and they are currently scheduled to be open on Saturdays from May 20 through October 7. There is nothing in the current rule staff has identified that would preclude counting this as outdoor recreation.

Marque Real Estate Consultants
710 North Post Oak Road, Suite 400
Houston, TX 77024
(713) 560-0068 – p
(713) 583-8858 – f
donna@marqueconsultants.com

June 13, 2017

Via Serv-U Portal

Ben Sheppard
Multifamily Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: TDHCA No. 17327-Legacy Trails of Lindale

Dear Ben,

The following is in response to your Administrative Deficiency Notice dated 06/07/17 for information in connection with your Eligibility/Selection/Threshold review of the above-described application.

1. Provide evidence in the form of a map showing the Development Site relative to census tract 47423001401 along with a certification from a professional with appropriate credentials to make such a determination that the Development Site is entirely within census tract 48423001401.

Response: Please see attached letter from Everett Griffith, Jr. & Associates and supporting map.

2. Provide evidence in the form of certification from the city, owner, operator, or from another professional certified to make such a determination that details the facilities, dates and times of operation, outdoor recreational activities, and accessibility to the general public of the Farmer's Market. Do the same for Hide-Away-Lake.

Response: Please see attached letter from The City of Lindale confirming the validity of the Farmers Market as an outdoor recreation facility. Also please see the letter from the Farmers Market Manager detailing the location, activities, dates and times of operation and accessibility to the Farmer's Market to the general public. We were unable to obtain similar recognition on Hide-A-Way Lake.

Ben Sheppard – TDHCA

#17327

June 13, 2017

Page -2-

Thank you for allowing us the opportunity to clarify the described administrative deficiencies. In the event you have any additional questions or comments, please feel free to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Donna Rickenbacker". The signature is written in black ink and is positioned above the printed name.

Donna Rickenbacker

cc: Chaz Garrett (Via Email)
Dru Childre (Via Email)



June 7, 2017

Marni Holloway
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

RE: Application #17327 Legacy Trails of Lindale, Located in Lindale, Texas

Dear Ms. Holloway:

The applicant for Legacy Trails of Lindale has requested that I confirm the validity of one of their opportunity index amenities as it relates to their application for 2017 tax credit funding. I have discussed with the applicant, the administrative deficiency issued by the department on June 5th, 2017 and my response can be found below.

The City of Lindale supports local Farmers Market as well as the development Legacy Trails of Lindale. It is our stance that the Farmers Market should be considered as an outdoor recreation facility for the development. The Farmers Market provides several recreational activities for adults and children. Some of the activities offered are shopping, bounce houses, live music and arts and crafts. The Farmers Market is open to the public with no admission or parking charges. The City provides an outdoor location, at the corner of Valley Street and Highway 69, for the Farmers Market to operate. The City closes off a street and makes the adjacent City owned lots available for use. I trust this has addressed the Departments concerns about the Lindale Farmers Market.

Regards,

A handwritten signature in blue ink that reads "Michelle Phillips".

Michelle Phillips
City Secretary
City of Lindale



June 7, 2017
Marni Holloway
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

RE: Application #17327 Legacy Trails of Lindale, Located in Lindale, Texas

Dear Ms. Holloway:

The applicant for Legacy Trails of Lindale has requested that I confirm the validity of one of their opportunity index amenities as it relates to their application for 2017 tax credit funding. I have discussed with the applicant, the administrative deficiency issued by the department on June 5th, 2017 and my response can be found below.

The Lindale Farmers Market is an open-air farmers market where vendors of all types are allowed to bring locally grown produce, homemade baked goods and crafts. Our farmers market is located on E Valley St. in Lindale just off Highway 69. We use the street and several adjacent lots to set up our vendors and family activities. We are open throughout the year. This year we are open every Saturday from May 20th thru October 7th. The farmers market and all of our activities are open to the general public, there are no charges for parking or admission. The farmers market offers a great opportunity to relax, shop and participate in fun activities with your family. We offer several fun activities for the entire family. We offer a variety of live music for attendants to enjoy, arts and crafts with tutorials for children and adults, face painting, bounce houses, holiday children's parades, waterslides and other games.

These activities change year to year but we try every year to come up with new, exciting and fun activities for the entire family to enjoy. I hope that this letter has addressed any concerns the department may have about the Lindale Farmers Market.

Regards,

Meagan Lewis
On Site Farmers Market Manager, Lindale Farmers Market



3556 S. Culpepper, Suite 4 * Springfield, MO 65804
Phone: (417) 882-1701 * Fax (417) 882-1730

June 1, 2017

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

Re: HTC Application 17327 Legacy Trails of Lindale

Dear Mr. Irvine:

Please consider this a Third Party Request for Administrative Deficiency (RFAD) with regard to HTC Application 17327 Legacy Trails of Lindale. A fee of \$500 for the filing of the RFAD as required by the Rules has been submitted to TDHCA. This RFAD concerns the Applicant's requested points under §11.9(c)(4) Opportunity Index and §11.7(3) Tie Breaker Factors.

This Application claims the maximum seven (7) points allowed by §11.9(c)(4) of the QAP and an additional seven (7) points allowed by §11.7(3) Tie Breaker Factors. This RFAD concerns the Applicant's selection of two items:

(VIII) Development Site is located in a census tract where the percentage of adults age 25 and older with an Associate's Degree or higher is 27% or higher as tabulated by the 2010-2014 American Community Survey 5-year Estimate. (1 point)

(XI) Development site is within 3 miles of an outdoor recreation facility available to the public. (1 point)

Under subparagraph (VIII), the Development Site includes a census tract that does not qualify for these points. Under subparagraph (XI), the Applicant provided documentation of two activities in order satisfy this requirement, a Farmers Market and Hide-A-Way Lake, neither of which conform to the QAP language.

Associates Degree

The Application states that it is located in census tract 48423001401 (only) and provides documentation that census tract 48423001401 has an Associates Degree rate of 39.45%. However, the Development Site spans two census tracts, one of which has an Associates Degree rate of 24.70% which would not qualify for this point.

The Application contains an Unimproved Property Contract as documentation for Site Control. Section 2 of the contract describes the "Property" as "See field notes in attached Exhibit D." Exhibit D is a survey and legal description for 19.215 acres that span two census tracts: 48423001401 and 48423001403. Section 11 of the contract describes "Special Provisions" and states "Cont. Exhibit B." Exhibit B states that the Buyer will "put any multi-story buildings in the North West corner of the property." The "property" has already been described in Section 2/Exhibit D as the entire 19.215 acres. The contract appears to include an "Exhibit C" that attempts to outline boundaries for a "senior property"; however, the contract itself does not reference an Exhibit C and there is no contract amendment reducing the acreage of the Property. There is nothing in the Site Control in the Application to properly and legally reduce the size of the property such that it is only located in one census tract. The Site Control submitted in the Application clearly includes the entire 19.215 acres.

The TDHCA definition of "Site Control" is "*Ownership or a current contract or series of contracts, that meets the requirements of §10.204(10) of this chapter, that is legally enforceable giving the Applicant the ability, not subject*

HTC Application 17327 Legacy Trails of Lindale

Page 2

to any legal defense by the owner, to develop a Property and subject it to a LURA reflecting the requirements of any awards of assistance it may receive from the Department.”

The TDHCA definition of “Property” is *“The real estate and all improvements thereon which are the subject of the Application (including all items of personal property affixed or related thereto), whether currently existing or proposed to be built thereon in connection with the Application.”*

The TDHCA definition of “Development Site” is *“The area, or if scattered site, areas on which the Development is proposed and to be encumbered by a LURA.”*

Based on the “Site Control” provided in the Application, the “Property” is 19.215 acres and per the definition of “Property,” without an amendment reducing the size, the entire 19.215 acres is the subject of the Application. Since the entire 19.215 acres is the “Property” and subject to the Application, the census tract indicated in the Application should correctly be listed as 48423001401 and 48423001403. This would match the address of 15121 CR 467 listed in the Application, which is the address for the entire 19.215 acres because the lot frontage on CR 467 is located in census tract 48423001403.

The only parts in the Application that list a smaller acreage are the architectural site plan and a note on Site Information Form Part III. Site Information Form Part III still confirms that the Site Control is 19.215 acres. The Title Commitment submitted with the Application also covers all 19.215 acres as does the ESA.

The site plan submitted with the Application shows a 5.33-acre area presumably entirely within census tract 48423001401 with a separate 40’ Ingress/Egress easement that would be located within census tract 48423001403. The Ingress/Egress is located within the 19.215 acres represented in the Site Control. A note on Site Information Form Part III attempting to reduce the Development Site to 5.33 acres does not negate the fact that the Site Control still contains all 19.215 acres and would be subject to the LURA for the Development Site. Furthermore, an “easement” is only an easement because the subject land is owned by another party. Because page 87 of the Application shows that the contract with Karacon LLC containing the entire 19.215 acres was assigned to the HTC Development Owner Applicant, SCS Lindale 17, LP, on February 23, 2017, the Ingress/Egress “easement” is currently controlled/owned by the HTC Development Owner Applicant, which means it cannot be an easement and therefore it must be part of the Development Site.

Based on the aforementioned information, the entire 19.215-acre tract must be considered the Development Site. Per the TDHCA definitions, both “Development Site” and “Site Control” refer to the area to be encumbered by the LURA while “Property” refers to the subject of the Application. Because the entire 19.215 acres are submitted as the Site Control and have been assigned to the HTC Development Owner Applicant, they are the Property, the subject of the Application, and are to be encumbered by the LURA. The only way for this Application to legally contain a site smaller than 19.215 acres is if there was a proper contract amendment reducing the size of the Property submitted with the Site Control. Because the entire 19.215 acres must be considered the Development Site, the census tract for this Application should correctly be listed as 48423001401 and 48423001403. Historically, when a Development Site included multiple census tracts, Staff compared the characteristics of all tracts and took the lower-scoring option of all the tracts. Because 48423001403 has an Associates Degree rate of 24.70%, the Application does not qualify for this point item.

Should Staff allow a reduced Development Site that only includes one census tract in the Full Application, then we request that Staff reevaluate the 6 points awarded under §11.9(e)(3) Pre-application Participation. The Pre-application contains the same Site Control documentation describing the entire 19.215-acre tract that spans both census tracts. Permission to reduce the acreage to only include one census tract at Full Application does not change the fact that the Pre-Application contained a larger Property that was located in two census tracts. A change in census tracts between Pre-application and Full Application would make the Application ineligible for points under §11.9(e)(3) because §11.9(e)(3)(F) requires that the census tract number listed at Pre-application be the same at Application and the Pre-application.

Outdoor Recreation: Farmers Market

The Application includes a screenshot from the City of Lindale website regarding the City’s Farmers Market. First, the Farmers Market operates for only 5 hours on one day of the week for 4.5 months out of the year, which means

that this is a very limited occurrence and not actually a “facility.” Second, the Farmers Market does not have a dedicated “facility” and instead operates in a parking lot. Finally, the banner pictured on the website lists only “Local Vegetables, Fruit, Crafts, Dairy” with no mention of recreation activities.

The Texas Department of Health and Human Services defines “farmers’ market” as “a designated location used primarily for the distribution and sale of food directly to consumers by farmers and other producers” (see attached documentation). Section 11.1(d) of the QAP defines “Definitions” as “Defined terms when not capitalized, are to be read in context and construed according to common usage.” There is nothing in the definition or common usage of “farmers market” that indicates that it would be an “outdoor recreation facility.”

In addition to Fresh Produce, Natural Meat, Baked Goods, and Jams and Jellies, the City of Lindale Farmers Market website does indicate that there is Live Music as well as Kids Activities and Arts and Crafts. While these could be considered recreation *activities*, the language of the QAP states that the Development Site must be located within 3 miles of an outdoor recreation *facility* [emphasis added].” While there may be recreation activities at the Farmers Market, the Farmers Market itself is not an outdoor recreation facility.

An analogous situation was asked of Staff prior to the Full Application Delivery Date and answered in the 2017 Competitive HTC Application Cycle FAQ:

Q: Please confirm if a fast food restaurant such as McDonalds, Chic Fil A, etc. that has an indoor playground qualify as an indoor recreation facility. Would a bowling alley qualify as an indoor recreation facility?

A: The playground inside a fast food restaurant would not be considered an indoor recreation facility. A bowling alley would qualify.

Just as a playground inside a fast food restaurant would not be considered an indoor recreation facility, recreation activities at an occasional farmers market held in a parking lot should not be considered an outdoor recreation facility.

Outdoor Recreation: Hide-A-Way Lake

The Application includes a screenshot from the “hook and bullet” website about “Hide-A-Way Lake Fishing.” This website is a third-party business listing service about hunting and fishing and not an official website for the amenity. In the documentation in the Application, the “Details” section states the access is “public property,” but the “Description” section states “Please remember to check with the local Fish and Wildlife department to ensure the stream is open to the public.” There is no documentation in the Application to confirm that it is open to the public.

Hide-A-Way Lake is a private gated residential community outside of Lindale. See the attached Hide-A-Way Lake map from the community’s website at <http://www.hideawaytexas.net/upload/e2cSmvx-xp.pdf>. This map corresponds to the radius map provided in the Application; the lake indicated on the map in the Application is clearly the same lake that is within the Hide-A-Way community. See the attached email from Rob James, General Manager of Hide-A-Way Lake, that confirms that the lakes are private and non-members may fish only when called in by a member. Also attached are the Hide-A-Way Lake By-Laws, membership fee listing, and membership application, all of which confirm that one must own property or reside in Hide-A-Way Lake in order to become a member. (All documents are available on the community’s website at <http://www.hideawaytexas.net/about>.)

Hide-A-Way Lake is not an outdoor recreation facility that is “available to the public” as required by the QAP. Hide-A-Way Lake is a private membership club open to owners and residents of the Hide-A-Way Lake community. Residents of the proposed HTC development would not be able to become members of Hide-A-Way Lake. As confirmed by the email, the general public cannot drive into Hide-A-Way Lake and fish or recreate in the lakes without permission. See attached Google Street View of the main gate for the community with a “No Trespassing” sign that reads “Residents & Property Owners Only.” Because Hide-A-Way Lake is a private community that is not open to the general public, it cannot be considered an “outdoor recreation facility available to the public” as required by the QAP.

Conclusion

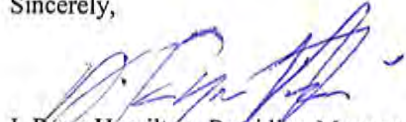
HTC Application 17327 Legacy Trails of Lindale

Page 4

Application 17327 should be denied the points under 11.9(c)(4)(B)(ii)(VIII) and §11.9(c)(4)(B)(ii)(XI). The Development Site includes a census tract that does not have the required Associates Degree rate and the amenities listed as Outdoor Recreation in the Application do not conform to the language in the QAP. Additionally, the Application should not be allowed to substitute any other facilities for any scoring item as that would be a substantial change to the scoring item submission.

Thank you for your attention. Please contact me with any questions.

Sincerely,



J. Ryan Hamilton, Presiding Manager
Four Corners Development, LLC



PUBLIC COMMENT

Public Comment On Matters Other Than Items For Which There Were Posted Agenda Items

The materials following have been included in the Board Book at the request of groups planning to make public comment at the July 13, 2017, meeting. These materials have not been reviewed or evaluated by staff.

This information is public comment only, no actions, discussion or decisions will be made by the Board at the meeting as a result.

Mark Howson
8410 Heraldry St
San Antonio, Texas 78254

Marni Holloway, Director of MultiFamily Finance Division
Texas Dept. of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

PDF EMAILED TO: Marni.Holloway@tdhca.state.tx.us

Date: July 7, 2017

RE: TDHCA Application #1756 (the "Acacia")

Dear Ms. Holloway,

I am writing to notify TDHCA of defects in the subject Application (the "Acacia" or "Proposed Development") from Versa Development ("Versa") that **cumulatively rise to the level of Material Deficiency, and to request the Board of TDHCA find this Applicant ineligible for 9% tax credit funding.**

The public has standing to notify THDCA of such Application defects, as provided under §10.202 of the Texas Administrative Code.

TDHCA has the power under §10.202(1)(K) to find Applicants **ineligible for funding if they have provided falsified documentation or made other intentional or negligent material misrepresentations or omissions in their Application.**

TDHCA also has the the power under §10.202(2)(B) to find Applicants **ineligible for funding if the Application has a Material Deficiency, which can include "a group of Administrative Deficiencies, that taken together, create the need for a substantial re-assessment or reevaluation of the Application,"** as provided under §10.3(a)(79).

Following is a summary of the defects we found in this Application, followed by specific evidence supporting our assertions. I also include other legal concerns.

All of these specific concerns were submitted to TDHCA in writing by various residents and HOAs before the public comment period ended on June 23; these concerns are gathered here into one letter for the convenience of TDHCA and its Board.

Executive Summary

A. City Councilman did not inform his neighborhoods about proposed TDHCA projects; had undeclared conflicts of interest.

- A1. Summary of meeting transcripts: District 7 Councilman Cris Medina expected the developers to make the notifications.
- A2. Jan 9, 2017: Medina had knowledge of these projects by early January.
- A3. Jan 17-18: Medina said nothing about the projects in at least three HOA meetings.
- A4. Jan 26: Medina asked what is the notification process at Housing Committee Meeting.
- A5. Feb 9: Medina asked again about the notification process even as the projects were presented for City Council approval February 9, 2017.
- A6. March-April 2017: Residents learn about proposed projects by accident.
- A7. April 5: Medina tells neighborhood meeting that “it’s out of his hands now.”
- A8. April 20: Medina signed the neighborhood petition against TDHCA projects.
- A9. Medina accepted at least \$11,000 in campaign contributions from low-income developers.
- A10. Formal complaint filed against Medina alleging perjury, bribery, and violation of ethics.
- A11. Medina’s lack of notification to area neighborhoods may have been tied to the conflicts of interest discussed above.
- A12. Texas State Representative Justin Rodriguez was told that neighborhoods adjoining proposed projects in City of San Antonio (“COSA”) District 7 did not oppose them. On this basis, Mr. Rodriguez offered his support to all the proposed developments.
- A13. In summary: TDHCA’s reliance on local government and developers to inform neighborhoods failed the taxpayers. Over 3000 residents have signed a petition against certain of the proposed COSA District 7 projects.

B. High-density in defiance of City of San Antonio Master Planning.

C. Versa’s proposed site would deprive residents of jobs and make transit difficult.

- C1. Infrequent bus service.
- C2. Lack of nearby jobs, so long commute times.

D. Developer proposes to develop a site entirely on a floodplain contrary to San Antonio’s Master Plan and Unified Development Code.

- D1. The City of San Antonio and Bexar County are flood prone areas.
- D2. Floodplains help mitigate the negative effects of floods.
- D3. Building the Acacia housing development in a floodplain negatively affects those upstream of the development.
- D4. Building the Acacia housing development in a floodplain negatively affects those downstream of the development.

- D5 Building the Acacia housing development in a floodplain negatively affects those living in the development.
- D6. The City of San Antonio's policy is to preserve and protect its floodplains.
- D7. The City of San Antonio and Bexar County are trying to remove people from the floodplain.
- D8. The City of San Antonio has published laws to preserve and protect its floodplains.
- D9. Summary

E. Illegitimate Opportunity Index Points should not be awarded.

- E1. The claimed **playground is does not have an ADA compliant route to it and the route is more than 0.5 miles**. QAP rules require the playground and the route to the play ground be ADA compliant and the route be no more than 0.5 miles. The route to the playground is 0.6 miles and the route to the playground is not ADA compliant.
- E2. The claimed Health Care Facility in the Acacia Application is no longer in operation.
- E3. The claimed Museum is public art works in public parks. The QAP states a museum must have a primary purpose and not an ancillary purpose of acquisition, conservation, study, exhibition, and educational interpretation of objects having a scientific, historical, or artistic value. The Acacia application provide no evidence of a museum and seems to claim a skatepark mural and concrete benches in a park as a museum.
- E4. Indoor recreation site "Any Time Fitness" is unlikely to be ADA-accessible, as required. **A recent study of 227 US gyms found they were ADA-compliant mainly for water fountain access**. Applicant needs to show proof of this gym's accessibility. Applicant shows negligence in its due diligence.
- E5. Summary of ineligible points.

F. Letters of false community support should not be acceptable.

- F1. Rules are set up to exclude most neighborhood associations from impacting points.
 - F2. **Rules instead allow points for false "community support."**
 - F3. Development site "area" is not defined, so common sense should prevail in deciding whether a Community Organization actually benefits the neighborhoods adjoining the Proposed Development.
 - F4. Support from Latinos in Action Sports Association is not allowable.
 - F5. Support from Academia America is not allowable.
 - F6. Support from American GI Forum / National Veterans Outreach Program ("NVOP") is not allowable.
 - F7. Support from LULAC Council 4383 is not allowable.
 - F8. In summary, the four Community Organizations do not speak for neighborhoods adjoining the Proposed Development. The four points for support from Community Organizations should be removed.
-

A. City Councilman did not inform his neighborhoods about proposed TDHCA projects; had undeclared conflicts of interest.

TDHCA employee Nicole Fisher has stated that TDHCA currently relies on local government officials to inform area residents of proposed developments when written notification is not mandated by the 2017 Qualified Allocation Plan (QAP). However, **notification of most or all of District 7 residents by local government did not happen.**

A1. Summary of meeting transcripts: District 7 Councilman expected the developers to make the notifications.

COSA District 7 Councilman Cris Medina asked COSA Planning Director Bridgett White in two different recorded meetings what are the notification requirements for 9% tax credit projects.

Ms. White told Mr. Medina that developers are requested but not required to notify both neighborhoods and City Council members of proposed developments.

Ms. White said that her office does not make these neighborhood notifications because they don't want "to be in the position of supporting or opposing the developments."

Mr. Medina agreed, saying that it's better for developers to make contact with neighborhoods because his office is "put in a tough situation, as well" if he must make the notifications.

So Mr. Medina passed all responsibility onto the developers for making notifications, rather than face possible community opposition himself.

A2. Jan 9, 2017: Medina had knowledge of these projects by early January.

Versa claims in their Application that they sent the required written notification for Acacia to all City of San Antonio (COSA) Council members before January 9, 2017 (the Pre-Application deadline). Either Versa did not send this required notification, or former **District 7 Councilman Cris Medina neglected to inform District 7 residents about the project notifications he received before January 9, 2017.**

A3. Jan 17-18: Medina said nothing about the projects in at least 3 HOA meetings.

In HOA meetings held with Braun Station East (January 17, 2017) and Braun Station West (January 18, 2017), Mr. Medina **said nothing about any of the several developments then under consideration**, including the Acacia and the nearby Bristol.

Mr. Medina did not even mention any of the proposed projects to his own homeowner association of French Creek Village, where he resides and of which HOA he was a former President.

A4. Jan 26: Medina asked what is the notification process at Housing Committee Meeting.

In the audio recording of the COSA Housing Committee meeting of January 26, 2017 [source], Mr. Medina asked about the notification process for the several TDHCA projects

under consideration. COSA Planning Director Bridgett White responded that either the developer should reach out, or City Council persons should. Mr. Medina said that his reaching out to neighborhoods would put his office in a **“tough situation.”**

Medina (27m:4s): "I want to touch on what you just talked about, community support. **How involved are neighborhoods, neighborhood associations, HOAs involved in this process directly, or is it through just contact with our office?"**

White (27m:56s): "Well, through the application process that we have, we don't reach out and go out to neighborhood associations just because **we don't want to put ourselves in a position of we're supporting or not supporting a particular development so we let them know, the developer know that need to reach out to the council office.** A lot of time some of have already started the process of reaching out to neighborhood associations or community groups, for example [garbled] and so when they get to TDHC [sic] they should have, if they want to receive those points, have reached out to—and I know in some cases, because I was looking at one just for historical purposes, that [garbled] had actually gotten a letter from like the president of the neighborhood association so it really is up to the developer to make sure that they have discussed this, that council members know, and neighborhood residents are aware because about a project because that's a point issue as well."

Medina (28m:50s): "So not a requirement, not mandatory, but highly, highly encouraged."

White (28m:56s): "Not mandatory for the City of San Antonio's application, but for TDHC [sic] it is because they award points for that."

Medina (29m:06s) "I certainly highly encourage and want to say that I think it's very beneficial that these applicants do reach out on their own to the neighborhood groups and **I think it's just better to be candid and forthright about their intentions and their plans and try to secure and garner support on the front end rather than relying on us or relying on the office [Medina is referring to himself and his City Council office] because we're kind of put in a tough situation, as well.** While we do, I certainly support affordable housing for working families, but I think it's important that the applicants understand it's about compatibility as well, and making sure that they know that and understand the areas that they're coming into and understand that it's important to work with those neighborhood leaders and groups..."

Mr. Medina seconded the motion for the nine docketed projects to proceed to COSA City Council for resolutions of approval even though, by his own statement, he apparently did not want to make neighborhood notifications himself, and encouraged the developers to do that for him.

A5. Feb 9: Medina asked again about the notification process even as the projects were presented for City Council approval February 9, 2017.

Five projects had dropped out by this time, leaving four proposed developments on COSA City Council's docket for resolutions of approval on February 9, 2017 (Acacia, Bristol, Bandera Apts, and Rio). All four passed. In the video transcript (1h:22m) of that meeting, Mr. Medina notes:

"There's been a lot of questions, concerns that have come up as I've made visits out to some of my neighborhoods, out in particular around the Tezel and Guilbeau area..."

We have not been able to identify any individuals or HOAs who were notified by Mr. Medina of these projects. Several of the HOAs physically closest to the proposed developments have stated that **Mr. Medina told them nothing about these projects at any time prior to April 2017.**

Even assuming he had heard such objections, why would Mr. Medina initiate the motion to approve the projects in spite of neighborhood opposition?

Mr. Medina **again** asked White (1h:25m) what is the notification process for neighborhoods:

"I did want to ask, though, about the city's current notification process with regard to how we coordinate and communicate with HOAs and neighborhood associations in proximity to some of these proposed projects."

Ms. White answered:

"...We asked that any **developer** applicant coming forward would **notify the council office**, so council members were aware of any projects that were going to be submitted as part of the RFA process..." and "what we're planning to, or what we can do **for future applications processes is that we can release the RFAs sooner and require the applicant or developer to notify neighborhood associations.**"

Mr. Medina (1h 26m) again passes responsibility back to the developers:

"...I certainly welcome that [*requiring developers to notify HOAs*]...our internal policy is, really with any development or any application the comes to our office, **we encourage, highly encourage, that they [*developers*] go and work and talk with neighborhood associations** and leaders and take that additional step so that we can have those open lines of communication..."

If Mr. Medina had already notified his District's neighborhoods before the Council meeting for the resolutions of support, there would have been little reason for Mr. Medina to ask how the notification process works.

Mr. Medina is an intelligent man with a good memory. Because Mr. Medina asked Ms. White the same exact question about the notification process as at the January 26, 2017 meeting, **he seems to be making a statement on the record that he expected the developers to make the notifications, not his own office.**

A6. March-April 2017: Residents learn about proposed projects by accident

Northwest San Antonio residents in various HOAs learned of the four proposed TDHCA projects by accident in March and April, likely from a rezoning notification sign posted for one of the earlier projects. We began sharing information, since Mr. Medina's office was providing contradictory information to residents who contacted his office with questions.

A7. April 5: Medina tells neighborhood meeting that "it's out of his hands now."

On April 5, 2017, Mr. Medina was invited to come to the Northwest Neighborhood Alliance monthly meeting and give details on these proposed projects. So many residents showed up that a side door had to be opened to the outdoors to allow additional people to hear the speakers.

Angry residents of District 7 neighborhoods asked Mr. Medina why none of them had been notified about the proposed projects. **Mr Medina did not give a satisfactory answer and concluded that [paraphrasing] it didn't matter because it "was now out his hands, anyway, and that residents would have to complain at the state level."**

While the audience was turned around to face a member in the back of the room who was explaining how the TDHCA process works, Mr. Medina slipped out of the room through the open side door to avoid further questions. **We have a video recording of this meeting.**

Neighborhood residents, angry about the absence of notification, began circulating a petition protesting certain of these developments. **This petition of opposition has over 3000 signatures.** It was shown to TDHCA at its Board meeting of May 25, 2017, and has since been mailed.

A8. April 20: Medina signed the neighborhood petition against TDHCA projects.

On April 20, 2017, Mr. Medina signed the neighborhood petition of opposition to some of these TDHCA projects. The news was posted on NextDoor.com.

 **Cris Medina, Councilman District 7, signed my petition tonight.**
 from French Creek Village · 5d ago (April 20, 2017)

16 Just to let all know, Cris Medina, Councilman District 7, stopped at the FCV petition signing table tonight and signed the petition.

The signatures were turned over to [redacted] tonight. [redacted] are helping [redacted] with a very difficult undertaking.

Just thought all should know.

Shared with French Creek Village + 14 nearby neighborhoods in General

Cris Medina's signature on the neighborhood petition opposing the projects:



Why did Mr. Medina sign this petition opposing the Acacia and Bristol since he was the initiator of the City Council motion in support of them?

Mr. Medina was up for District 7 re-election on the May 6, 2017 ballot as the incumbent, and we believe he feared losing the votes of the angry neighborhoods that he had neglected to inform about the proposed TDHCA projects. (Indeed, after a decade in which local elected incumbents won 35 of 38 council races, Mr. Medina lost the election in an upset.)

Mr. Medina can't have it both ways.

If Mr. Medina knew of strong neighborhood opposition, he should not have motioned for approval of the resolutions of support for the four projects on February 9, 2017, including Acacia and Bristol.

If Mr. Medina did not know about neighborhood opposition, it's only because he never asked. The 3000+ signatures that were gathered from District 7 are excellent proof that he never asked for neighborhood input.

A9. Mr. Medina accepted at least \$11,000 in campaign contributions from low-income developers

Almost half of Mr. Medina's 2017 campaign contributions came from real estate developers [source]. More specifically, **Mr. Medina accepted at least \$11,000 in contributions for 2017** from several family members and corporations tied to low-income housing developers that **include Atlantic Pacific Communities for the Bristol, and Versa Development for the Acacia**. I can provide specific documentation from City records of these contributions and how they tie to specific low-income developers.

While each individual contribution appears have been within the required limits, **we believe the total dollar amount constitutes a serious conflict of interest**, particularly in light of Mr. Medina's deliberate lack of notification of the relevant neighborhoods.

A10. Formal complaint filed against Medina alleging perjury, bribery, and violation of ethics.

Mr. Medina filed on March 9, 2017 a Personal Financial Statement documenting **financial ties** (up to \$24,999) **to United Apartment Group, a company that manages 41 low-income housing developments in San Antonio**. United Apartment Group is headquartered in San Antonio but was incorrectly stated by Mr. Medina as being headquartered in Bedford, Texas.

The complaint, filed April 13, 2017, alleges that the true location of the United Apartment Group was concealed because COSA Ordinances (Article XXII, Section 141) **forbid a city official to have a direct or indirect financial interest in a business doing business with the City of San Antonio**. If found guilty, Mr. Medina could have been removed from office but still could face other penalties.

Additionally, the new City of San Antonio District 7 Council Representative Ana Sandoval testified before the TDHCA Board on June 29, 2017 that she would propose the city withdraw support for the Acacia and Bristol projects.

A11. In Summary: Medina's lack of notification to area neighborhoods may have been tied to the conflicts of interest discussed above.

TDHCA relies on local government to notify area residents of proposed developments, but for District 7 in 2017, the system failed.

Our neighborhoods have serious concerns about Mr. Medina's probable conflicts of interest as the reason for lack of notification. The concerns were such the community did not support his holding of public office.

A12. District 125 Texas State Representative Justin Rodriguez believed he had the support or non-opposition of neighborhoods adjoining the Proposed Development.

District 7 Councilman Cris Medina told Mr. Rodriguez that neighborhoods in District 7 did not oppose the Acacia and certain other housing tax credit projects. Additionally the Developer Manish Versa communicated he had community support for the project. On this basis, Mr. Rodriguez gave his support to this project and other projects in the area.

The only reason Mr. Medina did not hear about the widespread opposition to certain of the proposed District 7 projects is because he never informed the neighborhoods of their existence.

A13. In summary: TDHCA's reliance on local government and developers to inform neighborhoods failed the taxpayers.

Citizens have every right to be notified about proposed housing projects because we subsidize them with our tax dollars.

Anger over the deliberate lack of notification resulted in over 3000 residents signing a petition against the Acacia and certain other housing tax credit projects.

Our State Representative and Senator will be working with us to change future QAPs such that neighborhoods cannot be deliberately excluded from notification.

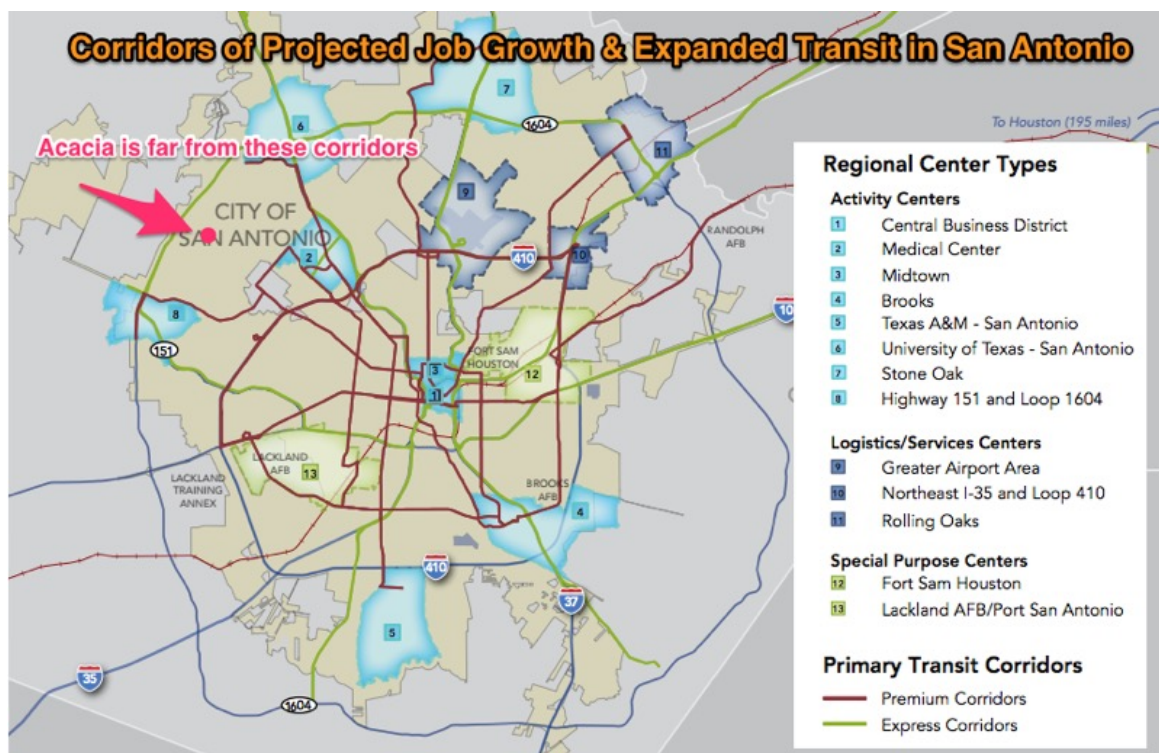
B. High-density in defiance of City of San Antonio Master Planning.

High-density housing is best suited in San Antonio's planned "SA Corridors," where there is projected job growth and additional transit.

The City of San Antonio has a 25-year plan that **links transit solutions with key high-density corridors and areas of projected job growth** through a unified future land use plan ("SA Corridors"). By linking planned high-density housing with more bus or light rail service to those areas with high job growth, the city hopes to accommodate the growth they are anticipating [source].

One of the key corridors is the southern part of Bandera Rd. The Corridor will not extend northwest up to Guilbeau Rd, however, where the Acacia would be located. **That's because our neighborhood is not projected to have growth in jobs.**

A project like the Acacia would be far better suited to be built in one of these corridors of job growth, ensuring transit access and jobs for its residents in the future.



C. Versa's proposed site would deprive residents of jobs and make transit difficult.

The Acacia is a three-story apartment complex. The proposed building site is located within a distant northwest suburb of single-family homes, with limited businesses nearby. Apartment residents would be isolated from job growth and from sufficient transit to areas where there are good jobs.

C1. Infrequent bus service.

- There is only one bus route with stops on Guilbeau Rd, #606.
- Buses on this route #606 **run once an hour**. So a badly-timed shopping trip could require up to 2 hours for the just bus transport, plus shopping time.
- This infrequent service could make it **difficult for residents to access important support services, such as classes at the community college (which is five miles away)**.

C2. Lack of nearby jobs, so long commute times.

- Because the area is primarily residential and has a low density of non-retail businesses, the few job opportunities within walking distance are mainly minimum wage jobs.
- Infrequent bus travel would make for potentially very long commute times.
- On weekdays, the last #606 bus arrives at 8:40 pm. This would make **life very difficult for any resident working a late shift**.

The proposed building site would do its future residents no favors by placing them in a distant northwest suburb, away from jobs and from the means to get to those jobs.

D. Developer proposes to develop a site containing a floodplain contrary to San Antonio’s Master Plan and Unified Development Code.

D1. The City of San Antonio and Bexar County are flood prone areas.

D1(a). San Antonio is in one of the most flood-prone regions in North America. [source]

D1(b). In Bexar County, more people have died in flood-related incidents than any other county in the state of Texas between 1959-2008. [source]

D1(c). In San Antonio, the Flood of 1998 killed 31 people and damaged 1,150 homes. [source]

D1(d). In San Antonio, the Flood of 2002 killed 9 people and damaged hundreds of homes. [source]

D1(e). In San Antonio, the Flood of 2013 killed at least 2 people, and the San Antonio Fire Department conducted more than 235 water-related rescues of people from their homes and cars. [source]

D1(f). In San Antonio, after heavy rains in September of 2016, the San Antonio Fire Department responded to about 40 high-water rescues. [source]

D2. Floodplains help mitigate the negative effects of floods.

D2(a). Floodplains offer flood protection. As the water in rivers, creeks, and floodways rises, floodplains provide a natural place for the water to go without causing damage to the surrounding area. [source]

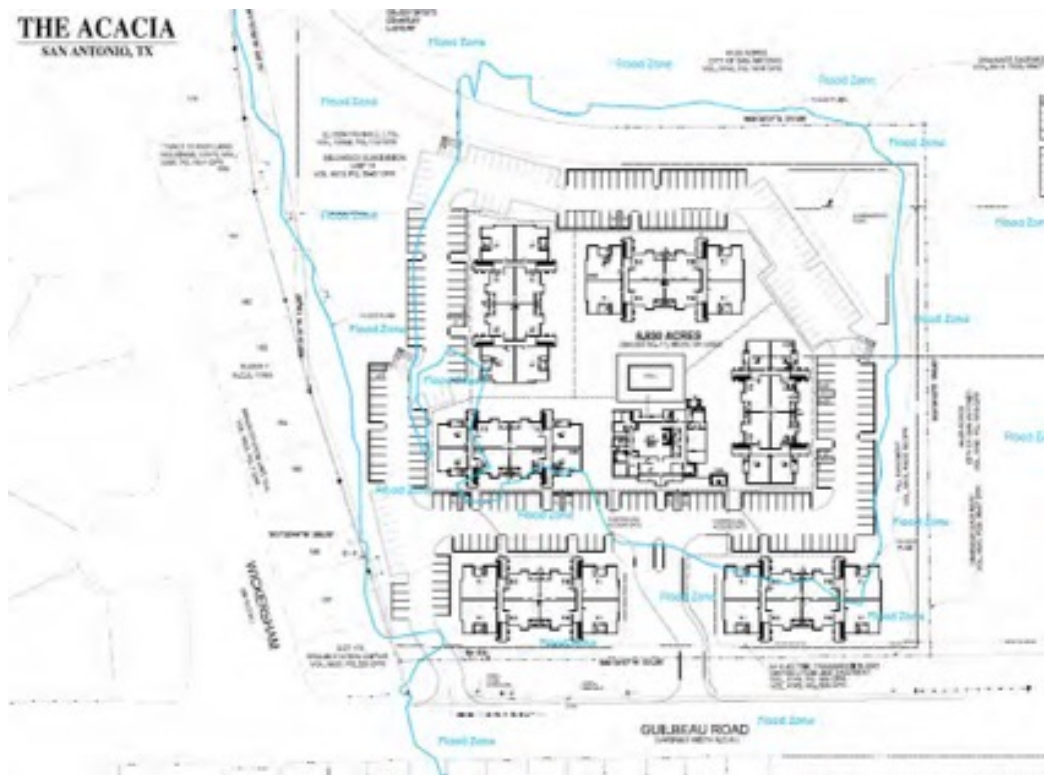
D2(b). Floodplains reduce flood insurance and disaster recovery costs. They reduce the consequences of flooding, such as loss of life and damage to structures. They also reduce the costs associated with downstream flood control infrastructure. [source]

D2(c). If the Acacia is built in the 100 year floodplain, it will destroy the natural flood protections that the floodplain provides.

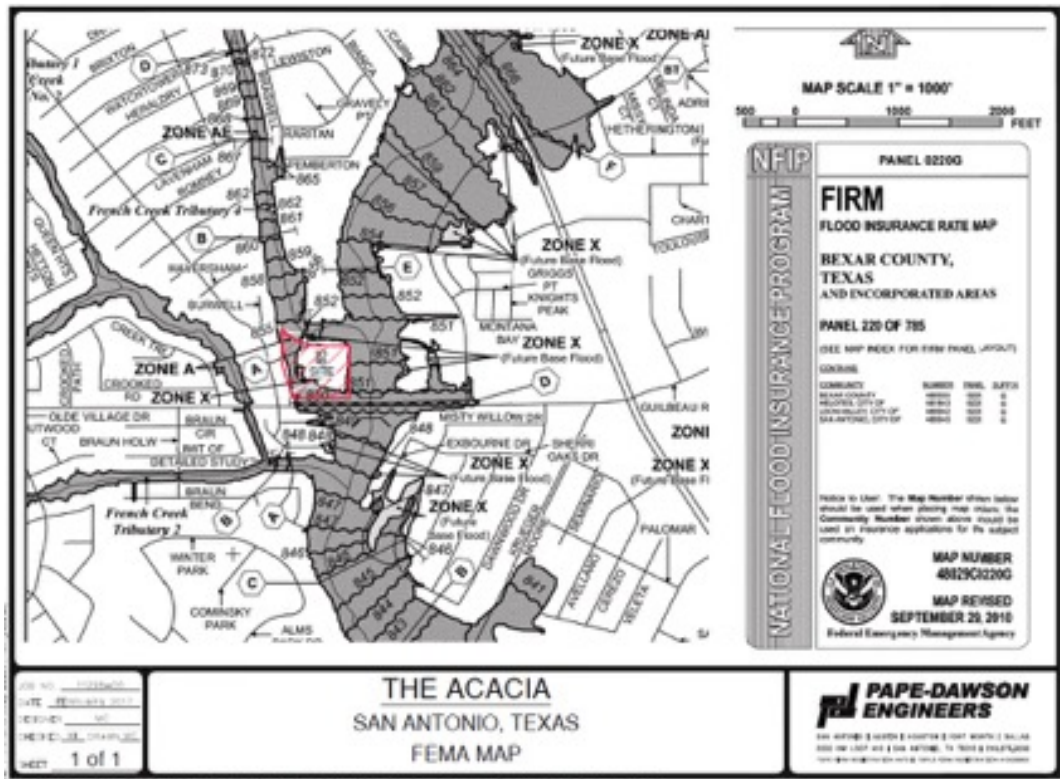
D3. Building the Acacia housing development in a floodplain, negatively affects those living upstream of the development.

D3(a). Development in and along flood plains alters the capacity of the floodplain to convey water. In particular, structures built in a floodplain narrow the width of the floodplain and increase the floodplain’s resistance to flow. As a result, the water level is now higher as it flows past the obstruction, creating a backwater that will inundate a larger area upstream. [source]

D3(b). The Acacia shows four buildings in the 100 year floodplain.



- D3(c). These buildings will act as obstructions to the natural flood flow in the area, spreading the flood flow outward and around the obstructions.
- D3(d). As the floodwaters crash into the buildings, the water level around the buildings will rise, and the water level upstream of the development will rise as well
- D3(e). Residents of Braun Station East, especially those living along Wickersham, Burwell, and the cul-de-sacs of Haversham, Chesham, Upton, Romney, Lavenham, Kingsway, Heraldry, Watchtower, Brixton, Dragon, Chivalry, and Dorsetshire will now experience higher flood waters that infringe upon and damage their property.



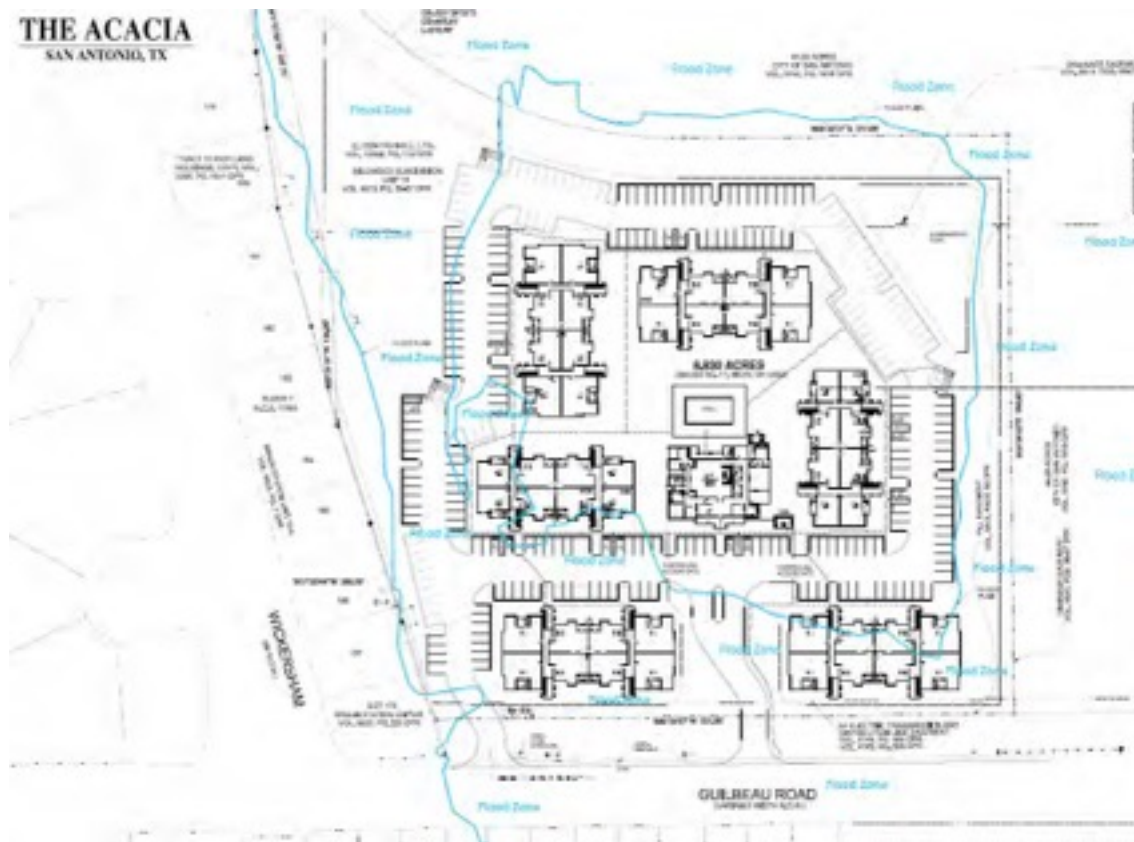
D3(f). Other nearby housing developments will experience higher flood waters as well.

D3(g). How many more houses are is the TDHCA willing to add to the 100 year flood plain by approving the Acacia housing development?

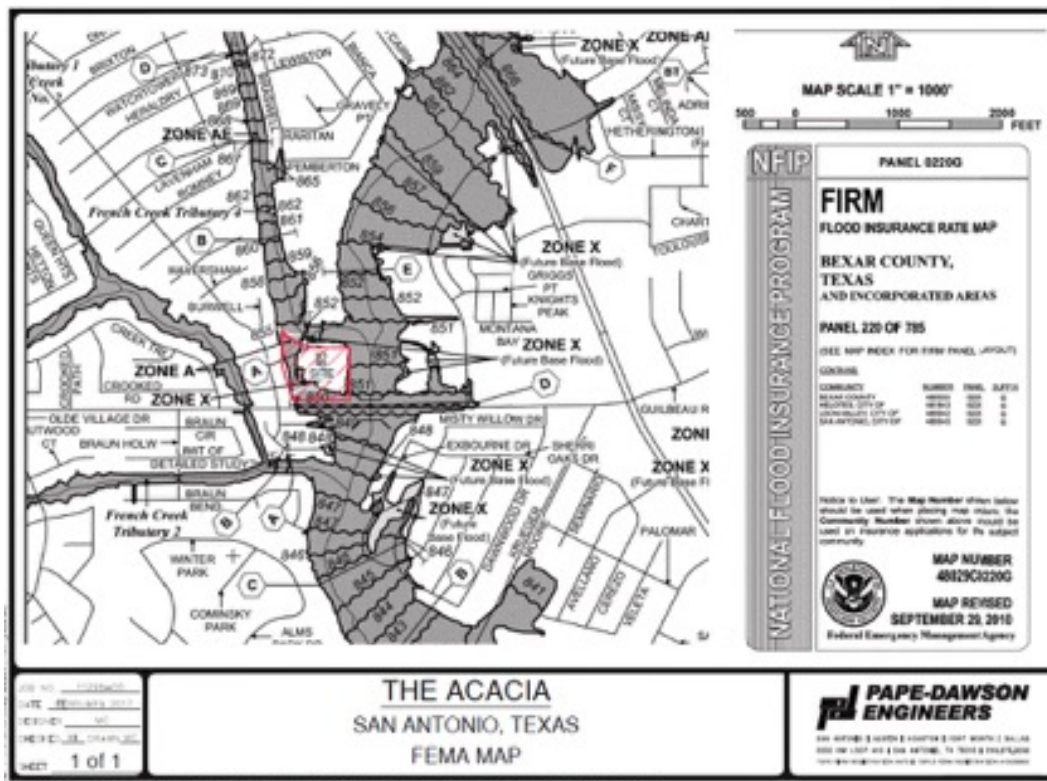
D4. Building the Acacia housing development in a floodplain negatively affects those living downstream of the development.

D4(a). Development in a floodplain modifies how rainfall are stored and run off the land surface into streams. In undeveloped wooded and grassland area, rainfall is stored on vegetation, in the soil, or in natural surface depressions. Once the floodplain is developed – grass and trees are removed, natural land depressions are filled in, permeable soil is replaced with impermeable surfaces such as buildings and parking lots – water runoff is accelerated resulting in higher stream levels. [source]

D4(b). The Acacia shows several buildings and parking lots in the 100 year floodplain.



- D4(c). When the 100 year flood plain is covered with buildings and pavement, when the grasslands and wooded areas are eliminated, the natural water storage capability of the floodplain is destroyed.
- D4(d). The flood water levels downstream of development will rise.
- D4(e). Residents of Country Commons, located directly across from the Acacia, will now experience higher flood waters that infringe upon and damage their property.



D4(f). This is even more ironic since several houses in Country Commons, due to prior poor planning, already find themselves located in the 100 year flood plain.

D4(g). How many more houses is the TDHCA willing to add to the 100 year flood plain by approving the Acacia housing development?

D5. **Building the Acacia housing development in a floodplain negatively affects those living in the development from both a safety standpoint and from a financial standpoint.**

D5(a). **Safety.** Not only are portions of the Acacia in the 100 year floodplain, the Acacia is completely surrounded by the 100 year flood plain.

The entrances and exits to the Acacia are in the 100 year floodplain.

The only road accessible to the Acacia, Guilbeau Rd., is located in the 100 year floodplain.

The only way to escape a 100 year flood is by diving into the 100 year floodplain itself.

This is a strong safety concern and should be considered an **undesirable site characteristic**.

D5(b). **Financial.** FEMA recommends purchasing flood insurance for anyone living in and around the 100 year floodplain. This includes renters as well. [source]

Residents of the Acacia will incur additional costs for flood insurance, making their living accommodations less affordable, or if they do not purchase flood insurance, they will risk being financially wiped out.

D6. The City of San Antonio's policy is to preserve and protect its floodplains.

D6(a). 2015 San Antonio Tomorrow Comprehensive Plan (Master Plan)

Natural Resources and Environmental Sustainability (NRES) Policy, NRES P20 – Encourage preservation of the 100-year floodplains as natural drainage ways without permanent construction, unnecessary straightening, bank clearing or channeling. [source]

D6(b). City of San Antonio Transportation & Capital Improvements, January 2016 Storm Water Design Criteria Manual

Section 2.2 Statement of Policy. Natural Resources, Policy 1d: Encourage retention of the 100-year floodplains as natural drainage ways without permanent construction, unnecessary straightening, bank clearing, or channeling.

Natural Resources, Policy 1d: 2. Adopt strong storm water management practices throughout the drainage area which include site specific measures such as:

Floodplain preservation and buffering;

Section 2.3 Guiding Principles. Preserve floodplain and riparian buffers. [source]

D6(c). San Antonio, Texas – Unified Development Code – Appendix F – Floodplains – Area of Special Flood, Section 35-F103 – Findings of Fact:

(a) The special flood hazard areas of the City of San Antonio are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of special flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

Section 35-F104 (a)(4) To preserve natural floodplains where at all possible. [source]

D7. The City of San Antonio and Bexar County are trying to remove people from its floodplains

D7(a). Since 2007, the City of San Antonio and Bexar county combined have spent at least \$850 million on drainage and flooding. [source]

D7(b). The Bexar County Flood Control Program, a 10 year, \$500MM program, running from 2007 – 2017, aims to relocate 890 homes out of the 100 year floodplain. [source]

D7(c). In the City of San Antonio, May 6, 2017, bond election, 79% of voters, voted for a bond proposition for \$138MM that will “save countless lives and remove homes from the floodplain [Source: The City of San Antonio’s 2017 Bond Program]

D7(d). The City of San Antonio and Bexar County are striving hard to keep people and property out of the 100 year floodplain. Tax credits should not be awarded to the Acacia, a development proposed to be built in the 100 year floodplain.

D8. The City of San Antonio has published laws to preserve and protect its floodplains.

D8(a). The San Antonio, Texas, Unified Development Code, Appendix F, Floodplains, Area of Special Flood, Section 35-F125, Prohibited Development Within the Regulatory Floodplain states:

Section 35-F125 – Prohibited Development Within the Regulatory Floodplain.

(a)(2) Habitable Structures [source]

D8(b). The Acacia shows four habitable structures with in the regulatory floodplain – i.e. the 100 year floodplain. Yet, this is prohibited by the San Antonio, Texas, Unified Development Code.

D9. Summary

1. The City of San Antonio and Bexar County are flood prone areas.
 2. Floodplains help mitigate the negative effects of floods.
 3. Building the Acacia housing development in a floodplain negatively affects those upstream of the development.
 4. Building the Acacia housing development in a floodplain negatively affects those downstream of the development.
 5. Building the Acacia housing development in a floodplain negatively affects those living in the development.
 6. The City of San Antonio’s policy is to preserve and protect its floodplains.
 7. The City of San Antonio and Bexar County are trying to remove people from the floodplain.
 8. The City of San Antonio has published laws against building in and around floodplains.
-

E. Illegitimate Opportunity Index Points should not be awarded.

E1. No accessible route to park’s playground, longer than 0.6 mile.

(I) The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards. (1 point)



Although the playground in Nani Falcone park is ADA-compliant, the route from Acacia Apartments to the playground is not accessible, as required under the 2017 QAP. **The sidewalk** from running north from Guilbeau along the west side of Mystic Park runs out before reaching the park.



On the east side of Mystic Park, the sidewalk does not run out as it does on the east side, but there is no crosswalk connecting the sidewalk over Mystic Park to the playground entrance.

In addition, the distance from the exit of the proposed Acacia site and the entrance to the playground is **more than 0.6 mile.**

Therefore the point for a playground with an accessible route that is less than 0.5 mile is not allowable.

E2. Urgent Care Center is out of business

Elite Care 24 Hour Urgent Care has been in financial straits for at least two years. They listed the property at 8703 Bandera Rd for sale on Loopnet.com in 2015. **We believe the business was closed down and doors were shuttered at the time Application was made to TDHCA.** Below is a photo of the front entrance, showing the front sign removed and demolition going on inside. The photo was taken in April or May 2016.



Had our neighborhoods been timely notified of this proposed project, we could have provided a photo from early in 2017.

Awarding a point for the Acacia being in proximity to this medical facility is not legitimate, as it is no longer in business. Subtract 1 point.

E3. There is no Museum within 2 miles

Applicant claims a point for a museum within 2 miles of the site. Even under the most liberal interpretation, a faded, tagged outdoor mural of a green snake in a skate park and a few embossed concrete benches together do not constitute a museum. The FAQ to the 2017 QAP states:



Q: The rule states that the museum cannot be "an ancillary part of an organization whose **primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value**". Please explain this carve-out and if possible specific examples of museums that would not qualify based on this provision.

A: The carve-out is simply "it has to be a museum". If you tour a bakery, and at some point in the tour there is a room that has all of the bread-making equipment since 1943 on display, that does not make the bakery a museum. It is a bakery that has a room where they display things. However, a free-standing "The Museum of 20th Century Baking" that operates as an independent organization would qualify as a museum for this point item.

The QAP makes clear that the **primary purpose** of the site in question determines whether it is a museum or not. The primary purpose of the skate park at Nani Falcone is to be a skate park. It happens to display a few items designed by two artists.

While it's laudable to include public art in a park, such inclusion does not transform the skate park into a museum. If this were so, virtually any major airport in the country could be considered a museum, as most airports display public art.

Acacia is not within 2 miles of a museum as claimed. Subtract 1 point.

Applicant shows negligence in its due diligence, or intent to deceive.

E4. Indoor recreation site “Anytime Fitness” is unlikely to be 2010 ADA-accessible, as very few U.S. gyms are. Applicant has shown no proof of its accessibility.

In a 2016 study, University of Alabama researchers studied a sample of 227 gyms across 10 states (IA, IL, IN, MA MI, MO, MT, OH, TX, and WI) and found that none were 100% ADA-compliant.

The only area in which all of the gyms studies showed decent accessibility (score of ≥ 70) was in water fountain access.

“As a group, we found low accessibility (scale score < 70) in the majority of facilities in all sections except in programs, parking, and water fountains. Differences were found across facility affiliation in equipment, information/signage, and locker rooms/showers. However, in none of these cases were scale scores ≥ 70 . The only case in which all facility affiliations had mean scale scores ≥ 70 was for water fountains.” [source]:

This abysmal showing suggests that very few gyms in the U.S. are likely to be fully ADA-compliant, including the claimed Anytime fitness at 8126 Tezel Rd.

Applicant was required by TDHCA to show certification of route accessibility to nearby bus stops. Rather than repeat the task of examining the parking lot and facility for accessibility, the burden of proof should fall to the Applicant to certify that the claimed indoor recreation facility Anytime Fitness is 2010 ADA-compliant in order to receive the claimed Opportunity Index point.

E5. Summary TDHCA should find this Application ineligible for funding.

Applicant has claimed 12 points, only 8 of which are earned:

- The point for having a playground on an accessible route less than 0.5 mile long is not valid.
- The point for a health care facility is not valid.
- The point for a museum is not valid.
- The point for being near an indoor recreation facilities that are certified to be ADA accessible is not valid.

Each of these points is a tie-breaker in the funding competition, and thus any impropriety in claiming points is material.

TDHCA has the power under §10.202(1)(K) to find Applicants ineligible for funding if they have provided falsified documentation or made other intentional or negligent material misrepresentations or omissions in their Application.

Acacia					
Opportunity Index Information					
Point Item	Urban	Name	Address	Distance	Is Claim Legitimate?
I	The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards.	Falcone Park			No 0
II	The Development Site is located less than 1/2 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service.				
III	The Development site is located within 1 mile of a full-service grocery store or pharmacy. A full service grocery store is a store of sufficient size and volume to provide for the needs of the surrounding neighborhood including the proposed development; and the space of the store is dedicated primarily to offering a wide variety of fresh, frozen, canned and prepared foods, including but not limited to a variety of fresh meats, poultry, and seafood; a wide selection of fresh produce including a selection of different fruits and vegetables; a selection of baked goods and a wide array of dairy products including cheeses, and a wide variety of household goods, paper goods and toiletry items.	HEB			Yes 1
IV	The Development is located within 3 miles of a health-related facility, such as a full service hospital, community health center, minor emergency center, emergency room or urgent care facility. Physician specialty offices are not considered in this category.				
		Elite Care Emergency Room- Bandera	8703 Bandera Rd, San Antonio, TX 78250	1.13 Miles	No 0
V	The Development Site is within 2 miles of a center that is licensed by the Department of Family and Protective Services specifically to provide a school-age program or to provide a child care program for infants, toddlers, and/or pre-kindergarten.	Kids are Angels	8980 Guibeau Rd San Antonio, TX 78250		Yes 1
VI	The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources.	Please see backup documentation			Yes 1
VII	The development site is located within 1 mile of a public library.	Maverick Public Library	8700 Mystic Park San Antonio, TX 78254	0.99 Miles	Yes 1
VIII	The Development Site is located within 5 miles of a University or Community College campus. To be considered a university for these purposes, the provider of higher education must have the authority to confer bachelor's degrees. Two-year colleges are considered Community Colleges. Universities and Community Colleges must have a physical location within the required distance; online-only institutions do not qualify under this item.				
		University of Texas at San Antonio	1 UTSA Circle San Antonio, TX 78249	4.68 Miles	Yes 1
IX	Development Site is located in a census tract where the percentage of adults age 25 and older with an Associate's Degree or higher is 27% or higher as tabulated by the 2010-2014 American Community Survey 5-year Estimate.	Please see back-up documentation.			Yes 1
X	Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.	Falcone Park mural, benches			No 0
		Leon Creek Greenway butterfly			No
XI	Development site is within 1 mile of an indoor recreation facility available to the public.				
		Anytime Fitness			? 0
XII	Development site is within 1 mile of an outdoor recreation facility available to the public.	French Creek Park			Yes 1
XIII	Development site is within 1 mile of community, civic or service organizations that provide regular and recurring services available to the entire community (this could include religious organizations or organizations like the Kiwanis or Rotary Club).	Bandera Rd Church			Yes 1

Total Legitimate Points 8 / 12

F. Points for false “community support” should not be awarded.

F1. Rules are set up to exclude most neighborhood associations from impacting points.

Current TDHCA rules provide that support or opposition from an existing homeowner association (HOA) can impact an application’s points **only if the boundaries of the development fall within that HOA’s boundaries** (only “qualified Neighborhood Organizations” can participate in “Quantifiable Neighborhood Participation,” from QAP §11.9(d)4(A)(ii)).

HOAs enclosing a proposed apartment development is not the typical situation.

This narrow HOA inclusion means that HOAs **adjoining** a proposed development cannot impact the award of points by their support or opposition. **Adjoining residents’ only option is to make public comment, which has zero effect on points awarded, and thus has little effect on the outcome of decisions taken by the TDHCA Board.**

It also gives developer no incentive to engage with adjoining HOAs, since those adjoining HOAs cannot affect the points outcome of funding decisions. Why would a developer waste its time? Indeed, as we’ve seen in northwest San Antonio, the developers don’t engage with residents unless residents force a conversation.

F2. Rules instead allow points for false “community support.”

The **HOAs who should have an impactful voice** in what happens in our own neighborhoods have been deliberately excluded, and **instead TDHCA has allowed advocacy groups (“Community Organizations”) to substitute their voices for ours.**

The purpose of letters from Community Organizations as per QAP §11.9(d)(6)(A) is “to ascertain if there is community support” for a given project application when there is no qualified HOA.

The QAP rule states that such community organizations must have as a **primary purpose “the improvement of the community as a whole or of a major aspect of the community.”** Examples given include schools, fire protection, police protection, etc.

But even such broad organizations can’t speak for neighborhoods. Does the head of our local police department know that even minor rainstorms can bring flood waters above the bottom of our fence lines and into our backyards, for example? No. Therefore, **even these broad organizations cannot speak for the particular needs and opinions of a neighborhood. Only the residents can.**

The letters of support provided by the Applicant (and most applications we have reviewed), are not even from broad organizations as police departments. They are from narrow special interest groups. Many of these groups do excellent and necessary work, but we doubt if anyone working for these groups **actually lives in neighborhoods adjoining the proposed Bristol, which is the only way these organizations could provide an informed opinion of support.**

Speaking for a neighborhood is not the mission of advocacy groups, nor do they have any mechanism to gather opinion from actual residents of the community.

F3. Development site “area” is not defined, so common sense should prevail.

Organizations must “provide reasonable evidence that they are active in the area that includes the location of the Development Site” under under §11.9(d)(6)(A).

Because “area” is not defined, common sense judgment must apply to what is meant by “active in the area.”

F4. Support from Academia Americas not allowable.

The mission of Academia America in their support letter:

Academia America is nonprofit organization which provides education programs and services to the community. The organization acts as an advocate for low to moderate income individuals by partnering with other community groups in providing educational programs with a **focus on the social and civic integration of immigrants.** Academia America provides these services throughout San Antonio and Bexar County.

While this is a valuable organization, it specializes in services for immigrants applying for U.S. Citizenship. Most residents in the neighborhoods surround the Acacia are already citizens and have no need of such services. This does not rise to the level of serving the community as a whole in the way that a police force or public transit does. The majority of current community residents are not immigrants in need of such special services.

Academia América

1313 Guadalupe St.
Suite 205
San Antonio, TX 78207

The Academia America Claimed they provide their services throughout San Antonio. However on investigation the organization has only a single facility located 9.3 miles from the Acacia site. The organization provides no proof that the service the community in the area of the Acacia.

F5. Support from LULAC Council 4383 is not allowable.

Again, while this is a valuable organization, it advances the interests of only the Latino population. This does not rise the level of serving the community as a whole. The community surrounding the Development Site is composed of people of many ethnic backgrounds, not just of Latino background. LULAC does not provide a service to all residents of the neighborhood, so LULAC Council 4383 does not improve a major aspect of the community surrounding the Development Site.

ABOUT THIS COUNCIL

LULAC Council 4383 advances the economic condition, educational attainment, political influence, health, housing and civil rights of the Latino population of San Antonio and the surrounding area.

Also, the letter of support is from LULAC Council 4383, which serves zip code 78283. That is downtown San Antonio.

There are four LULAC Councils that serves the 78250 zip code

(where Bristol would be located).

Therefore, the Applicant has not provided evidence that LULAC Council 4383 is active in the area of the Development Site, as required.



Here are the results for Texas

#*	COUNCIL NAME	CONTACT	TITLE	CITY	STATE	ZIPCODE	PHONE
4383	LULAC Concilio Zapatista #4383	Henry Rodriguez	Council Executive Director	San Antonio	TX	78283	
4475		Rick Rodriguez	President	San Antonio	TX	78250	
4878		Nora Ciancia	President	San Antonio	TX	78250	
4395		Veronica Benavides	President	San Antonio	TX	78250	
22096		Debbie Andrade	President	San Antonio	TX	78250	

F6. Support from Latinos in Action Sports Association is not allowable.

The Latinos in Action's website lists a total 17 members. The only listed event on their website is a National Hispanic Hall of Fame Awards held on October 17, 2014. The Latinos in Action Sports Association Facebook page indicates **they sponsor an annual Cinco de Mayo Hispanic Basketball tournament in San Antonio. This is the limit of activities publicly listed for this organization.**

The stated mission of the organization and what it actually does are not the same based on the organization's Facebook and Web pages. A single annual basketball tournament that does not occur in the area of the Acacia but 9.2 miles away indicates the organization is not active in the area of the acacia and that it does not provide services throughout San Antonio and Bexar County as claimed.

From one of the Deficiencies noted in the Board Book of June 29, 2017:

From the information provided regarding this organization, and without passing any judgment on the value of such an organization or its members, I am unable to conclude that Amtgard Medieval Combat and Role-play has as a primary (not ancillary or secondary) purpose the overall betterment, development, or improvement of the community as a whole, or of a major aspect of the community (such as improvement of schools, fire protection, law enforcement, city-wide transit, flood mitigation, or the like), and accordingly I must deny the appeals. You have indicated that you wish to appeal this decision directly to the Governing Board. Therefore, the appeals have been placed on the agenda for the next meeting scheduled for June 29, 2017. Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or by phone at 512-936-7834.

The QAP requires reasonable evidence that the supporting organization be included in the application that the organization is active in the are of the Development Site. There is not evidence this organization is active in the area of the Acacia except a PO Box address as the organization has no public facilities or offices.

The QAP is clear about the qualifications for an organization providing a letter of support: **it must improve the community as a whole or of a major aspect of the community.** In previous decisions this type of specialized organization has been ruled as not qualified.

Applicant provides no evidence in Application that Latinos in Action is active in the area of the Development Site or represents the community as a whole. On investigation of publicly available information the organization does not do as claimed in the applications.

F7. Support from American GI Forum / National Veterans Outreach Program (“NVOP”) is not allowable.

Again, while NVOP is a valuable and necessary organization, it **specializes in services for veterans with special needs.** This does not rise the level of serving the community as a whole in the way that a police force or public transit does.

The majority of current community residents are not veterans in need of such special services. Therefore NVOP does not improve a major aspect of the community surrounding the Development Site.

The NVOP is a duly chartered non-profit corporation qualified by the Internal Revenue Service as a charitable organization under section 501(c)3 of the IRS code. The NVOP, headquartered in San Antonio, Texas, is recognized nationally as a premier community-based service provider specializing in services for veterans with special needs.

Furthermore, NVOP is a national organization. §11.9(d)(6)(A) provides that “Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development Site will not be awarded points.”

Applicant provides no evidence in Application that NVOP is active in the area of the Development Site, as required.

F8. In summary, “Community Organizations” do not speak for residents.

- None of these letters of support from city and national organizations reflects the specific needs of the neighborhoods adjoining the proposed development.

- The organizations are not proven to be active in the area of the development.
 - These organizations do not give the adjoining neighborhoods any kind of voice to speak about what our specific needs and concerns might be.
 - These community organizations are therefore not, as intended by the QAP, a proxy voice for the residents of the adjoining neighborhoods.
 - By virtue of their missions, such advocacy organizations can support housing in almost any location, regardless of how well it does or doesn't suit the needs of the actual community.
 - Therefore, for all these reasons, the support offered by these organizations does not meet the criteria set out by the QAP, and the four points the Applicant has awarded itself for Community Organization support should be removed.
-

Thank you for the opportunity to comment on specific points that the Applicant awarded itself in this Application. The level of misrepresentation within the application is quite concerning. Rather these misrepresentations are due to intentional action by the applicant, an absence of due diligence, or a combination of both this application should be rejected.

Sincerely,

Mark Howson

cc: Texas State Attorney General Ken Paxton
Texas State Senator José Menendez
Texas State Representative Justin Rodriquez
City of San Antonio District 7 Councilwoman Ana Sandoval

VW Homeowners Association
1808 Grandstand Drive
San Antonio, Texas 78238

Marni Holloway, Director of MultiFamily Finance Division
Texas Dept. of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

PDF EMAILED TO: Marni.Holloway@tdhca.state.tx.us

Date: July 7, 2017

RE: TDHCA Application #17376 (the “Bristol”)

Dear Ms. Holloway,

We are writing to notify TDHCA of defects in the subject Application (the “Bristol” or “Proposed Development”) from Atlantic Pacific Communities (“APC”) that **cumulatively rise to the level of Material Deficiency, and to request the Board of TDHCA find this Applicant ineligible for 9% tax credit funding.**

The public has standing to notify THDCA of such Application defects, as provided under §10.202 of the Texas Administrative Code.

TDHCA has the power under §10.202(1)(K) to find Applicants **ineligible for funding if they have provided falsified documentation or made other intentional or negligent material misrepresentations or omissions in their Application.**

TDHCA also has the the power under §10.202(2)(B) to find Applicants **ineligible for funding if the Application has a Material Deficiency, which can include “a group of Administrative Deficiencies, that taken together, create the need for a substantial re-assessment or reevaluation of the Application,”** as provided under §10.3(a)(79).

Following is a summary of the defects we found in this Application, followed by specific evidence supporting our assertions. We also include other legal concerns.

All of these specific concerns were submitted to TDHCA in writing by various residents and HOAs before the public comment period ended on June 23; these concerns are gathered here into one letter for the convenience of TDHCA and its Board.

We are also requesting that TDHCA review application #17026 (“Bandera Apartments), which appears to be a superior project in several respects. **Residents have already written letters of support to TDHCA for this project.**

Executive Summary

A. City Councilman did not inform his neighborhoods about proposed TDHCA projects; had undeclared conflicts of interest.

- A1. Summary of meeting transcripts: District 7 Councilman Cris Medina expected the developers to make the notifications.
- A2. Jan 9, 2017: Medina had knowledge of these projects by early January.
- A3. Jan 17-18: Medina said nothing about the projects in at least three HOA meetings.
- A4. Jan 26: Medina asked what is the notification process at Housing Committee Meeting.
- A5. Feb 9: Medina asked again about the notification process even as the projects were presented for City Council approval February 9, 2017.
- A6. March-April 2017: Residents learn about proposed projects by accident.
- A7. April 5: Medina tells neighborhood meeting that “it’s out of his hands now.”
- A8. April 20: Medina signed the neighborhood petition against TDHCA projects.
- A9. Medina accepted at least \$11,000 in campaign contributions from low-income developers.
- A10. Formal complaint filed against Medina alleging perjury, bribery, and violation of ethics.
- A11. Medina’s lack of notification to area neighborhoods may have been tied to the conflicts of interest discussed above.
- A12. Texas State Representative Justin Rodriguez was told that neighborhoods adjoining proposed projects in City of San Antonio (“COSA”) District 7 did not oppose them. On this basis, Mr. Rodriguez offered his support to all the proposed developments.
- A13. In summary: TDHCA’s reliance on local government and developers to inform neighborhoods failed the taxpayers. Over 3000 residents have signed a petition against certain of the proposed COSA District 7 projects.

B. High-density in defiance of City of San Antonio Master Planning.

- B1. High-density housing is best suited in San Antonio’s planned “SA Corridors,” where there is projected job growth and additional planned transit.
- B2. The Bristol location would isolate apartment residents in a bedroom community away from increased transit linked to areas of predicted job growth.

C. Developer proposes to develop a site containing a floodplain contrary to San Antonio’s Master Plan and Unified Development Code.

- C1. 100-Year Flood Plain Cuts through Village in the Woods.
- C2. Two detention ponds are unlikely to be sufficient for even moderate rain events.
- C3. Even ordinary thunderstorms produce flash floods below the Bristol parcel.
- C4. Developing the Bristol at high density is contrary to San Antonio’s Flood Planning.

D. Illegitimate Opportunity Index Points should not be awarded.

- D1. The first claimed **playground is privately owned**. QAP rules require the playground to be in a public park. A letter from a church secretary claiming the playground is open to the public does not override the QAP requirements. The only accessible route to the park is over 0.6 mile, longer than allowed. Other applicants could bring legal action against TDHCA if this point is granted.
- D2. The second claimed **playground** at an elementary school **is not open to the public**. Applicant shows negligence in its due diligence, or intent to deceive.
- D3. The Bristol project is **farther than 1 mile away from a library**. Applicant makes a false statement in the Application by stating it is 0.99 miles away and designed a deceptive graphic with false information.
- D4. The shortest two routes from the Bristol project to the claimed bus stops are **not ADA-accessible**. Applicant's initial statement in its Application was false.
- D5. The longer routes from the Bristol project to the claimed bus stops are **not less than 0.5 miles**. Applicant states the routes satisfy the QAP rules in a cover letter, yet the expert **certification provided did not provide any measurements of the route distance**. The statement made by the Applicant is false.
- D6. Indoor recreation site "Just Add Children" is **not ADA-accessible**, as required. Applicant shows negligence in its due diligence, or intent to deceive.
- D7. Indoor recreation site "Gold's Gym" is unlikely to be ADA-accessible, as required. **A recent study of 227 US gyms found they were ADA-compliant mainly for water fountain access**. Applicant needs to show proof of this gym's accessibility. Applicant shows negligence in its due diligence.
- D8. Summary of ineligible points.

E. Letters of false "community support" should not be acceptable.

- E1. Rules are set up to **exclude most neighborhood associations** from impacting points.
- E2. Rules instead allow **points for false "community support."**
- E3. Development site "area" is not defined, so common sense should prevail in deciding whether a Community Organization actually benefits the neighborhoods adjoining the Proposed Development.
- E4. Support from Christian Assistance Ministry ("CAM") is not allowable.
- E5. Support from American GI Forum / National Veterans Outreach Program ("NVOP") is not allowable.
- E6. Support from LULAC Council 4383 is not allowable.
- E7. In summary, the three Community Organizations do not speak for neighborhoods adjoining the Proposed Development. The four points for support from Community Organizations should be removed.

F. HUB for this project adds a point but lacks experience.

- F1. Lack of experience of the Historically Underutilized Business (HUB).
- F2. **HUB is more valuable for the application point than for her experience.**

- G. **APC has an undisclosed identity of interest in the general contractor for Laurel Glen.**
- H. **APC's close relationship to Carlisle Development Group is troubling.**
- H1. The two former principals of **Carlisle Development Group stole tens of millions in tax credit funding and grants.**
 - H2. Carlisle struck a deal in 2013 to **sell four projects to Atlantic Pacific when Carlisle could not obtain funding due to the ongoing federal investigation.**
 - H3. Carlisle also **transferred several key executives to Atlantic Pacific in 2013.**
 - H4. Carlisle and APC presented themselves to the world as **partners**, not as parties to an arm's length transaction.
 - H5. Dec 2015: APC requested unneeded funds from Dade County.
 - H6. Jan 2016: Project takeover battle.
 - H7. 2014-2016: Carlisle and APC bickered over assets.
 - H8. July 2016: Dade County denied funding to APC.
 - H9. Until at least 2016: **APC and Carlisle shared office space.**
 - H10. Atlantic Pacific has a **poor reputation in managing the properties it develops.**
 - H11. In Summary: "It's a program of trust."
-

A. City Councilman did not inform his neighborhoods about proposed TDHCA projects; had undeclared conflicts of interest.

TDHCA employee Nicole Fisher has stated that TDHCA currently relies on local government officials to inform area residents of proposed developments when written notification is not mandated by the 2017 Qualified Allocation Plan (QAP). However, **notification of most or all of District 7 residents by local government did not happen.**

A1. Summary of meeting transcripts: District 7 Councilman expected the developers to make the notifications.

- COSA District 7 Councilman Cris Medina asked COSA Planning Director Bridgett White in two different recorded meetings what are the notification requirements for 9% tax credit projects.
- Ms. White told Mr. Medina that developers are requested but not required to notify both neighborhoods and City Council members of proposed developments.
- Ms. White said that her office does not make these neighborhood notifications because they don't want "to be in the position of supporting or opposing the developments."
- **Mr. Medina agreed, saying that it's better for developers to make contact with neighborhoods because his office is "put in a tough situation, as well" if he must make the notifications.**
- So Mr. Medina passed all responsibility onto the developers for making notifications, rather than face possible community opposition himself.

A2. Jan 9, 2017: Medina had knowledge of these projects by early January.

APC claims in their Application that they sent the required written notification for Bristol to all City of San Antonio (COSA) Council members before January 9, 2017 (the Pre-Application deadline). **Either APC did not send this required notification, or former District 7 Councilman Cris Medina neglected to inform District 7 residents about the project notifications he received before January 9, 2017.**

A3. Jan 17-18: Medina said nothing about the projects in at least 3 HOA meetings.

In HOA meetings held with Braun Station East (January 17, 2017) and Braun Station West (January 18, 2017), Mr. Medina **said nothing about any of the several developments then under consideration**, including the Bristol and the nearby Acacia.

Mr. Medina did not even mention any of the proposed projects to his own homeowner association of French Creek Village, where he resides and of which HOA he was a former President.

A4. Jan 26: Medina asked what is the notification process at Housing Committee Meeting.

In the audio recording of the COSA Housing Committee meeting of January 26, 2017 [[source](#)], Mr. Medina asked about the notification process for the several TDHCA projects under consideration. COSA Planning Director Bridgett White responded that either the

developer should reach out, or City Council persons should. Mr. Medina said that his reaching out to neighborhoods would put his office in a “tough situation.”

Medina (27m:4s): "I want to touch on what you just talked about, community support. **How involved are neighborhoods, neighborhood associations, HOAs involved in this process directly, or is it through just contact with our office?"**

White (27m:56s): "Well, through the application process that we have, we don't reach out and go out to neighborhood associations just because **we don't want to put ourselves in a position of we're supporting or not supporting a particular development so we let them know, the developer know that need to reach out to the council office.** A lot of time some of have already started the process of reaching out to neighborhood associations or community groups, for example [garbled] and so when they get to TDHC [sic] they should have, if they want to receive those points, have reached out to—and I know in some cases, because I was looking at one just for historical purposes, that [garbled] had actually gotten a letter from like the president of the neighborhood association so it really is up to the developer to make sure that they have discussed this, that council members know, and neighborhood residents are aware because about a project because that's a point issue as well."

Medina (28m:50s): "So not a requirement, not mandatory, but highly, highly encouraged."

White (28m:56s): "Not mandatory for the City of San Antonio's application, but for TDHC [sic] it is because they award points for that."

Medina (29m:06s) "I certainly highly encourage and want to say that I think it's very beneficial that these applicants do reach out on their own to the neighborhood groups and **I think it's just better to be candid and forthright about their intentions and their plans and try to secure and garner support on the front end rather than relying on us or relying on the office [Medina is referring to himself and his City Council office] because we're kind of put in a tough situation, as well.** While we do, I certainly support affordable housing for working families, but I think it's important that the applicants understand it's about compatibility as well, and making sure that they know that and understand the areas that they're coming into and understand that it's important to work with those neighborhood leaders and groups..."

Mr. Medina seconded the motion for the nine docketed projects to proceed to COSA City Council for resolutions of approval even though, by his own statement, he apparently did not want to make neighborhood notifications himself, and encouraged the developers to do that for him.

A5. Feb 9: Medina asked again about the notification process even as the projects were presented for City Council approval February 9, 2017.

Five projects had dropped out by this time, leaving four proposed developments on COSA City Council's docket for resolutions of approval on February 9, 2017 (Bristol, Acacia, Bandera Apts, and Rio). All four passed. In the video transcript (1h:22m) of that meeting, Mr. Medina notes:

“There’s been a lot of questions, concerns that have come up as I’ve made visits out to some of my neighborhoods, out in particular around the Tezel and Guilbeau area...”

We have not been able to identify any individuals or HOAs who were notified by Mr. Medina of these projects. Several of the HOAs physically closest to the proposed developments have stated that **Mr. Medina told them nothing about these projects at any time prior to April 2017.**

Even assuming he had heard such objections, why would Mr. Medina initiate the motion to approve the projects in spite of neighborhood opposition?

Mr. Medina **again** asked White (1h:25m) what is the notification process for neighborhoods:

"I did want to ask, though, about the city's current notification process with regard to how we coordinate and communicate with HOAs and neighborhood associations in proximity to some of these proposed projects."

Ms. White answered:

“...We asked that any **developer** applicant coming forward would **notify the council office**, so council members were aware of any projects that were going to be submitted as part of the RFA process...” and “what we’re planning to, or what we can do **for future applications processes is that we can release the RFAs sooner and require the applicant or developer to notify neighborhood associations.**”

Mr. Medina (1h 26m) again passes responsibility back to the developers:

“...I certainly welcome that [*requiring developers to notify HOAs*]...our internal policy is, really with any development or any application the comes to our office, **we encourage, highly encourage, that they [*developers*] go and work and talk with neighborhood associations** and leaders and take that additional step so that we can have those open lines of communication...”

If Mr. Medina had already notified his District’s neighborhoods before the Council meeting for the resolutions of support, there would have been little reason for Mr. Medina to ask how the notification process works.

Mr. Medina is an intelligent man with a good memory. Because Mr. Medina asked Ms. White the same exact question about the notification process as at the January 26, 2017 meeting, **he seems to be making a statement on the record that he expected the developers to make the notifications, not his own office.**

A6. March-April 2017: Residents learn about proposed projects by accident.

Northwest San Antonio residents in various HOAs learned of the four proposed TDHCA projects by accident in March and April, likely from a rezoning notification sign posted for one of the earlier projects. We began sharing information, since Mr. Medina’s office was providing contradictory information to residents who contacted his office with questions.

A7. April 5: Medina tells neighborhood meeting that “it’s out of his hands now.”

On April 5, 2017, Mr. Medina was invited to come to the Northwest Neighborhood Alliance monthly meeting and give details on these proposed projects. So many residents showed up that a side door had to be opened to the outdoors to allow additional people to hear the speakers.

Angry residents of District 7 neighborhoods asked Mr. Medina why none of them had been notified about the proposed projects. **Mr Medina did not give a satisfactory answer and concluded that [paraphrasing] it didn’t matter because it “was now out his hands, anyway, and that residents would have to complain at the state level.”**

While the audience was turned around to face a member in the back of the room who was explaining how the TDHCA process works, Mr. Medina slipped out of the room through the open side door to avoid further questions. **We have a video recording of this meeting.**

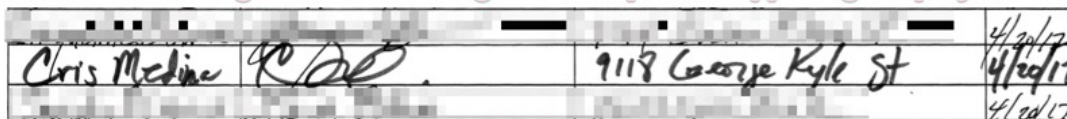
Neighborhood residents, angry about the absence of notification, began circulating a petition protesting certain of these developments. **This petition of opposition has over 3000 signatures.** It was shown to TDHCA at its Board meeting of May 25, 2017, and has since been mailed.

A8. April 20: Medina signed the neighborhood petition against TDHCA projects.

On April 20, 2017, Mr. Medina signed the neighborhood petition of opposition to some of these TDHCA projects. The news was posted on NextDoor.com.



Cris Medina's signature on the neighborhood petition opposing the projects:



Why did Mr. Medina sign this petition opposing the Bristol and Acacia since he was the initiator of the City Council motion in support of them?

Mr. Medina was up for District 7 re-election on the May 6, 2017 ballot as the incumbent, and we believe he feared losing the votes of the angry neighborhoods that he had neglected to inform about the proposed TDHCA projects. (Indeed, after a decade in which local elected incumbents won 35 of 38 council races, Mr. Medina lost the election in an upset.)

Mr. Medina can’t have it both ways.

If Mr. Medina knew of strong neighborhood opposition, he should not have motioned for approval of the resolutions of support for the four projects on February 9, 2017, including Bristol and Acacia.

If Mr. Medina did not know about neighborhood opposition, it's only because he never asked. The 3000+ signatures that were gathered from District 7 are excellent proof that he never asked for neighborhood input.

A9. Mr. Medina accepted at least \$11,000 in campaign contributions from low-income developers.

Almost half of Mr. Medina's 2017 campaign contributions came from real estate developers [[source](#)]. More specifically, **Mr. Medina accepted at least \$11,000 in contributions for 2017** from several family members and corporations tied to low-income housing developers that **include APC for the Bristol, and Versa Development for the Acacia**. We can provide specific documentation from City records of these contributions and how they tie to specific low-income developers.

While each individual contribution appears have been within the required limits, **we believe the total dollar amount constitutes a serious conflict of interest, particularly in light of Mr. Medina's deliberate lack of notification of the relevant neighborhoods.**

A10. Formal complaint filed against Medina alleging perjury, bribery, and violation of ethics.

Mr. Medina filed on March 9, 2017 a Personal Financial Statement documenting **financial ties** (up to \$24,999) **to United Apartment Group, a company that manages 41 low-income housing developments in San Antonio**. United Apartment Group is headquartered in San Antonio but was incorrectly stated by Mr. Medina as being headquartered in Bedford, Texas.

The complaint, filed April 13, 2017, alleges that the true location of the United Apartment Group was concealed because COSA Ordinances (Article XXII, Section 141) **forbid a city official to have a direct or indirect financial interest in a business doing business with the City of San Antonio**. If found guilty, Mr. Medina could have been removed from office but could still face other penalties.

Additionally, the new City of San Antonio District 7 Council Representative Ana Sandoval testified before the TDHCA Board on June 29, 2017 that she would propose the city withdraw support for the Acacia and Bristol projects.

A11. In Summary: Medina's lack of notification to area neighborhoods may have been tied to the conflicts of interest discussed above.

TDHCA relies on local government to notify area residents of proposed developments, but for District 7 in 2017, the system failed.

Our neighborhoods have serious concerns about Mr. Medina's probable conflicts of interest as the reason for lack of notification. The concerns were such the community did not support his holding of public office.

A12. District 125 Texas State Representative Justin Rodriguez believed he had the support or non-opposition of neighborhoods adjoining the Proposed Development.

District 7 Councilman Cris Medina told Mr. Rodriguez that neighborhoods in District 7 did not oppose the Bristol and certain other housing tax credit projects. On this basis, Mr. Rodriguez gave his support to all District 125 projects.

The only reason Mr. Medina did not hear about the widespread opposition to certain of the proposed District 7 projects is because he never informed the neighborhoods of their existence.

A13. In summary: TDHCA's reliance on local government and developers to inform neighborhoods failed the taxpayers.

- Citizens have every right to be notified about proposed housing projects because we subsidize them with our tax dollars.
 - Anger over the deliberate lack of notification resulted in over 3000 residents signing a petition against the Bristol and certain other housing tax credit projects.
 - **Our State Representative and Senator will be working with us to change future QAPs such that neighborhoods cannot be deliberately excluded from notification.**
-

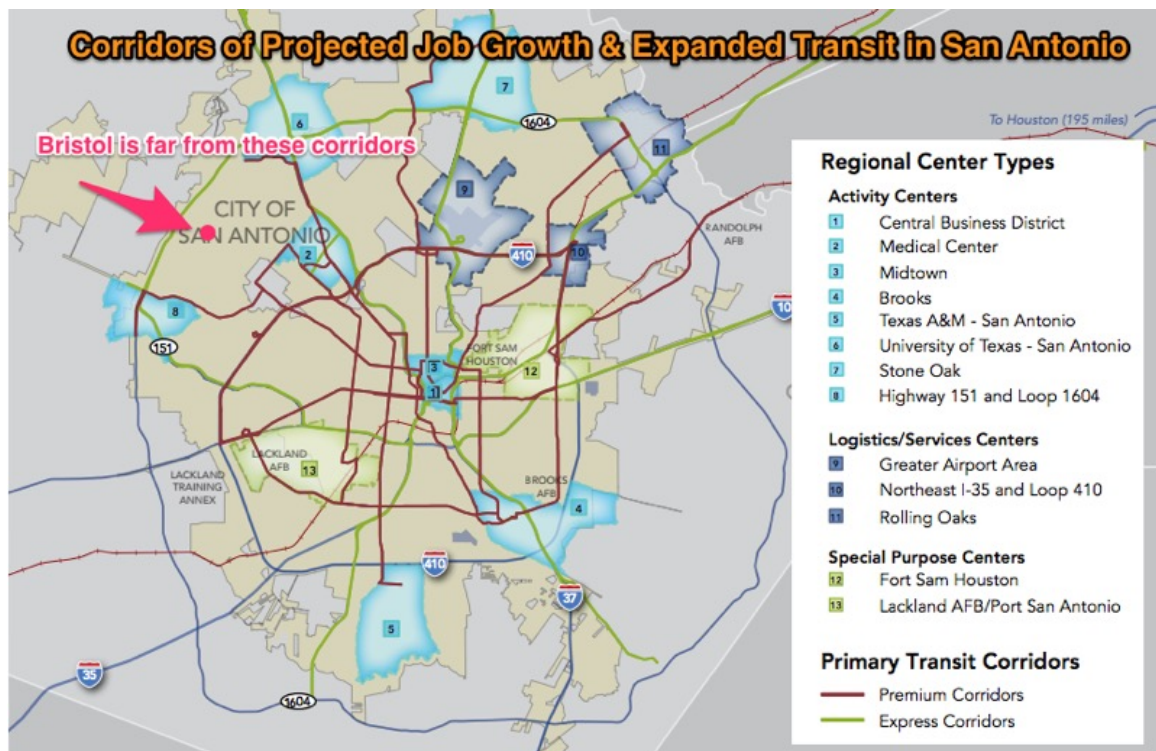
B. High-density in defiance of City of San Antonio Master Planning.

B1. High-density housing is best suited in San Antonio's planned "SA Corridors," where there is projected job growth and additional transit.

The City of San Antonio has a 25-year plan that **links transit solutions with key high-density corridors and areas of projected job growth** through a unified future land use plan ("SA Corridors"). By linking planned high-density housing with more bus or light rail service to those areas with high job growth, the city hopes to accommodate the growth they are anticipating [source].

One of the key corridors is the southern part of Bandera Rd. The Corridor will not extend northwest up to Guilbeau Rd, however, where the Bristol would be located. **That's because our neighborhood is not projected to have growth in jobs.**

A project like the Bristol would be **far better suited to be built in one of these corridors of job growth**, ensuring transit access and jobs for its residents in the future.

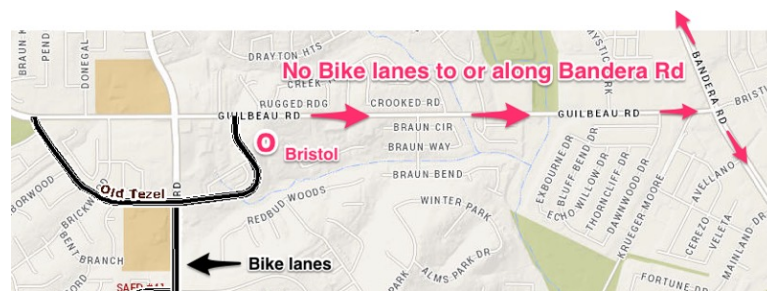


B2. The proposed Bristol location would isolate apartment residents in a bedroom community away from transit and job growth.

The Bristol is a three-story apartment complex with mixed income residents. The proposed building site is located within a suburban **bedroom community** of single-family homes, with limited businesses nearby. **Apartment residents would be isolated from shopping, jobs, healthcare, etc.**

B2(a). Badly sited for walking or bicycling.

- **Retailer density is thin** in the Guilbeau/Tezel areas. Within walking distance of the Bristol, the only major retailers are a small Walmart grocery store, a CVS, and a Walgreens.
- The majority of neighborhood retailers are located along Bandera Rd.
- If residents walk to the Walmart Supercenter on Bandera Rd for clothing or household goods, they would have a **3.2 mile round trip on foot**. They would be walking back **uphill with their packages** (110 ft gain uphill, or 11 stories).
- The road on which Bristol is located lacks a complete sidewalk, and is therefore not compliant with the Americans with Disabilities Act (“ADA”).
- The sidewalks are not well lighted at night.
- There are no bike lanes to or along Bandera Road [[source](#)].

**B2(b). Infrequent bus service.**

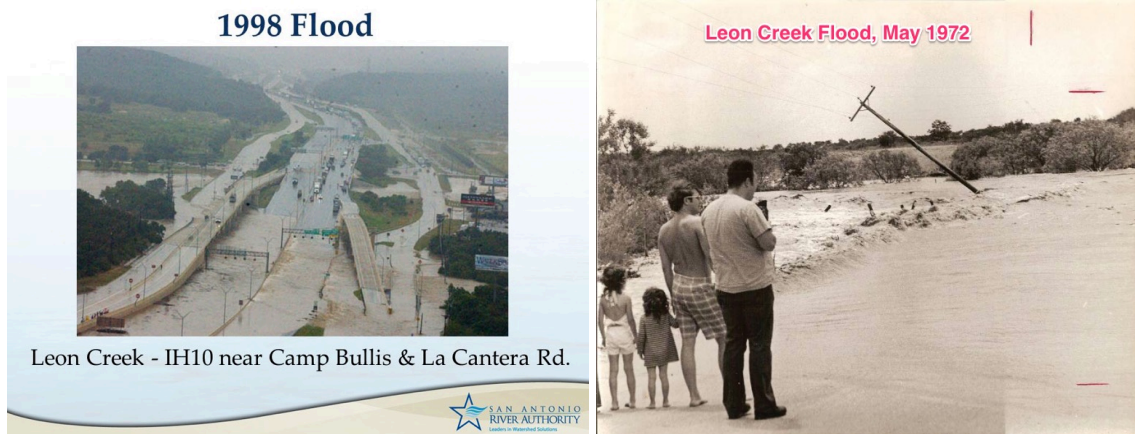
- There is only one bus route with stops on Guilbeau Rd, #606.
- Buses on this route #606 **run once an hour**. So a badly-timed shopping trip could require **up to 2 hours for just waiting** for bus transport, plus shopping time.
- This infrequent service could make it **difficult for residents to access important support services, such as classes at the community college (which is almost five miles away)**.

B2(c). Lack of nearby jobs, so long commute times.

- Because the area is primarily residential and has a low density of businesses, the few job opportunities within walking distance are mainly **minimum wage jobs**.
 - Infrequent bus travel would make for potentially **very long commute times**.
 - On weekdays, the **last #606 bus arrives at 8:40 pm**. This would make life very difficult for any resident working a late shift.
-

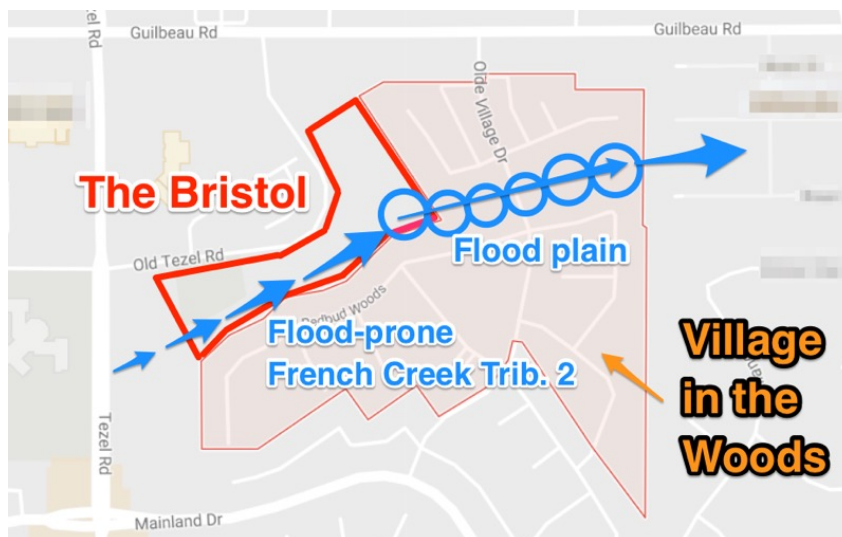
C. Developer proposes to develop a site containing a floodplain contrary to San Antonio’s Master Plan and Unified Development Code.

Bexar County is already infamous as “Flash Flood Alley,” and **Texas leads the nation in flood-related deaths.** There are serious concerns with increased flooding in the areas planned for the Bristol. Our area is at the headwaters of the **Leon Creek Watershed**, a sensitive area of concern for the City because of the potential for disasters like these:



C1. 100-Year Flood Plain Cuts through Village in the Woods.

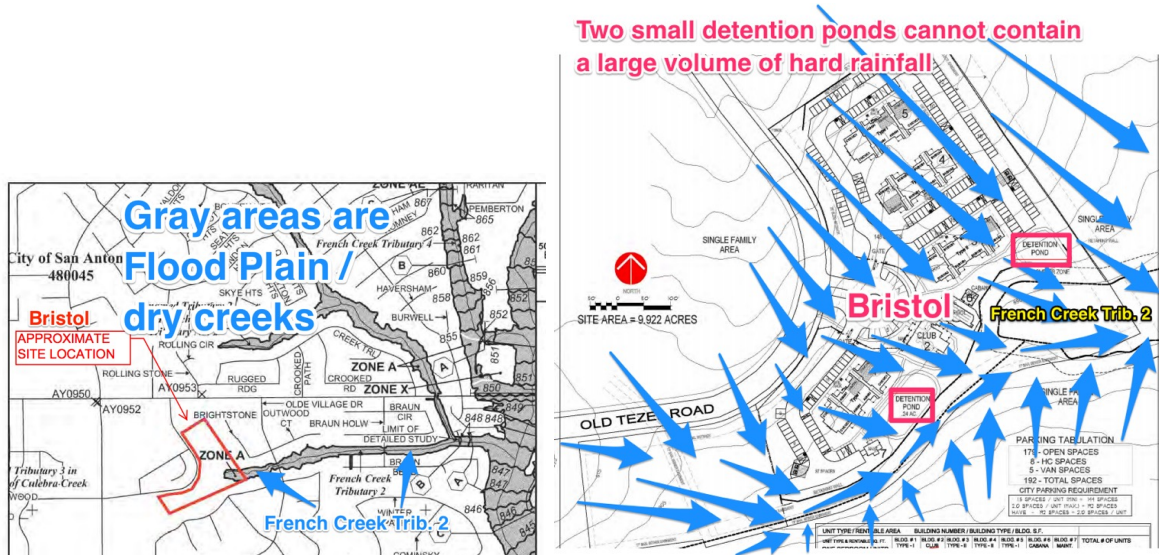
First, there are concerns with localized flooding in and around the neighborhood Village in the Woods.



During rain events, water will rapidly run down all paved streets in Village in the Woods, collecting in the **100 year flood plain / dry creek that cuts through the center of Village in the Woods (“French Creek Tributary 2,”** see diagram), at the head of the Leon Creek Watershed. **The Bristol parcel drains directly into French Creek Tributary 2.**

C2. Two detention ponds are unlikely to be sufficient for even moderate rain events.

While the developer’s site plan includes two detention ponds in the south-eastern corner of the parcel (designed presumably to protect the designated flood zone), the western end of the parcel closest to Building 1 and parking lots **do not have any catchment systems planned**.



Considering the topography in the area slopes west to east, the Bristol’s retaining wall and existing fence line of VITW will form an even narrower channel than the current French Creek Tributary 2, through which storm water runoff (that does not run to the detention ponds) will flow and eventually **cause property damage along the fence line**.

Water has been known to intrude at the bottom of the properties immediately adjacent to French Creek Tributary 2. Should a significant rain event occur, there is great potential for water to flow at such a rate that **scouring erosion** could occur on its way to drainage areas. The Bristol site plans do not account for this potential phenomenon.

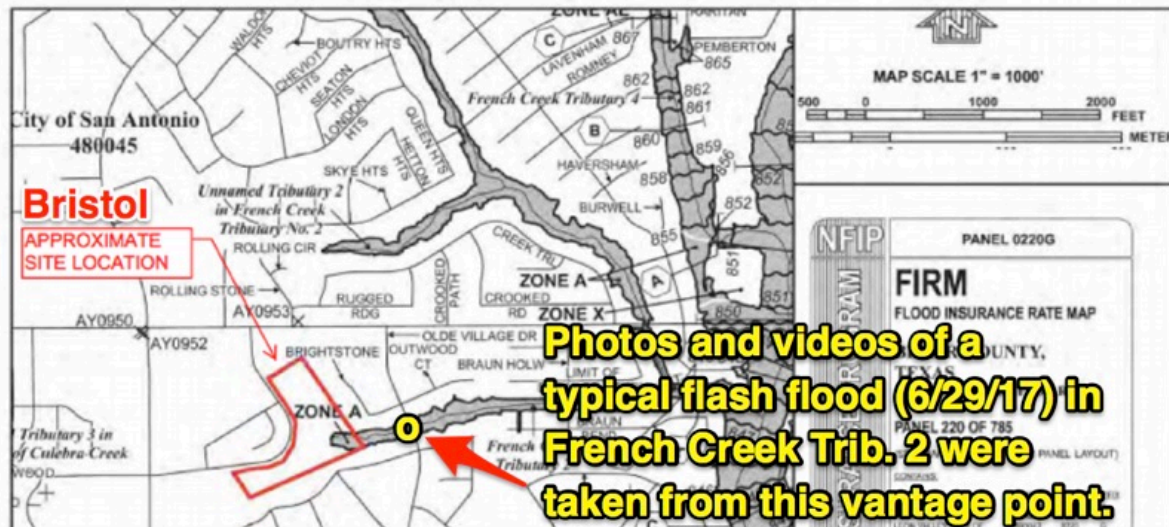
In addition to possible **property damage**, given the lack of infrastructure (incomplete sidewalks and poor lighting), this increased amount of water could possibly create a **dangerous situation for foot traffic in the area**.

C3. Even ordinary thunderstorms produce flash floods below the Bristol parcel.

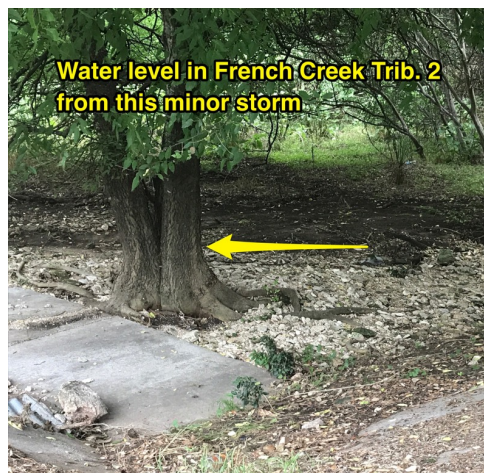


Even with minor rain events, the amount of water that collects in the French Creek Tributary 2 is impressive and potentially dangerous. Undeveloped land can absorb approximately 80% of rain and runoff, while impervious covers can absorb 0% of the same volume of water [source]. Since much of the Bristol parcel would have impervious cover, current residents have significant concerns about the increase in its runoff.

For example, during a typical, non-severe thunderstorm on May 29, 2017, our area received 3 inches of rain in a short time. **French Creek Tributary 2 diagram quickly became a dangerous torrent.**



French Creek Tributary 2 is a 100-year flood plain. This tributary shot is about 800' downstream of the Bristol parcel, after a **minor** thunderstorm May 29, 2017.



Click here for **brief videos** of this flash flood event in French Creek Tributary 2.

[Video 1.](#)

[Video 2.](#)

C4. Developing the Bristol at high density is contrary to San Antonio's Flood Planning.

The City of San Antonio Transportation & Capital Improvements January 2016 Storm Water Design Criteria Manual states [\[source\]](#):

- Natural Resources, Policy 1d: 2. Adopt strong storm water management practices throughout the drainage area which include site specific measures such as:
 - On-site storm water retention and detention;
 - Reduction in impervious cover;
 - Natural bank contouring;
 - Floodplain preservation and buffering;
 - Preservation of riparian habitat;
 - Storm water harvesting sites for reuse purposes.

Development of the Bristol is contrary to these provisions, particularly as it does not provide adequate buffering and it destroys riparian habitat.

Furthermore, the San Antonio, Texas – Unified Development Code – Appendix F – Floodplains – Area of Special Flood, Section 35-F133 – Permit Evaluation, states that [\[source\]](#):

Sec. 35-F133. - Permit Evaluation.

- (a) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this subdivision and the following relevant factors:
- (1) The danger to life and property due to flooding or erosion damage. Velocities in excess of six (6) feet per second may be considered erosive. Depths of flow within the "Dangerous" range by Figure 504-2 shall be considered dangerous to life.
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (3) The danger that materials may be swept onto other lands to the injury of others.
 - (4) The compatibility of the proposed use with existing and anticipated development.
 - (5) The impact the development may have on the overall function of the stormwater facilities and the impact on properties in its own and connecting watersheds. This may include but not be limited to changes in discharges as a result of changes in impervious cover, velocity, storage, creek roughness, etc.
 - (6) The safety of access to the property in times of flood for ordinary and emergency vehicles; flow depths for access shall be within the Proceed with Caution Range as per figure 504-2 for a future 1% annual chance flood event.
 - (7) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (8) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the sites shall be analyzed.
 - (9) The necessity to the facility of a waterfront location, where applicable;
 - (10) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (11) The relationship for the proposed use to the comprehensive plan for that area, with respect to the dedication of additional drainage easement for future bond projects, in accordance with this ordinance.

There are alternative sites in this area far better suited to high density development (such as on Bandera Road).

If the Bristol or any other high-density project is approved for development on the 10-acre parcel in question, **Village in the Woods plans to protest the COSA permitting processing for the above reasons by whatever legal means we deem necessary.**

D. Illegitimate Opportunity Index points should not be awarded.

Given that the Applicant is tied with its nearest competitor for total points, the competition may well be settled using Opportunity Index points as tie-breakers.

Because of the close race in Application points, any point claimed because of negligent due diligence or any statements made with the intention to deceive TDHCA in order to earn a single Opportunity Index point rises to the level of Material Deficiency and makes the Applicant ineligible for funding under TAC §10.202.

Applicant has made several such misstatements that have the appearance of either an intent to deceive or of negligence in claiming illegitimate points.

D1. The first claimed playground is privately owned, not publicly owned.

D1(a). The QAP is clear that the playground must be located in a public park.

Applicant claims two nearby playgrounds, the first owned by Crossroads Baptist Church.

This playground is the subject of a Request for Administrative Deficiency made by VDC Guilbeau Bandera on behalf of Versa Development / The Acacia (TDHCA #17356). In issuing the Deficiency to SA The Bristol L.P., TDHCA requested proof that the “playground is for the general public.”

From: Nicole Fisher
To: [Dan Wilson](#); [Liz Wong](#); [Henry Flores](#)
Cc: [Sharon Gamble](#)
Subject: 17376 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.
Date: Thursday, June 08, 2017 3:45:00 PM
Attachments: [The Bristol \(TDHCA#17376\)--Application Challenge .pdf](#)

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17376 The Bristol**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please review the attached.

1. The requestor states that the church/school playground is not for the general public. **Provide evidence in the form of a certification from the city or from another professional certified to make such a determination that the playground is for the general public.**

However, “for the general public” is not the requirement spelled out by the QAP. **The playground must be located in a public park:**

(I) The Development site is located less than 1/2 mile on an accessible route **from a public park** with an accessible playground, both of which meet 2010 ADA standards. (1 point)

It’s not clear why TDHCA seems willing to bend the rules for the Applicant.

D1(b). TDHCA has good reasons for requiring the playground to be public.

A private playground has no ongoing, legal requirement to be open to the public, and therefore does not meet the intent of the QAP for guaranteed long-term playground access by local residents:

- It is the privilege of private land owners to exclude from access any person for virtually any reason.
- **Such exclusion to entry can be made for reasons that are illegal at public playgrounds**, such as exclusion because of race, ethnicity, handicapped status, income level, religion, personal dislike, etc.
- Even if the policy of the playground owner is public-access today, **there is no guarantee this policy will not change at a moment's notice**. Possible reason would include a change in church leadership or a change in church policy. The nearby Carson Elementary School closed its playground to the public after its slide was set on fire in an act of vandalism. There is nothing to prevent the church from doing the same for any reason it deems necessary.
- If and when the property changes hands, **the new owner is under no requirement to either keep this playground, or to keep it open to the public.**

D1(c). If TDHCA awards this point to Applicant, other developers might take legal action on the basis of favoritism.

Awarding an Opportunity Index point in non-compliance of the QAP rules would be unfair to other all Applicants, who might have similar private playgrounds near their proposed projects, but who did not claim the point because it is clearly prohibited by the QAP. Awarding such a point could **potentially open TDHCA to legal action by other applicants** on grounds of favoritism.

D1(d). An administrative assistant is not the voice of a church.

If TDHCA intends to set aside the rules of the QAP and allow a private playground to qualify for an Opportunity Index point, the letter from TDHCA above states that any such letter must be “from a professional certified to make such a determination that the playground is for the general public.”

In the case of a church, one would expect a letter of certification from:

- The pastor of the church;
- An elder of the church;
- The legal head of the non-profit corporation under which the church is organized.

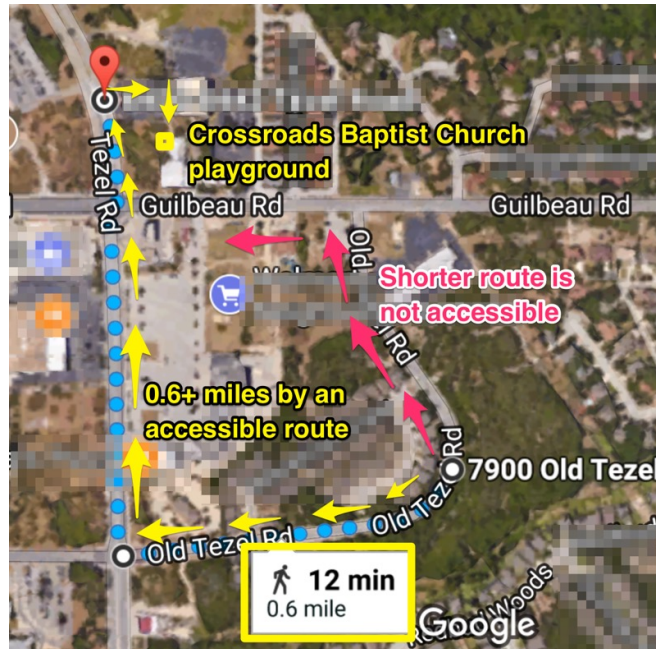
However, **the letter provided to the Applicant was written by a “ministry assistant” for the church**. There is no carbon copy to the church’s pastor, elders, or head of the corporation. **Therefore, this letter cannot be considered any kind of official communication from Crossroads Baptist Church.**

D1(e). The accessible route to the playground is longer than 0.6 mile.

The shortest route to Crossroads Baptist's playground is not accessible (a necessary sidewalk on Old Tezel Rd ends.)

There is a longer route that is accessible, but it is over 0.6 mile from the project site.

(Maps showing the lack of accessible route along Old Tezel Rd are discussed in greater detail in sections D4 and D5 of this document, relating to accessible routes to bus stops.)



Any playground is ineligible if the accessible route is longer than the QAP allows.

D1(f). In summary: this private playground does not qualify for a point.

For these several reasons, the private playground at Crossroads Baptist Church does not meet the requirements for a playground located in a public park or publicly-owned space. This Opportunity Index point should not awarded.

Applicant shows negligence in its due diligence, or intent to deceive.

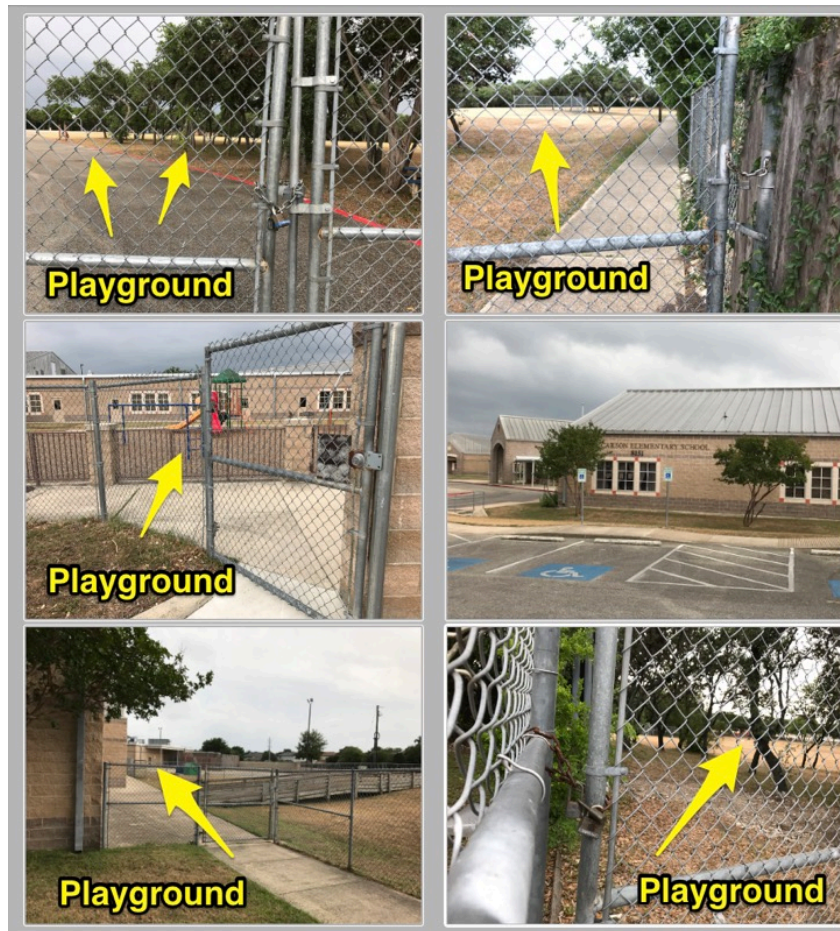
D2. The second claimed playground at an elementary school is not open to the public.

Applicant claimed a second playground, this one located at Carson Elementary.

We spoke to Carson Elementary staff, who told us that their playground is not open to the public (other than to children attending that school during regular school hours.) Carson decided to lock their playground after a slide was set on fire a few years ago. Locking playgrounds is standard procedure for many public schools.

To confirm that the school playground is closed to the public, we visited Carson on a Saturday afternoon, a time when parents would most want a playground to be open. We took pictures of every gate around the property. All gates were locked. There was no way to access the playground except by jumping the fence.

Below are some of the photos taken of the school perimeter that show the locked gates. More photos are available upon request.



Carson Elementary playground is therefore not eligible for an Opportunity Index point.

Applicant shows negligence in its due diligence, or intent to deceive.

D3. The Bristol project is farther than 1 mile away from a library.

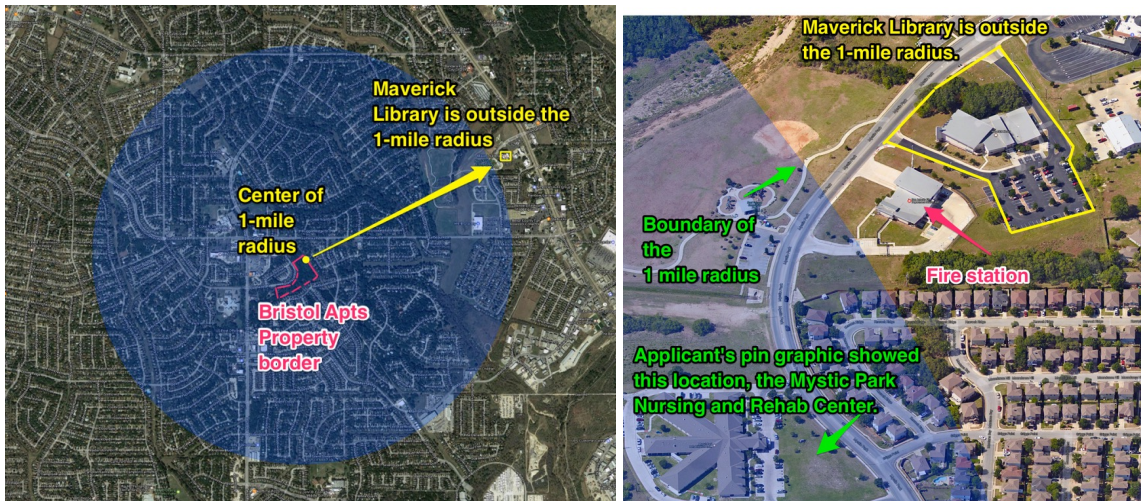
To attain an Opportunity Index point for the public library, the QAP requires:

(VII) The development site is located within 1 mile of a public library (1 point)

The Applicant claimed Maverick Public Library is 0.99 mile from the Proposed Development. However, it is **more than 1 mile away even in their own submitted diagram, below.** The library is clearly outside the radius of the circle they have drawn.



We went through the same exercise to check the distance of Maverick Library from the Bristol property line. We used a [circle mapping tool](#) developed by an engineer along with Google Maps to draw a radius from the point on the Bristol property line that is closest to the library.



Even starting from the property edge closest to the library, we were not able to fit the library inside the 1-mile radius.

Applicant intentionally placed a graphic of a green push-pin inside the 1-mile radius, (in actuality, placing it in the parking lot of the Mystic Park Nursing & Rehabilitation), evidently in the hope that no one would check the accuracy of their diagram.

Applicant has made a knowingly false statement in its Application for funding.

D4. The shortest two routes from the Bristol project to the claimed bus stops are not ADA-accessible.

D4(a). QAP requires bus stops to be less than 0.5 mile away via an accessible route.

Not that the QAP says “less than 0.5 mile.” It does not say:

- “less than or equal to 0.5 mile,” nor does it say:
- “within 0.5 mile.”

This specific distance requirement means that **the bus stops must be within 0.44 mile** of the Proposed Development (because 0.45 mile rounds up to 0.5 mile, and the distance must be less than 0.5 mile).

D4(b). The shortest routes are not ADA-accessible.

In its original Application, Applicant claimed that two bus stops near the Proposed Development. Applicant stated the two routes were 0.17 miles and 0.28 miles, each less than 0.5 mile, as required by the QAP.

II	The Development Site is located less than 1/5 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service.	Guilbeau Rd. Opposite 9085 Bus Stop	Guilbeau Rd and Tezel Road, San Antonio, Texas 78250	0.17 Miles
		Guilbeau & New Tezel Rd Bus Stop	Guilbeau Rd and Tezel Road, San Antonio, Texas 78250	0.28 Miles

These are the two shortest routes possible to the two bus stops; one would exit the Bristol and head north along Old Tezel road to Guilbeau, then turn left or right to access either bus stop.

However, these two short routes are not ADA-accessible. The sidewalk connecting the proposed Bristol’s driveway and the two bus stops runs out.



ADA accessibility to the claimed bus stops is a requirement. **Applicant therefore knowingly made a false statement in its Application by claiming these two routes because they clearly are not ADA-accessible.**

This item is the subject of a Request for Administrative Deficiency made by VDC Guilbeau Bandera on behalf of Versa Development / The Acacia (TDHCA #17356), who also pointed out that this route is not accessible.

D5. The longer routes from the Bristol project to the claimed bus stops are not less than 0.5 miles, as claimed by the Bristol developer.

In rebutting this Deficiency, Howard Cohen of SA The Bristol L.P. make the following statement in its letter to TDHCA of June 15, 2017:

Deficiency 2: The requestor states that there is not an accessible route to the public transportation. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that there is an accessible route to public transportation.

Response 2: The requestor is again incorrect, the Development Site is located less than ½ mile on an accessible route from Public Transportation. The accessible routes are shown on the map provided (in aqua blue) in the application for the two bus stops located at Guilbeau Road and Tezel Road. In addition, included behind Attachment #2 is a route survey prepared by Meyer Inspection Services, LLC. Mr. Meyer has verified that the routes to the two bus stops are accessible based on 2010 ADA standards.

However, Mr. Cohen's statement is false. **The two bus stops are not less than 0.5 miles from the exit of the Bristol. Furthermore, accessibility Specialist Stephen Meyer makes no assertion in his letter about the length of the two routes.**

Mr. Cohen of SA The Bristol L.P. has made a false assertion.

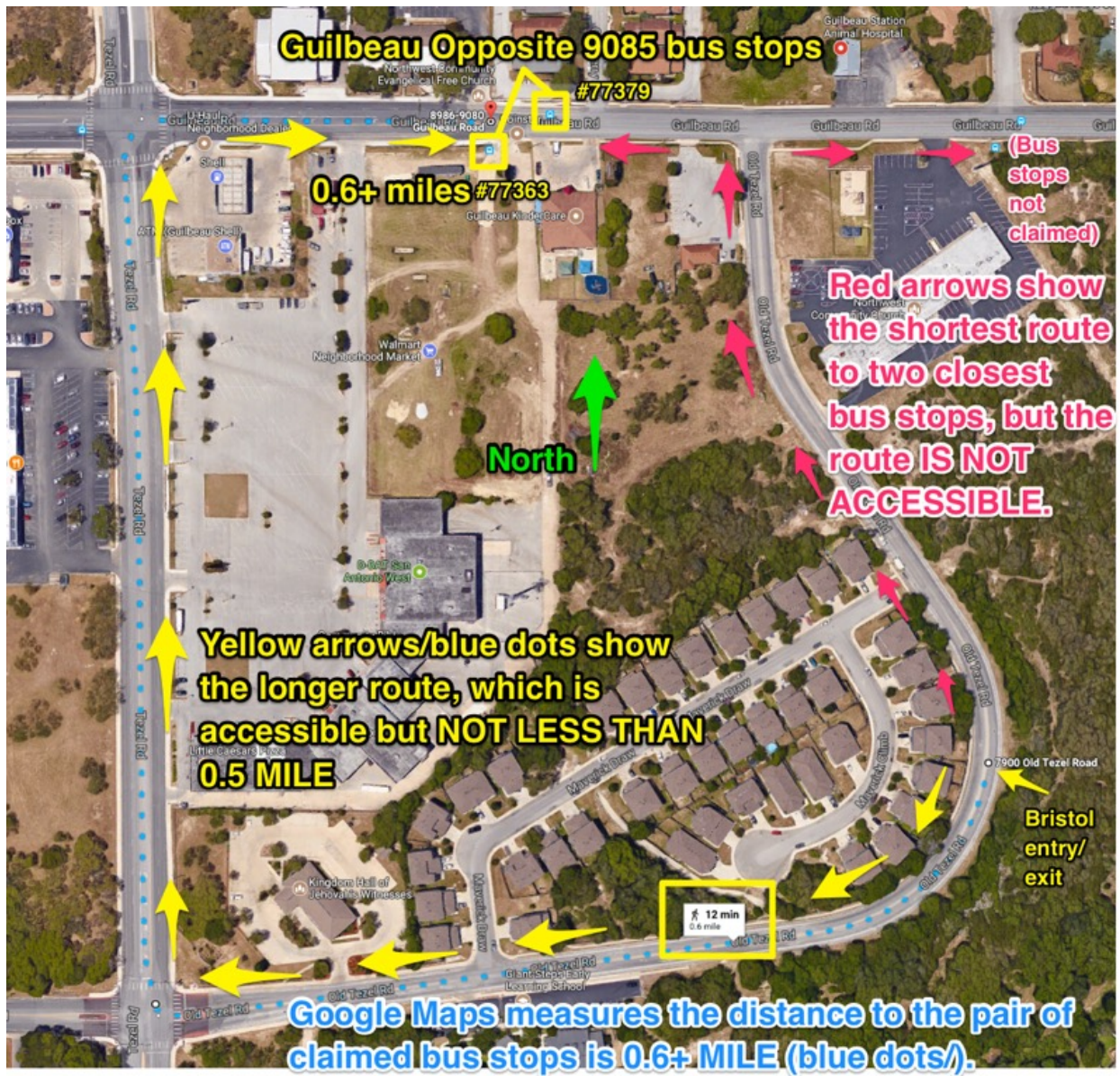
The length of the two routes is easily shown by using Google Maps to plot the distance between the proposed exit point of the Bristol and the exact locations of the two bus stops claimed by the Applicant, as shown below.

D5(a). Guilbeau at Walmart Bus Stops are not less than 0.5 mile

Bus Stops #77363 and #77379 are 0.6+ miles away from the Bristol by the route proposed by Mr. Meyers. See the screenshot of the routes Mr. Meyers proposes, with a **route distance of 0.6+ mile provided by Google Maps.**

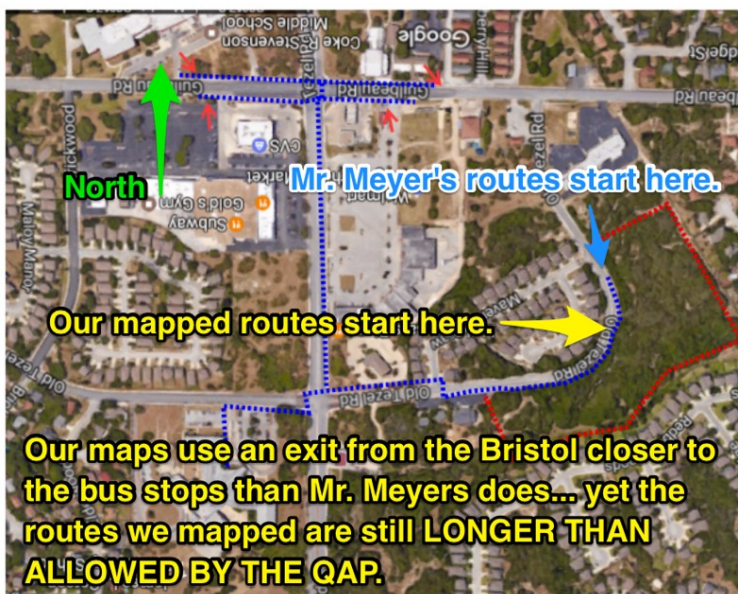
Note that in the maps below, we made the route's starting point at the Bristol even closer to the bus stops than Mr. Meyer did, yet the route is still too long.

Therefore, this route is not eligible for an Opportunity Index point.



D5(b). Guilbeau at New Tezel bus stops are farther away than 0.4 mile.

Bus Stops #77319 and #77313 are 0.5+ miles away from the Bristol by the route proposed by Mr. Meyers. See the screenshot of the routes Mr. Meyers proposes, with a **route distance of 0.5+ mile** provided by Google Maps.



Mr. Meyer's Route Maps

For reference, shown to the left are the routes examined by Mr. Meyers for accessibility.

You can see that the routes we measured are shorter than Mr. Meyer's routes because his entrance to the Bristol is further away than ours is. So our measurements are more conservative than his, yet the routes are still not less than 0.5 mile.

(Mr. Meyer's map has upside down text because the map he made has north pointing downward.)

D5(c). Paratransit Service is not an acceptable substitute.

Mr. Meyers states that VIATrans Paratransit Service can provide service for certain qualified individuals who cannot use the fixed route bus system.

This service is not available for all handicapped riders, only for a segment of such riders. Many handicapped individual are not only capable of using the fixed stop system but would actually prefer to use it in order to minimize their dependence on specialty services which may not be available at convenient times for them.

Therefore, **because Paratransit service is not available for all handicapped persons, it is not an acceptable substitute** for having 2010 ADA-compliant routes to the claimed bus stops that are less than 0.5 mile, as required by the QAP.

Therefore, neither of the two proposed accessible routes is eligible for an Opportunity Index point.

The statement made by the Applicant that the route is shorter than 0.5 mile is false.

D6. Indoor recreation site “Just Add Children” is not ADA-accessible, as required.

Applicant claims an Opportunity Index point for being within 1 mile of the indoor recreation facility “Just Add Children,” a party/play area for children. This business is located within a small, older strip shopping center. However, **this shopping center and business are not ADA-compliant**, a requirement stated specifically in the FAQ to the QAP. It is essential that such a facility be ADA compliant for both the children and the adults.

An examination of the site even by a member of the general public reveals **obvious violations of the 2010 ADA**. A specialist certified in this area would find many more violations.

One of our residents is a tenant in this center. He told told the story of a **handicapped customer who was angry that the thresholds of the doors in this shopping center were too high for his wheelchair to enter. The customer had to call the business to conduct his transaction out on the walkway, outside the business’s doorway.**

D6(a). Dedicated handicapped van parking is not ADA- compliant.

The Justice Department prioritizes access and entry to a public business as the most important aspects for ADA compliance, and neither parking lot access nor business entry is in compliance.

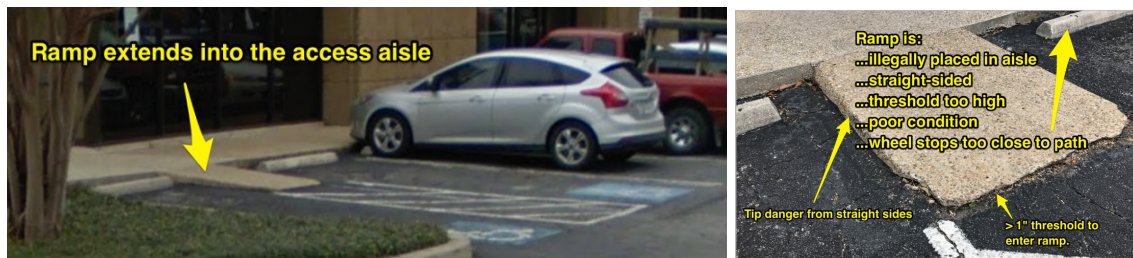


This parking lot is required to have 1 van-accessible parking space. Although the space shown below is marked for vans, the space is nowhere near being van-compliant. The space is 2' too narrow to meet the 1991-required 24' in width for a van space.

This is the only-van accessible parking spot for this shopping center, so **a handicapped person requiring a van for mobility is precluded from safely visiting any business in this strip center, including Just Add Children.**

D6(b). Illegal ramp blocks the space for wheelchair maneuvering.

A ramp extends into the wheelchair aisle, an explicit violation of the 1991 and 2010 ADA rules because it blocks the area required for a van-operated lift to lower a wheelchair into the parking area, and for the wheelchair to maneuver once it's on the ground.



D6(c). Ramp is dangerous.

Worse, this ramp is not flared at the sides. **Were one wheel of a wheelchair to fall off the side of this ramp, the wheelchair could easily tip over.** The occupant would hit uneven cement and risk serious head and body injury. There is also a high lip on the ramp threshold, presenting a barrier to entry and a trip hazard.

D6(d). Wheel stops don't prevent cars from blocking walkway.

The wheel stops are placed too close to the walkway, allowing the noses of parked cars to protrude into the walkway. Items protruding into a walkway make travel difficult for wheelchairs by narrowing the path and are a trip hazard for the sight-impaired. **Car intrusion into a walkway which makes the pathway less than 36" wide is a another clear violation of ADA rules.**

D6(e). Door thresholds are far too high to be ADA compliant.

ADA rules are clear that doorways must have nearly flush thresholds to avoid being barriers to entry. Just Add Children has two extremely high door thresholds (separate entry and exit doors).



The photos were taken with a US quarter for scale. A quarter is very close to 1” in diameter.

Both the entrance (left photo) and exit (right photo) thresholds are much too high, around 1.5”-2” or more, and are not beveled. You can see the quarter in both photos to give the scale of the thresholds.

The maximum height of an unleveled (a bevel is a mini-ramp) threshold under 2010 rules is 1/4”. These threshold heights are a barrier to entry for anyone in a wheelchair or a walker. Furthermore, they are a trip hazard to anyone with a sight disability.

Because Just Add Children is a play area, there is no Safe Harbor provision. The business is required to make all changes that are “readily achievable” at the first opportunity under 2010 ADA rules. There is no provision that allows them to wait until site alterations are made because there is no Safe Harbor.

Even the more lenient 1991 ADA rules state that thresholds without bevels cannot exceed 1/2”.

Thus, these high thresholds at Just Add Children are an illegal barrier to entry for the disabled.

D6(f). The children’s dining tables are not ADA compliant.

The room where children’s parties are held utilize standard cafeteria style tables where the benches are permanently affixed to the tables. **Because the benches can’t be removed, there is no way that a child in a wheelchair could sit with other party guests.** Sitting at the end of the table is not an option because the vertical bar prevents the chair’s occupant from having the required knee space.



Even if the benches were removable from the table, there is not enough room between tables for a wheelchair to maneuver. A 36" wide path is required.

A child with a handicap would not be able to enjoy a party with other children because of the barriers to use.

D6(g). The play area does not contain 36" wide pathways for travel.

The play area is packed with toys. A person in a wheelchair could not navigate in this room. A person with a sight disability would likely trip and injure himself.



Summary

We have provided just a few of the reasons that Just Add Children is not ADA compliant. Because any claimed indoor recreation facility is required by the QAP to be 2010-accessible, Applicant cannot claim this facility under the Opportunity Index.

Applicant shows negligence in its due diligence, or intent to deceive.

D7. Indoor recreation site “Gold’s Gym” is unlikely to be 2010 ADA-accessible, as very few U.S. gyms are. Applicant has shown no proof of its accessibility.

In a 2016 study, University of Alabama researchers studied a sample of 227 gyms across 10 states (IA, IL, IN, MA MI, MO, MT, OH, TX, and WI) and found that **none were 100% ADA-compliant.**

The only area in which all of the gyms studies showed decent accessibility (score of ≥ 70) was in water fountain access.

“As a group, we found low accessibility (scale score < 70) in the majority of facilities in all sections except in programs, parking, and water fountains. Differences were found across facility affiliation in equipment, information/signage, and locker rooms/showers. However, in none of these cases were scale scores ≥ 70 . The only case in which all facility affiliations had mean scale scores ≥ 70 was for water fountains.” SOURCE: <http://dx.doi.org/10.1016/j.dhjo.2016.12.011>

This abysmal showing suggests that very few gyms in the U.S. are likely to be fully ADA-compliant, including the claimed Gold’s Gym at 9240 Guilbeau Road.

Applicant was required by TDHCA to show certification of route accessibility to nearby bus stops. Rather than repeat the task of examining the parking lot and facility for accessibility, the **burden of proof should fall to the Applicant to to certify that the claimed indoor recreation facility Gold’s Gym is 2010 ADA-compliant in order to receive the claimed Opportunity Index point.**

D8. Summary TDHCA should find this Application ineligible for funding.

Applicant has claimed 12 points, only 8 of which are earned.

- The point for having a public playground less than 0.5 mile away is not valid.
- The point for having an accessible route to public transportation less than 0.5 mile long is not valid.
- The point for having a library within 1 mile is not valid.
- The point for being near two indoor recreation facilities that are probably not ADA-compliant is not valid.

Each of these points is a tie-breaker in the funding competition, and thus any impropriety in claiming points is material.

TDHCA has the power under §10.202(1)(K) to find Applicants ineligible for funding if they have provided falsified documentation or made other intentional or negligent material misrepresentations or omissions in their Application.

The Bristol Opportunity Index Information					
Point Item	Urban	Name	Address	Distance	Is Claim Legitimate?
I	The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards.	James L. Carson Elementary School Playground	8151 Old Tezel Rd San Antonio, TX 78250	0.22 Miles	No 0
		Crossroads Baptist Church Playground	8300 Tezel Rd San Antonio, TX 78254	0.24 Miles	No
II	The Development Site is located less than 1/4 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service.	Guilbeau Rd. Opposite 9085 Bus Stop	Guilbeau Rd and Tezel Road, San Antonio, Texas 78250	0.17 Miles	No 0
		Guilbeau & New Tezel Rd Bus Stop	Guilbeau Rd and Tezel Road, San Antonio, Texas 78250	0.28 Miles	No
III	The Development site is located within 1 mile of a full-service grocery store or pharmacy. A full service grocery store is a store of sufficient size and volume to provide for the needs of the surrounding neighborhood including the proposed development; and the space of the store is dedicated primarily to offering a wide variety of fresh, frozen, canned and prepared foods, including but not limited to a variety of fresh meats, poultry, and seafood; a wide selection of fresh produce including a selection of different fruits and vegetables; a selection of baked goods and a wide array of dairy products including cheeses, and a wide variety of household goods, paper goods and toiletry items.	CVS Pharmacy	9140 Guilbeau Rd San Antonio, TX 78250	0.26 Miles	Yes 1
		Walmart Neighborhood Market and Pharmacy	9006 Guilbeau Rd San Antonio, TX 78250	0.13 Miles	Yes
IV	The Development is located within 3 miles of a health-related facility, such a full service hospital, community health center, minor emergency center, emergency room or urgent care facility. Physician specialty offices are not considered in this category.	Fast Med Urgent Care	9234 North Loop 1604 W #110 San Antonio, TX 78249	2.58 Miles	Yes 1
		Elite Care Emergency Room- Bandera	8703 Bandera Rd, San Antonio, TX 78250	1.13 Miles	No
V	The Development Site is within 2 miles of a center that is licensed by the Department of Family and Protective Services specifically to provide a school-age program or to provide a child care program for infants, toddlers, and/or pre-kindergarten.	Kinder Care	8980 Guilbeau Rd San Antonio, TX 78250	0.13 Miles	Yes 1
		La Petite Academy of Guilbeau	9401 Guilbeau Rd San Antonio, TX 78250	0.51 Miles	Yes
VI	The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources.	Please see backup documentation			Yes 1
VII	The development site is located within 1 mile of a public library.	Maverick Public Library	8700 Mystic Park San Antonio, TX 78254	0.99 Miles	No 0
VIII	The Development Site is located within 5 miles of a University or Community College campus. To be considered a university for these purposes, the provider of higher education must have the authority to confer bachelor's degrees. Two-year colleges are considered Community Colleges. Universities and Community Colleges must have a physical location within the required distance; online-only institutions do not qualify under this item.	Northwest Vista College	3535 N Ellison Dr San Antonio, TX 78251	4.04 Miles	Yes 1
		University of Texas at San Antonio	1 UTSA Circle San Antonio, TX 78249	4.68 Miles	Yes
IX	Development Site is located in a census tract where the percentage of adults age 25 and older with an Associate's Degree or higher is 27% or higher as tabulated by the 2010-2014 American Community Survey 5-year Estimate.	Please see back-up documentation.			Yes 1
X	Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.				
XI	Development site is within 1 mile of an indoor recreation facility available to the public.	Just Add Children	7715 Mainland Dr San Antonio, TX 78250	0.87 Miles	No
		Gold's Gym	9240 Guilbeau Rd San Antonio, TX 78250	0.35 Miles	? 0
XII	Development site is within 1 mile of an outdoor recreation facility available to the public.	Nani Falcone Community Park	7625 Mystic Park San Antonio, TX 78254	0.84 Miles	Yes 1
XIII	Development site is within 1 mile of community, civic or service organizations that provide regular and recurring services available to the entire community (this could include religious organizations or organizations like the Kiwanis or Rotary Club).	Northwest Community Church	8900 Guilbeau Rd San Antonio, TX 78250	0.05 Miles	Yes 1
		Northwest Hills United Methodist Church	7575 Tezel Rd San Antonio, TX 78250	0.43 Miles	Yes

Total Legitimate Points

8 / 12

E. Points for false “community support” should not be awarded.

E1. Rules are set up to exclude most neighborhood associations from impacting points.

Current TDHCA rules provide that support or opposition from an existing homeowner association (HOA) can impact an application’s points **only if the boundaries of the development fall within that HOA’s boundaries** (only “qualified Neighborhood Organizations” can participate in “Quantifiable Neighborhood Participation,” from QAP §11.9(d)4(A)(ii)).

HOAs enclosing a proposed apartment development is not the typical situation.

This narrow HOA inclusion means that HOAs **adjoining** a proposed development cannot impact the award of points by their support or opposition. **Adjoining residents’ only option is to make public comment, which has zero effect on points awarded, and thus has little effect on the outcome of decisions taken by the TDHCA Board.**

It also gives developer no incentive to engage with adjoining HOAs, since those adjoining HOAs cannot affect the points outcome of funding decisions. Why would a developer waste its time? Indeed, as we’ve seen in northwest San Antonio, the developers don’t engage with residents unless residents force a conversation.

E2. Rules instead allow points for false “community support.”

The **HOAs who should have an impactful voice** in what happens in our own neighborhoods have been deliberately excluded, and **instead TDHCA has allowed advocacy groups (“Community Organizations”) to substitute their voices for ours.**

The purpose of letters from Community Organizations as per QAP §11.9(d)(6)(A) is “to ascertain if there is community support” for a given project application when there is no qualified HOA.

The QAP rule states that such community organizations must have as a **primary purpose “the improvement of the community as a whole or of a major aspect of the community.”** Examples given include schools, fire protection, police protection, etc.

But even such broad organizations can’t speak for neighborhoods. Does the head of our local police department know that even minor rainstorms can bring flood waters above the bottom of our fence lines and into our backyards, for example? No. Therefore, **even these broad organizations cannot speak for the particular needs and opinions of a neighborhood. Only the residents can.**

The letters of support provided by the Applicant (and most applications we have reviewed), are not even from broad organizations as police departments. They are from narrow special interest groups. Many of these groups do excellent and necessary work, but we doubt if anyone working for these groups **actually lives in neighborhoods adjoining the proposed Bristol, which is the only way these organizations could provide an informed opinion of support.**

Speaking for a neighborhood is not the mission of advocacy groups, nor do they have any mechanism to gather opinion from actual residents of the community.

E3. Development site “area” is not defined, so common sense should prevail.

Organizations must “provide reasonable evidence that they are active in the area that includes the location of the Development Site” under under §11.9(d)(6)(A).

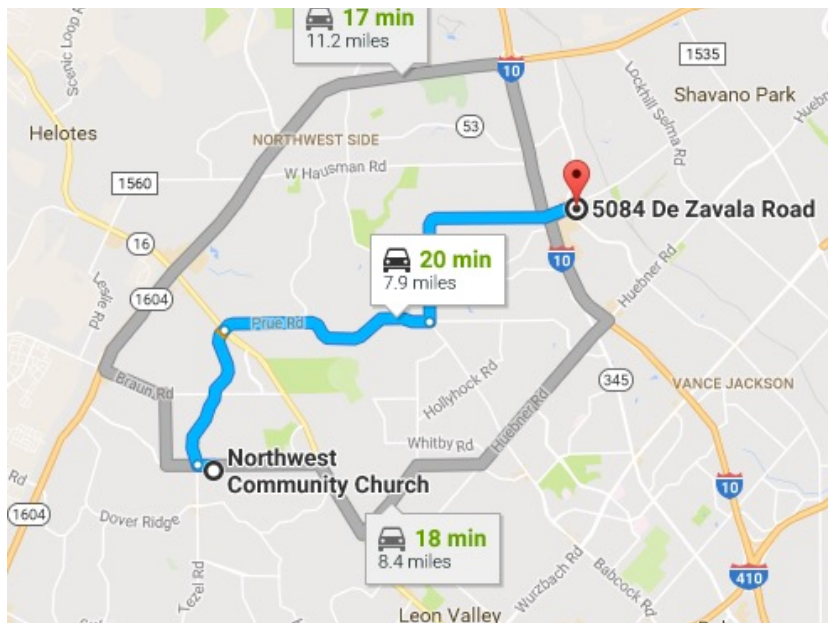
Because “area” is not defined, common sense judgment must apply to what is meant by “active in the area.”

E4. Support from Christian Assistance Ministry (“CAM”) is not allowable.

CAM provides food, clothing and shelter for individuals in needs. Examples of services given on their website include sack lunches for the homeless and gifts of seasonal clothing, such as coats. These are vital community services to those in need of the basic necessities for living.

However, the QAP is clear about the qualifications for an organization providing a letter of support: **it must improve the community as a whole or of a major aspect of the community.**

As evidenced in the Application, the census tract containing this proposed development has a poverty rate of 8.4%. Median incomes are middle-class. **The majority of residents are not in need of the services provided by CAM, and therefore it does not improve a major aspect of the community surrounding the Development Site.**



Furthermore, the closest location of CAM to the general area of the project site is in a different ZIP code eight miles away. This would be a 20-minute car trip one way. Individuals in need of sack lunches or clothing do not own automobiles or motorcycles, and a walk of eight miles would be an undue burden. Thus, **CAM is effectively inactive in the area of the Development Site because of the distance barrier.**

E5. Support from American GI Forum / National Veterans Outreach Program (“NVOP”) is not allowable.

Again, while NVOP is a valuable and necessary organization, it **specializes in services for veterans with special needs**. This does not rise the level of serving the community as a whole in the way that a police force or public transit does.

The majority of current community residents are not veterans in need of such special services. Therefore NVOP does not improve a major aspect of the community surrounding the Development Site.

The NVOP is a duly chartered non-profit corporation qualified by the Internal Revenue Service as a charitable organization under section 501(c)3 of the IRS code. The NVOP, headquartered in San Antonio, Texas, is recognized nationally as a premier community-based service provider specializing in services for veterans with special needs.

Furthermore, NVOP is a national organization. §11.9(d)(6)(A) provides that “Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development Site will not be awarded points.”

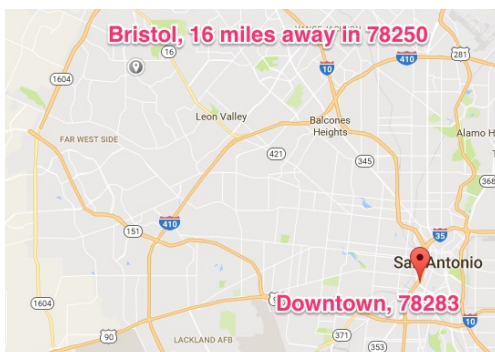
Applicant provides no evidence in Application that NVOP is active in the area of the Development Site, as required.

E6. Support from LULAC Council 4383 is not allowable.

Again, while this is a valuable organization, it advances the interests of only the Latino population. This does not rise the level of serving the community as a whole. **The community surrounding the Development Site is composed of people of many ethnic backgrounds, not just of Latino background**. LULAC does not provide a service to all residents of the neighborhood, so **LULAC Council 4383 does not improve a major aspect of the community surrounding the Development Site.**

ABOUT THIS COUNCIL

LULAC Council 4383 advances the economic condition, educational attainment, political influence, health, housing and civil rights of the Latino population of San Antonio and the surrounding area.



Also, the letter of support is from LULAC Council 4383, which serves zip code 78283. That is downtown San Antonio.

There are four LULAC Councils that serves the 78250 zip code (where Bristol would be located).

Therefore, the Applicant has not provided evidence that LULAC Council 4383 is active in the area of the Development Site, as required.



Here are the results for Texas

#*	COUNCIL NAME	CONTACT	TITLE	CITY	STATE	ZIPCODE	PHONE
4383	LULAC Concilio Zapatista #4383	Henry Rodriguez	Council Executive Director	San Antonio	TX	78283	
4475		Rick Rodriguez	President	San Antonio	TX	78250	
4878		Nora Ciancia	President	San Antonio	TX	78250	
4395		Veronica Benavides	President	San Antonio	TX	78250	
22096		Debbie Andrade	President	San Antonio	TX	78250	

E7. In summary, “Community Organizations” do not speak for residents.

- None of these letters of support from city and national organizations reflects the specific needs of the neighborhoods adjoining the proposed development.
- The organizations are not proven to be active in the area of the development.
- These organizations do not give the adjoining neighborhoods any kind of voice to speak about what our specific needs and concerns might be.
- These community organizations are therefore not, as intended by the QAP, a proxy voice for the residents of the adjoining neighborhoods.
- By virtue of their missions, such advocacy organizations can support housing in almost any location, regardless of how well it does or doesn't suit the needs of the actual community.

Therefore, for all these reasons, the support offered by these organizations does not meet the criteria set out by the QAP, and the four points the Applicant has awarded itself for Community Organization support should be removed.

F. HUB for this project adds a point but lacks experience.

F1. Lack of experience of the Historically Underutilized Business (HUB).

Under Sponsor Characteristics (Tab 36 of the Application), Shannon Roth of TDHCA states, “I don’t see how the HUB has experience in the housing industry.”

We agree with this assessment. **Ms. Pinto-Torres has experience almost exclusively in environmental impact assessment.** This is one very small part of the entire development process. She has performed project work for Texas Commission on Environmental Quality, Texas Department of Transportation, and others, but we see no projects listed in her resume relating to multi-family housing prior to her involvement with Laurel Glen.

The Laurel Glen project was funded by TDHCA in 2016 and possibly had broken ground by February 2017, the time the application for Bristol was submitted. Ms. Pinto-Torres’s active, day-to-day experience in multi-family housing development in February 2017 would have amounted to only a few months’ worth.

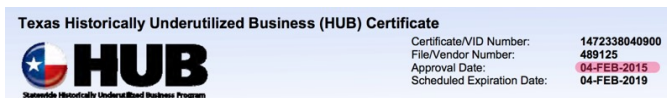


The foundations for the buildings of Laurel Glen have not yet even been laid as of July 2017. So Ms. Pinto-Torres has not yet even completed her first multi-family housing project. Her inclusion as a co-general partner is therefore dubious.

F2. HUB is more valuable for the application point than for her experience.

While we are strong advocates of supporting female-owned businesses, **it appears that the inclusion of Ms. Pinto-Torres / Adalia Development as a co-general-manager on this project is primarily to gain the point for using a HUB, rather than for the experience as a developer that such a HUB should bring.**

Supporting this assertion, we note that the HUB certificate for this business was issued on February 4, 2015. This was just a few days before Atlantic Pacific Communities made the two TDHCA applications below, which also included Adalia Development as co-general partner.



The Texas Comptroller of Public Accounts (CPA), hereby certifies that
ADALIA DEVELOPMENT, LLC

- 15289 (Sonoma Pointe)
- 15310 (Terraces at Arboretum)

At the time of these 2015 applications, Ms. Pinto-Torres appears to have had no experience relevant to building multi-family housing beyond her experience in environmental assessment.

TDHCA overlooked Ms. Pinto-Torres’s lack of experience in the 2015 applications, which is certainly to the benefit of Atlantic Pacific Communities but perhaps not to the benefit of the project now under construction.

G. APC has an undisclosed identity of interest in the general contractor for Laurel Glen.

While taking the photograph of the Laurel Glen construction site, we noticed the sign posted by the construction firm “Gulf Coast Community Builders, LLC.”



Gulf Coast Community Builders is the same general contractor that Atlantic Pacific Communities plans to use if Bristol is approved for funding. APC has disclosed the fact that Gulf Coast Community Builders will earn fees to the benefit of Atlantic Pacific Communities **due to common ownership**.

While we believe this sort of cozy relationship makes financial corruption hard to suss out, it may be that this arrangement is legal in the State of Texas.

1604 LAUREL GLEN, LTD.

Development Team Members Financial or other Interest Attachment

1604 Laurel Glen Development, LLC is the Developer of the Applicant’s project and will earn Developer Fees from the Applicant. 1604 Laurel Glen Development, LLC is owned by principals who are also members of the general partner and control the Applicant.

However, Gulf Coast Community Builders, LLC is not disclosed in the application to TDHCA as the general contractor for Laurel Glen.

Laurel Glen’s general contractor is listed as Carter & Carter	Bristol’s general contractor is listed as Gulf Coast Community Builders																																										
<p>Developer:</p> <table border="1"> <tr> <td>1604 Laurel Glen Development, LLC</td> <td>Dan Wilson</td> <td>(305) 357-4733</td> </tr> <tr> <td colspan="2">Contact Name</td> <td>Phone</td> </tr> <tr> <td>dwilson@apcommunities.com</td> <td>\$1,858,000.00</td> <td>TBD</td> </tr> <tr> <td>Email</td> <td>Proposed Fee</td> <td>Tax ID Number (TIN)</td> </tr> <tr> <td>Certified Texas HUB?</td> <td colspan="2">No</td> </tr> <tr> <td colspan="3">This is a direct or indirect, financial, or other interest with Applicant or other team members*</td> </tr> <tr> <td colspan="3">Yes</td> </tr> </table>	1604 Laurel Glen Development, LLC	Dan Wilson	(305) 357-4733	Contact Name		Phone	dwilson@apcommunities.com	\$1,858,000.00	TBD	Email	Proposed Fee	Tax ID Number (TIN)	Certified Texas HUB?	No		This is a direct or indirect, financial, or other interest with Applicant or other team members*			Yes			<p>Developer:</p> <table border="1"> <tr> <td>SA The Bristol Development, LLC</td> <td>Dan Wilson</td> <td>(305) 357-4733</td> </tr> <tr> <td colspan="2">Contact Name</td> <td>Phone</td> </tr> <tr> <td>dwilson@apcommunities.com</td> <td>\$2,004,000.00</td> <td>TBD</td> </tr> <tr> <td>Email</td> <td>Proposed Fee</td> <td>Tax ID Number (TIN)</td> </tr> <tr> <td>Certified Texas HUB?</td> <td colspan="2">No</td> </tr> <tr> <td colspan="3">This is a direct or indirect, financial, or other interest with Applicant or other team members*</td> </tr> <tr> <td colspan="3">Yes</td> </tr> </table>	SA The Bristol Development, LLC	Dan Wilson	(305) 357-4733	Contact Name		Phone	dwilson@apcommunities.com	\$2,004,000.00	TBD	Email	Proposed Fee	Tax ID Number (TIN)	Certified Texas HUB?	No		This is a direct or indirect, financial, or other interest with Applicant or other team members*			Yes		
1604 Laurel Glen Development, LLC	Dan Wilson	(305) 357-4733																																									
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Is it permissible for the co-general partner Atlantic Pacific Communities to change general contractors from Carter & Carter to Gulf Coast Community Builders for Laurel Glen?

If it is permissible, did Atlantic Pacific Communities disclose to TDHCA and any other relevant parties the fact of this change, and disclose that APC has an identity of interest through common ownership in the Gulf Coast Community Builders?

If there is anything irregular about this change, we urge TDHCA to make an audit of Laurel Glen or take other necessary action.

We believe this is a fair request, given the information in the next section about Atlantic Pacific Communities's close relationship to Carlisle Development Group, whose two leaders were convicted of massive fraud in a construction overcharge kickback scheme.

H. APC's close relationship to Carlisle Development is troubling.

H1. The two former principals of Carlisle Development Group stole tens of millions in tax credit funding and grants.

The developer of the proposed Bristol Apartments is **Atlantic Pacific Communities, who has long-standing and close association with Carlisle Development Group**, both Florida-based. In 2016, **two Carlisle leaders, along with their co-conspirators, were convicted of stealing \$36M in government housing funds**, following a massive investigation by the U.S. Justice Department (see attached press release).

H2. Carlisle struck a deal in 2013 to sell four projects to Atlantic Pacific when Carlisle could not obtain funding due to the ongoing federal investigation.

When Carlisle Development came under federal scrutiny for fraud in 2013, **Atlantic Pacific struck a deal to buy four low-income housing projects from Carlisle, transferring to a newly formed subsidiary, Atlantic Pacific Communities LLC ("APC").** [\[source\]](#)

H3. Carlisle also transferred several key executives to Atlantic Pacific in 2013.

At the same time as Carlisle and Atlantic Pacific struck their deal for the proposed housing projects, **several key executives from Carlisle transferred to APC.** The list included Carlisle Chief Operating Officer Kenneth Naylor, and more than one Vice-President, including Dan Wilson.

Dan Wilson, formerly of Carlisle Development Group, is the listed contact for APC's proposed project, Bristol. [\[source\]](#) While Mr. Wilson and former Carlisle COO Kenneth Naylor have not been accused of any wrongdoing during their time at Carlisle (to our knowledge), it's also **hard to imagine that high-ranking officers of the company had no knowledge of the massive wrongdoing that Carlisle was perpetrating.**

H4. Carlisle and APC presented themselves to the world as partners, not as parties to an arm's length transaction.

From a 2013 press release from Carlisle:

"Atlantic Pacific is the perfect fit for our team because they share our long term vision of empowering local communities to improve themselves," **Carlisle Development**

CEO Matthew Greer stated in a news release. “Their geographic reach and sterling reputation make them ideally suited to grow this great team’s role in the national affordable housing landscape.” [\[source\]](#)

In the same press release, Randy Weisburd, chief operating officer of Atlantic Pacific, said:

“We are excited to welcome a leading affordable housing company to the A|P family. The new company will leverage the extensive experience of both organizations to bring state-of-the-art affordable housing to the communities we serve.”

H5. Dec 2015: APC requested unneeded funds from Dade County.

APC asked for \$3.3M grant from Dade County in order to complete a project, but APC seemingly forgot to mention \$4.6M in funding it had at its disposal for that project. This led to an investigation of the request, which was subsequently denied. [\[source\]](#).

H6. Jan 2016: Project takeover battle.

Allegations of malfeasance surrounded Atlantic Pacific’s 2013 takeover of 13 affordable housing buildings throughout Miami-Dade [\[source\]](#).

H7. 2014-2016: Carlisle and APC bickered over assets.

Carlisle and APC bickered over the transfer of assets since the deal was announced in 2013, and **even reputable sources are having a hard time telling which company owns which asset.** Eventually APC gave up its efforts to buy certain Carlisle assets (13 or so housing projects) [\[source\]](#).

H8. July 2016: Dade County denied funding to APC.

APC’s request for **\$4.6M from Dade County was denied** because APC/Carlisle had not provided requested audited financials for 2014 and 2015 to Florida’s housing agency, and because one **Liz Wong, a former Carlisle Vice President now working at APC, was listed by the Florida agency as a delinquent developer,** a charge that APC denied. [\[source\]](#).

H9. Until at least 2016: APC and Carlisle shared office space.

Carlisle and APC shared the same office space until 2016. They now have different legal addresses. It’s unknown if they are still physically sharing office space.

Address of record for both APC and Carlisle Development until 2016:

2950 SW 27th Ave. Ste. 200
Miami, FL 33133 [\[source\]](#)

Given that Carlisle and Atlantic Pacific Communities have shared projects, high-ranking officers, and even office space, one can only hope that Atlantic Pacific Communities has somehow managed to remain untainted by the illegal business practices Carlisle executives were convicted for.

H10. Atlantic Pacific has a poor reputation in managing the properties it develops.

The online reviews for property managed by Atlantic Pacific's property management arm are very poor. Many reviews specifically criticize the property management, not just the shoddy living conditions.

See attachment B for examples.

H11. In Summary: "It's a program of trust."

Assistant US Attorney Michael Sherwin, who led much of the investigation into the Carlisle scandal, calls low income tax credit housing a "program of trust" [[source](#)].

Program administrators for each state do their best to provide oversight to awarded projects but are **hampered by limited budgets and by the labyrinth of corporate shells set up for each housing project. "This program has been described as a subterranean ATM, and only the developers know the PIN,"** Sherwin says.

While our neighborhoods hope and believe the TDHCA is providing as much oversight of these housing projects as its budget can allow, fraud is all too easy to perpetrate because of the complexity of these deals.

In Closing

Our neighborhoods are not against affordable housing, which San Antonio very much needs. We are against any development (affordable or otherwise) in our neighborhoods that:

- **deliberately excludes us from the conversation;**
- **is contrary to city laws and master planning;**
- **causes flood dangers to the existing and planned communities;**
- **does not improve the lives of the proposed residents because of isolation from the necessities of life;**
- **enriches any developer unfairly.**

We urge TDHCA to review application #17026 ("Bandera Apartments), which appears to be a superior project to the Bristol in several respects, and I urge TDHCA to consider Bandera Apartments in this 2017 funding round.

We also urge TDHCA to find the Application of Atlantic Pacific Communities for the Bristol Apartments ineligible for funding for having provided falsified documentation or other intentional or negligent material misrepresentations or omissions in their Application.

Thank you for the opportunity to comment on this Application for TDHCA funding.

Sincerely,



Cheri Tummelson
President, Village in the Woods II

[TRAVELING]

Mike Teruel
President, Village in the Woods I

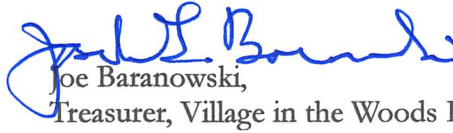


Mark Sobkoviak
Vice-President, Village in the Woods II Vice President, Village in the Woods I

[Position is vacant]



Amanda Salinas
Treasurer, Village in the Woods II



Joe Baranowski,
Treasurer, Village in the Woods I

Enclosures:

Attachment A: Justice Department Press Release about Carlisle Development Group fraud
Attachment B: Residents' reviews of apartment properties managed by Atlantic Pacific

cc: Texas State Attorney General Ken Paxton
Texas State Senator José Menendez
Texas State Representative Justin Rodriguez
City of San Antonio District 7 Councilwoman Ana Sandoval

**Attachment A:
Justice Department Press Release**

FOR IMMEDIATE RELEASE
Monday, December 12, 2016

**Seven Defendants Sentenced Federally for
Their Role in a \$36 Million Fraud Scheme
Involving Low-Income Housing Developments**

Between November 30 and December 7, 2016, seven defendants were sentenced for their role in a scheme to steal \$36 million of federal funds intended for low-income housing.

....

Seven defendants previously pled guilty for their involvement in a \$36 million housing fraud scheme and were sentenced as follows:

- **Lloyd Boggio**, 70, of Coconut Grove, was sentenced to 57 months in prison and ordered to forfeit approximately \$7.1 million to the United States.
- **Matthew Greer**, 38, of Miami Beach, was sentenced to 36 months in prison and ordered to forfeit approximately \$16 million to the United States.

...

According to court documents, including the factual proffers in support of the defendants' guilty pleas, **Matthew Greer and Lloyd Boggio served, at alternating times, as CEO of Carlisle Development Group (CDG), a low-income housing developer in Miami, Florida.** CDG applied for federal tax credits and federal grant monies to build low-income housing developments through a program administered by the Florida Housing Finance Corporation (FHFC). To obtain these federal funds, FHFC required developers to submit proposed development costs, including a construction contract signed by the developer and contractor.

The court records further indicate that Greer and Boggio conspired with contractor Michael Runyan to unjustly enrich themselves by submitting fraudulently inflated low-income housing construction contracts to FHFC's representatives to obtain excess federal tax credits and grant monies to which they were not entitled, and then to use the proceeds for their personal use and benefit. From 2006 to 2012, Greer, Boggio, and Runyan caused the submission of fraudulently inflated construction contracts on at least eight different low-income housing developments, which resulted in the allocation of **at least \$26 million in excess federal tax credits and grant monies.** Similarly, during the course of the scheme, the conspirators made kickback payments for the benefit of Greer and others totaling at least \$26 million.

...

Attachment B:

Residents' reviews of properties managed by Atlantic Pacific

Atlantic Pacific Communities acts as developer and they often/always manage the complexes they develop, as well as becoming property managers for existing properties through aggressive market expansion. Their management companies go by names similar to "Atlantic Pacific Management."

Note the recurring theme: when Atlantic Pacific takes over management, things go downhill fast. Allegations of: drug use onsite, shoddy construction, refusing to do maintenance and repairs, overflowing dumpsters, lack of parking, dog poop, pools and gyms not operational, etc.

Atlantic Pacific does not have a good reputation as a property manager. Following are sample resident reviews with links to sources of Atlantic Pacific-managed properties:

Atlantic Grand Oaks, Austin, Texas

4/9/2017 "I am giving this a one star just solely based on my experience living at this residence for 2 years....Pros: great location! (Autozone, heb, moontower, 24hr Walgreens... etc..) No bugs no rats, Sadly that's all the pros of living here.

Cons: **walls are thin**, can hear neighbors in both the bathroom and right next door. (Live in master bedroom). If you live by neighbors that fight be prepared to hear them like if there right in the room with you! And believe me they can hear everything your talking about....**Gates are always broken** but I really don't care about that to be honest if you value a gate then don't get used to it being closed for only 1 day out of the month! **I've been approached multiple times asking if I wanted to buy narcotics "weed" in broad daylight.** And last but not least!!!! **Dumpsters our always full** and there are only 1 small recyclable bin at each dumpster (those are always filled up too!)"

Logan's Mill, Austin Texas

12/31/2015 "Honestly this place isn't even deserving of the one star. Where do I begin with all the things that are wrong in my apartment? Maybe the **huge hole that was in the wall of my apartment's utility room for a month due to a water leak in the apartment** next door. Sure, they fixed the leak but left a huge gaping hole in the wall for any kind of bugs or rodents to come through for almost a month. **None of the doors close because the building has shifted.** My front door handle broke off one day and I was literally stuck inside for **FOUR** hours waiting for someone to come fix it. **There's a huge water line from the ceiling to the floor because they are too cheap to fix the roof.** Only 2 burners on my stove have worked almost the entire time. They've fixed it a couple of times only for it to break again; I finally gave up even bothering to put in a maintenance request. **The bathroom sink and tub are starting to peel and rust. The carpet is so cheap that nails are starting to come up....Worst apartment complex I've ever lived in."**

Franciscan of Arlington, Texas

9/24/12 "I lived here for three years between 2006-2009 before I couldn't stand it anymore. Everything was appealing about this complex when we moved in- gated, clean, spacious. **But the "Management Change" ruined everything.**

It started with the office staff- went from fresh faced, chipper, helpful people to grumpy, slow, ghetto girls with clothes that would be more appropriate at a night club than an office. I ran into things like them saying i never put in a work order, or they forgot to submit it.

The maintenance staff was just as lazy- and messy- one day I came home to them **standing on my white down comforter in their muddy work boots to fix the light fixture in my room-** needless to say they replaced it after i sent a letter and pictures to the corporate office.

Then they just stopped keeping the grounds maintained. The gate was always broken- and my neighbor had his motorcycle stolen in broad daylight. **There was always trash in the breezeways and they never enforced the clean up after your dogs policy.** They would have to have one doozy of a special for me to move in there again! Luxury, pfft!”

Barons, Mesquite, Texas

8/4/2016 “I've lived here for over two years since I moved in with my fiancee' she at the time worked right across the street, in this time period, we have our **apartment shot up, have had dirty used needles in the parking lot that I have stepped on in the middle of the night, we have had the manager's kid throw rocks at our car and crack the windshield and to top it all off being lied to by maintenance and management about service requests.** Only good thing I can say is I have never seen roaches here...”

Sutton Place, Dallas, Texas

10/14/2016: “A living HELL .. RUN do not rent here!! THEY have a master key to the units and will let themselves in .. and make themselves at home!! **I had stuff stolen from my unit!!** They would make up service request to go in even though I asked to be notified before they went in, it was even in my file!! NO CALLS .. just an email the next day... NO return phone calls .. oops I did not know you called!! **Dumpster are over flowing with trash!!** Water bill goes up ever month Management is HORRIBLE ... **New MANAGEMENT is not any better ... PARKING is a nightmare** ... Junk cars on the road ... motorcycles allowed to share parking spots so it is hard to park ... Parking spots are small and not enough parking for everyone!! **Drug Deals going on in the parking lot** ... It would not allow me to give it NO STARS ... NOW I AM FIGHTING TO GET MY MONEY FROM THEM ... Trust the people that say it is horrible ... I only stayed 6 months and got out of my lease ... after having to file a police report being robbed over 4th of July ..”

Village of Hawks Creek, Wentworth Village, Texas

5/18/2016: “This is **by far the worst apartment community that I have ever lived in for several reasons.** The office staff used to be one of the saving graces, **but since the Management company has changed it has all been downhill.** Firstly, **our AC is either completely broken or frozen over most of the time even after numerous calls to maintenance.** Second, the **ant problem** is terrible. I live on the third floor, and they come through the baseboards, sink, and counters in the kitchen- even after pest control. Third, there is **absolutely no parking.** Some nights I have to park outside of the complex and walk back. Fourth, we moved in here with a friend after the friend had already had an apartment at the complex for some time. We notified the office of our arrival and filled out applications per their instruction. Now that we are experiencing more than our fair share of problems and are trying to move out, they called the new apartments that we have decided to move to and notified them that we are "unauthorized occupants" of our current apartment. Fifth, **our refrigerator will not close properly because of a problem with the suction,** and they will not fix or replace it. Sixth, **paying rent online charges a \$30+ fee every time,** and the system doesn't always work. If the system does not work, it does not notify you that your payment was not accepted. Also, if you read previous reviews, you will notice that **they do not reply to people who rate them less than three stars. This apartment complex is absolutely**

detestable, and I will go out of my way to make sure that my friends, family, coworkers, and even acquaintances do not make the mistake of living here.”

Boca Colony, Boca Raton Florida

07/31/2016 “Please read and comprehend this. The management and senior management are disgusting. Don't complain about anything you will lose. This place is an embarrassment. **The grounds are pathetic and look like they never been maintained. There are needles and dog feces everywhere.** people are constantly complaining to the state and nothing happens. **The owners are apartment lawyers for over forty years. They really know what there doing.** This place is a cash cow for them. I still have a soda can in the bushes in front of me that has a date from 1987 on it. Its so pathetic its funny.”

07/26/2016 “Please read entire review! I have lived here since 2015 and I am definitely not releasing. My 1300\$ one bedroom apartment has left me with **a leaking fridge, a toilet that only flushes every third time and and shower with no real drain (it is only a large hole)**....I have my own ant traps because this is Florida and every home gets ants, but I've had these **beetle like bugs that have wings constantly coming up at random times.** I have brought this to the management, but they said for me to **buy my own products, even though pest control is added to my rent.** I have a small dog under 25 lbs. and the grass is never maintained. My dog looks as if she is walking through a forest. **Dog poop is everywhere!** Never picked up, which could be from poor dog owners, but still looks sloppy. Also dog fee is \$20 a month on top of a \$500 non refundable deposit, but there are never any poop bags. They put a few out in the beginning of the month and they're all gone by the end of the first week. **We have had a rat** for the past 4 months that lives somewhere around the building (which isn't near the dumpster). It is large and is not afraid of human/dog contact. **Parking is an absolute nightmare.** I have one spot for two cars, so one car is never moved. Everyone is always looking for parking late at night and they rarely take care of cars that are parked in your assigned spot. Which then leaves you with no parking at all. Overall for the price of the community, it is safe. I do feel safe coming from my car to apartment or walking my dog at night. I did not like when I complained about **used needles left on the pavement** for multiple days at a time and nothing was done about it because they can contract any kind of diseases. I have never felt threatened, though timid of the **two drug dealers that live in my building,** but they are not harming anybody. I would not recommend this community and I would say to find a place in a cheaper city or a more expensive community near by. I do not complain often, but this place has serious problems that need to be attended.”

12/29/2014 “Ok Im trying to be courteous here while Im **waiting for my ac to be fixed again for at least the 15th time in the past year and a half.** I have been here for almost 7 years and **its gone downhill since atlantic pacific took over.** I will not renew my lease! In fact in the past 2 months 3 people have moved outta my building. When you call and if they do answer they act like its a inconvenience! **I even sent a complaint to atlantic pacific and didnt even get a response. I wont rent anywhere atlantic pacific is running. Bottom line read these reviews. They are right on. This place sucks!!!!**”