

**SUPPLEMENTAL BOARD BOOK  
OF  
JULY 25, 2019**



**J. B. Goodwin, Chair**

**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  
8:00 AM  
JULY 25, 2019**

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

CALL TO ORDER

ROLL CALL

CERTIFICATION OF QUORUM

**J.B. Goodwin, Chair**

*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:**

**EXECUTIVE**

- a) Presentation, discussion, and possible action on Board meeting minutes summary for February 21, 2019, and March 21, 2019

**J. Beau Eccles**  
General Counsel

**LEGAL**

- b) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Villa Victoria Apartments (HTC 93156 / CMTS 1186)  
c) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Villa de Resposo Encinal (HOME 53021 / CMTS 4002)

**Jeffrey T. Pender**  
Deputy General Counsel

**ASSET MANAGEMENT**

- d) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement
- |       |                            |         |
|-------|----------------------------|---------|
| 98004 | Shady Creek Apartments     | Baytown |
| 02061 | Painted Desert Townhomes   | Clint   |
| 02068 | Geronimo Trail Townhomes   | El Paso |
| 03003 | Mision Del Valle Townhomes | Socorro |
- e) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application
- |       |                       |        |
|-------|-----------------------|--------|
| 18357 | Capella               | Olmito |
| 18358 | Ovation Senior Living | Olmito |

**Rosalio Banuelos**  
Director of  
Asset Management

**COMMUNITY AFFAIRS**

- f) Presentation, discussion, and possible action on the 2020-2021 Community Services Block Grant State Plan for submission to the U.S. Department of Health and Human Services and approval of the associated 2020 awards
- g) Presentation, discussion, and possible action on approval of the 2020 Low Income Home Energy Assistance Program State Plan for submission to the U.S. Department of Health and Human Services and approval of the associated 2020 awards
- h) Presentation, discussion, and possible action on the Section 8 Program 2020 Streamlined Annual Public Housing Agency Plan for the Housing Choice Voucher Program

**Michael DeYoung**  
Director of  
Community Affairs

**HOME AND HOMELESSNESS PROGRAMS**

- i) Presentation, discussion, and possible action on State Fiscal Year 2020 Homeless Housing and Services Program awards

**Naomi Cantu**  
Coordinator for  
Homelessness Programs  
and Policy

**HOUSING RESOURCE CENTER**

- j) Presentation, discussion, and possible action on the 2020 Regional Allocation Formula Methodology

**Elizabeth Yevich**  
Director of  
Housing Resource Center

**BOND FINANCE**

- k) Presentation, discussion, and possible action on Resolution No. 19-039, Authorizing the filing of one or more applications for reservation to the Texas Bond Review Board with respect to Qualified Mortgage Bonds and containing other provisions relating to the subject
- l) Presentation, discussion, and possible action on Resolution No. 19-040, Authorizing the Execution of an Escrow Agreement relating to the Multifamily Housing Mortgage Revenue Bonds for Green Crest Apartments aka City Parc II @ West Oaks Series 2002
- m) Presentation, discussion, and possible action on Resolution No. 19-041, Authorizing the Execution of an Escrow Agreement relating to the Multifamily Housing Mortgage Revenue Bonds for Providence at Veterans Memorial Apartments aka Championship Townhomes on the Green Series 2004A
- n) Presentation, discussion, and possible action on Inducement Resolution No. 19-042, for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**Monica Galuski**  
Director of  
Bond Finance and CIO

**Teresa Morales**  
Manager of  
Multifamily Bonds

19607	The Haven at Willow Creek Park	Houston ETJ
19608	Reserves at San Marcos	San Marcos
19610	Fishpond at Corpus Christi	Corpus Christi

**MULTIFAMILY FINANCE**

- o) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer
 

19414	DeWetter Apartments	El Paso
19415	Kathy White Apartments	El Paso

**Marni Holloway**  
Director of  
MF Finance

**CONSENT AGENDA REPORT ITEMS**

**ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:**

- a) TDHCA Outreach and Activities Report (June-July)
- b) Multifamily Supportive Housing Roundtable Report
- c) 2020 QAP Planning Project report

**Michael Lyttle**  
Director of  
External Affairs  
**Marni Holloway**  
Director of  
MF Finance

- d) Report on the Department's 3rd Quarter Investment Report in accordance with the Public Funds Investment Act
- e) Report on the Department's Interim Balance Sheet/Statement of Net Position for the period ended May 31, 2019
- f) Report on the Department's 3rd Quarter Investment Report relating to funds held under Bond Trust Indentures
- g) Report on the Department's Swap Portfolio and recent activities with respect thereto

**Ernie Palacios**  
Director of  
Financial Administration

**Monica Galuski**  
Director of  
Bond Finance and CIO

## ACTION ITEMS

### ITEM 3: BOARD

Presentation, discussion, and possible action to employ an Executive Director

**J.B. Goodwin**  
Chair

### ITEM 4: COMMUNITY AFFAIRS

Presentation, discussion, and possible action authorizing the Department to submit an application for Mainstream Housing Vouchers in response to a Notice of Funding Availability released by the U.S. Department of Housing and Urban Development, and if successfully awarded to operate such program

**Brooke Boston**  
Director of  
Programs

### ITEM 5: ASSET MANAGEMENT

Presentation, discussion, and possible action regarding waiver and loan modification for Villas of Brownwood II (Multifamily Direct Loan No. 1001714001)

**Rosalio Banuelos**  
Director of  
Asset Management

### ITEM 6: RULES

- a) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §2.203, Termination and Reduction of Funding for CSBG Eligible Entities; an order proposing new 10 TAC §2.203, Termination and Reduction of Funding for CSBG Eligible Entities; an order proposing the repeal of 10 TAC §2.204, Contents of a Quality Improvement Plan; an order proposing new 10 TAC §2.204, Contents of a Quality Improvement Plan; and directing that they be published for public comment in the *Texas Register*
- b) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and an order proposing new 10 TAC Chapter 20, Single Family Programs Umbrella Rule, and directing their publication for public comment in the *Texas Register*
- c) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and an order proposing new 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and directing their publication for public comment in the *Texas Register*
- d) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule, and an order proposing new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule, and directing their publication for public comment in the *Texas Register*
- e) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 26, Texas Housing Trust Fund Rule, and an order proposing new 10 TAC Chapter 26, Texas Housing Trust Fund Rule, and directing its publication for public comment in the *Texas Register*

**Brooke Boston**  
Director of  
Programs

**ITEM 7: COMPLIANCE**

Presentation, discussion, and possible action on increase in service contract with Onsite Insight to perform Uniform Physical Condition Standards inspections from \$350,000 to \$430,000 pursuant to Tex. Gov't Code §2155.088(b)(2)

**Patricia Murphy**  
Director of  
Compliance

**ITEM 8: MULTIFAMILY FINANCE**

- a) Presentation, discussion, and possible action on a waiver and award of a Predevelopment grant from the 2019-2 Special Purpose Notice of Funding Availability: Predevelopment to 19550 Project Transitions, Inc Austin
- b) Presentation, discussion and possible action regarding an Award of Direct Loan funds from the 2018-1 Multifamily Direct Loan Notice of Funding Availability  
18503 Eastern Oaks Apartments Austin
- c) Presentation, discussion, and possible action on timely filed appeals of material deficiencies in and scoring of Housing Tax Credit Applications under the Department's Multifamily Program Rules  
19003 The Legacy at Piedmont San Antonio
- d) Presentation, discussion, and possible action on the Second Amendment to the 2019-1 Multifamily Direct Loan Notice of Funding Availability
- e) Presentation, discussion, and possible action on the Third Amendment to the 2019-1 Multifamily Direct Loan Notice of Funding Availability
- f) Presentation, discussion, and possible action regarding awards of Direct Loan funds from the 2019-1 Multifamily Direct Loan Notice of Funding Availability to 9% Housing Tax Credit Layered Applications
 

19051	Casa de Manana Apartments	Corpus Christi
19053	Foundation Village	Austin
19179	Riverwood Commons II	Bastrop
19202	Heritage Heights at Big Spring	Big Spring
19214	Lakeridge Villas	Ennis
19216	Heritage Heights at Abilene	Abilene
19234	The Residence at Alsbury	Burleson
19235	The Reserves at Saddleback Ranch	Wolfforth
19236	Tool Cedar Trails	Tool
19238	Franklin Trails	Franklin
19304	The Residences at Overlook Ridge	Canyon Lake
19332	Avanti at South Bluff	Corpus Christi
19365	Heritage Estates at Huntsville	Huntsville
19367	Avanti Legacy Bayside	Corpus Christi
- g) Presentation, discussion, and possible action regarding awards from the 2019 State Competitive Housing Credit Ceiling and approval of the waiting list for the 2019 Competitive Housing Tax Credit Application Round and confirming obligations to the Section 811 Project Rental Assistance Program for those properties that sought and were awarded points for providing program units
 

19003	The Legacy at Piedmont	San Antonio
19008	Palladium Fain Street	Fort Worth
19009	Churchill at Golden Triangle	Fort Worth
19011	Palladium Venus	Venus
19016	Palladium Waxahachie Senior Living	Waxahachie
19020	Riva Keene	Keene
19024	Morning Star Apartments	Wharton
19026	National Church Residences-Robinson	Robinson

**Marni Holloway**  
Director of  
MF Finance

19028	Casitas Lantana	Brownsville
19030	Freedom's Path at Kerrville II	Kerrville
19039	Blue Oaks	San Antonio
19040	Vista East	Houston
19047	Parkway Meadows	Houston
19051	Casa de Manana Apartments	Corpus Christi
19052	SilverLeaf at Tool	Tool
19053	Foundation Village	Austin
19057	SilverLeaf at Chandler III	Chandler
19058	Country Terrace Apartments	Highlands
19062	Residences at Thousand Oaks	San Antonio
19063	Residences at Lake Waco	Waco
19064	4242 Jackson Apartments	McAllen
19070	South Rice Apartments	Houston
19073	Gala at Central Park	Hurst
19074	900 Winston	Houston
19076	Bellfort Park Apartments	Houston
19077	Telephone Road Elderly	Houston
19078	Provision at Patriot Place	Hurst
19079	Provision at Patriot Parkway	Venus
19085	Gala at MacGregor	Houston
19086	Trinity Place Apartments	Round Rock
19087	Sonora Seniors Apartments	Sonora
19088	Metro Tower Lofts	Lubbock
19094	Laurel Vista	Beaumont
19100	Carver Ridge Apartments	Midland
19102	Ranch Court Apartments	Dripping Springs
19107	City View at Hyde Park	Austin
19109	Verdin Square	Houston
19111	Colorado City Seniors Apartments	Colorado City
19112	Hebbronville Apartments	Hebbronville (CDP)
19113	Livingston Seniors Apartments	Livingston
19114	Sunset Vista Seniors	El Paso
19116	Amber Ridge Apartments	Angleton
19117	Ridgestone Estates	El Paso
19120	Villas at Augusta	El Paso
19124	Maple Street Lofts	Abilene
19126	3104 Division Lofts	Arlington
19132	Village at Boyer	San Antonio
19133	Alazan Lofts	San Antonio
19134	Village at Nogalitos	San Antonio
19136	Luna Flats	San Antonio
19139	Hamilton Wolfe Lofts	San Antonio
19143	Reserve at New York	Arlington
19146	New Hope Housing Avenue J	Houston
19148	Reserve at Lake Shore	Waco
19158	Pendleton Square	Harlingen
19159	Mid Tule Village Apartments	Tulia
19161	Star of Texas Housing	Montgomery

19164	Commerce Street Apartments	Belton
19166	Villas at Robinett	Killeen
19176	Anthony Palms	Anthony
19177	Edgemere Palms	El Paso
19179	Riverwood Commons II	Bastrop
19182	Waterpark Palms	Anthony
19187	The Ellington	Houston
19189	Lakewood Crossing	Granbury
19191	Hillcrest Senior Village	Kerrville
19202	Heritage Heights at Big Spring	Big Spring
19204	Cottonview Terrace	Taft
19205	Patriot Park Seniors	Plano
19208	Trail Village	Brownsville
19214	Lakeridge Villas	Ennis
19215	West Ridge Apartments	Pharr
19216	Heritage Heights at Abilene	Abilene
19217	Redwood Apartments	Dumas
19223	Bamboo Estates Apartments	Progreso
19225	Rosewood Senior Villas	Tyler
19228	Chaparral Apartments	Midland
19230	Campanile on Fondren	Houston
19232	The Commons at St. Anthony's	Amarillo
19234	The Residences at Alsbury	Burleson
19235	The Reserves at Saddleback Ranch	Wolfforth
19236	Tool Cedar Trails	Tool
19237	Gatesville Trails	Gatesville
19238	Franklin Trails	Franklin
19239	Talavera Lofts	Austin
19242	The Tramonti	Houston
19244	Mariposa at Harris Road	Arlington
19245	Huntington Chimney Rock	Houston
19250	Cypress Creek at Waxahachie	Waxahachie
19257	Blue Ridge Villas	Houston
19266	County Line Lofts	Venus
19273	Nolana Villas	McAllen
19276	Sunset at Fash Place	Fort Worth
19277	Cielo Place	Fort Worth
19285	Everly Plaza	Fort Worth
19286	West Little York Apartments	Houston
19288	Vi Collina	Austin
19295	The Abali	Austin
19296	McKee City Living	Houston
19299	2222 Pierce	Houston
19304	The Residences at Overlook Ridge	Canyon Lake
19307	Briarwest Apartments	Houston
19315	Hammack Creek Apartments	Kennedale
19319	Bardin Apartments	Arlington
19327	Edison Lofts	Houston
19330	Avanti Legacy Emerald Point	McAllen

19331	Avanti at Emerald Point	McAllen
19332	Avanti at South Bluff	Corpus Christi
19338	Ennis Trails	Ennis
19340	Nuestra Senora	El Paso
19344	Patriot Place	El Paso
19356	Pine Hills Estates I & II	Devine
		Pearsall
19357	Woodlands Estates I & II	Hempstead
		Sweeny
19360	Legacy Trails of Longview	Longview
19364	The Villas at Cedar Grove	Lufkin
19365	Heritage Estates at Huntsville	Huntsville
19367	Avanti Legacy Bayside	Corpus Christi

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

**EXECUTIVE SESSION**

The Board may go into Executive Session (close its meeting to the public):

**J.B. Goodwin**  
Chair

The Board may go into Executive Session Pursuant to Tex. Gov't Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

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;

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;

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

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](http://www.tdhca.state.tx.us) or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11<sup>th</sup> 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 Terri Roeber, ADA Responsible Employee, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado, al siguiente número 512-475-3814 por lo menos cinco 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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BOARD ACTION REQUEST  
BOND FINANCE DIVISION  
JULY 25, 2019

Presentation, discussion, and possible action on Resolution No. 19-039 authorizing the filing of one or more applications for reservation to the Texas Bond Review Board with respect to Qualified Mortgage Bonds and containing other provisions relating to the subject

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

An allocation of private activity bond authority, also known as volume cap, is required for the issuance of tax-exempt, single family mortgage revenue bonds (SFMRBs) and for the issuance of mortgage credit certificates (MCCs). In 2019, the State of Texas received just over \$3 billion in volume cap for all private activity purposes, of which \$281,334,337 was set-aside for the Department for single family activity until August 7, 2019.

Staff is requesting authorization to submit one or more applications for reservation of volume cap, to include (i) one or more applications for reservation totaling \$281,334,337 (TDHCA's single family set-aside), (ii) one or more applications for reservation for up to \$275,000,000 (50% of the unused single family set-aside), available to single family issuers on a first-come, first-served basis between August 6 and August 14, 2019, and (iii) one or more applications for reservation for up to \$700,000,000 from unused set-asides across all private activity categories, made available to all private activity issuers on a first-come, first-served basis on August 15, 2019.

Staff will return to the Board at a later date with requests for approval to use awarded volume cap in connection with additional bond or MCC transactions.

The following chart outlines the Department's projected sources and uses of reservation amounts for which authorization is requested.

**VOLUME CAP PROJECTED SOURCES**

<b>Beginning Volume Cap Balance as of July 25, 2019 (Carryforward)</b>	<b>\$ 348,129,955</b>
<b><u>Applications for Reservation of Volume Cap</u></b>	
<i>On or prior to August 6, 2019</i>	
TDHCA 2019 Private Activity Bond Allocation (Set-Aside)	\$ 281,334,337
<i>Between August 7, 2019 and August 14, 2019</i>	
Unused Set-Aside, Single Family	275,000,000
<i>On or after August 15, 2019</i>	
Unused Set-Aside, All Private Activity Categories	700,000,000
<b>Total Applications for Reservation of Volume Cap</b>	<b>1,256,334,337</b>
<b>TOTAL PROJECTED VOLUME CAP SOURCES</b>	<b>\$ 1,604,464,292</b>

**VOLUME CAP PROJECTED USES**

2019 Series B Single Family Mortgage Revenue Bonds (Nov 2019)	\$ 175,000,000
2019 Mortgage Credit Certificate Program	450,000,000
2020 Single Family Mortgage Revenue Bond Program	525,000,000
2020 Mortgage Credit Certificate Program	454,464,292
<b>TOTAL PROJECTED VOLUME CAP USES</b>	<b>\$ 1,604,464,292</b>

## RESOLUTION NO. 19-039

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

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

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

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

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

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

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

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

WHEREAS, the Board has determined to authorize the filing of one or more Applications for Reservation in the maximum aggregate amount of \$1,256,334,337 with respect to qualified mortgage bonds;

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

## ARTICLE 1

### APPROVAL OF CERTAIN ACTIONS

Section 1.1 Applications for Reservation. The Board hereby authorizes Bracewell LLP, as Bond Counsel to the Department, to file on its behalf with the Bond Review Board one or more Applications for Reservation in the maximum aggregate amount of \$1,256,334,337 with respect to qualified mortgage bonds, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of one or more Reservations.

Section 1.2 Authorization of Certain Actions. The Authorized Representatives of the Department named in this Resolution are hereby authorized to take such actions on behalf of the Department as may be necessary to carry out the purposes of this Resolution, including the submission of any carryforward designation requests for such Reservations.

Section 1.3 Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director or Acting Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Texas Homeownership of the Department and the Secretary or Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

## ARTICLE 2

### GENERAL PROVISIONS

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

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

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PASSED AND APPROVED this 25th day of July, 2019.

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Chair, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)



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**BOARD ACTION ITEM**

**GOVERNING BOARD**

**JULY 25, 2019**

Presentation, discussion, and possible action to employ an Executive Director

**WHEREAS**, on November 8, 2018, the Board resolved that in the event that the Executive Director is on leave in accordance with the Department's Personnel Policies and Procedures, David Cervantes, Director of Administration, be and he hereby was authorized, empowered, and directed, for and on behalf of the Department, to execute, deliver, and cause to be performed such acts and deeds, approvals, documents, instruments, and writings as the Executive Director is authorized to undertake on behalf of the Department;

**WHEREAS**, it was also resolved on November 8, 2018, that, subject to the requirements of Tex. Gov't Code §2306.038, David Cervantes was designated as the Acting Director of TDHCA effective December 1, 2018, and has served in that capacity since that date; and

**WHEREAS**, the Board wishes to deliberate and select for employment an Executive Director in accordance with Tex. Gov't Code §2306.036;

**Now, therefore, it is hereby**

**RESOLVED**, that, following deliberations in closed session in accordance with Tex. Gov't Code §551.074, the Board will select an Executive Director.

8a

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 25, 2019**

Presentation, discussion, and possible action on a waiver and award of a Predevelopment Grant from the Multifamily 2019-2 Special Purpose Notice of Funding Availability: Predevelopment.

**RECOMMENDED ACTION**

**WHEREAS**, the Department has received five Predevelopment Applications for grants under the 2019-2 Special Purpose Notice of Funding Availability: Predevelopment (NOFA);

**WHEREAS**, Application 19550 Roosevelt Gardens, is requesting a Predevelopment Grant of \$50,000 in Tax Credit Assistance Repayment Funds (TCAP RF) for the predevelopment expenses related to Roosevelt Gardens, which has received complete reviews for compliance with program requirements;

**WHEREAS**, the requested Predevelopment Grant received a positive recommendation from the Executive Award and Review Advisory Committee (EARAC) on July 22, 2019;

**WHEREAS**, this Predevelopment Application is requesting a waiver in accordance with Section 9(c) of the Special Purpose NOFA (permitting waiver of NOFA provisions on a case-by-case basis), for the Applicant Eligibility provision in Section 2 of the Special Purpose NOFA (excluding individuals and affiliate entities with control of the proposed Development that have received an award of funds from the Department after January 1, 2019);

**WHEREAS**, the waiver is requested for the purposes of allowing the individual, Walter Moreau, and his affiliate entity, Foundation Communities, to partner with the Applicant as Co-Developers in order to build the capacity of the Applicant and satisfy the Experience Requirement under 10 TAC §11.204(6);

**WHEREAS**, staff recommends approval of the waiver of the Applicant Eligibility provision in Section 2 of the Special Purpose NOFA, as applied to the named individual and his affiliate entity, Walter Moreau and Foundation Communities; and

**WHEREAS**, staff recommends the approval of a Predevelopment Grant under the 2019-2 Special Purpose NOFA to Application 19550 – Roosevelt Gardens;

**NOW, therefore, it is hereby**

**RESOLVED**, that a waiver in accordance with Section 9(c) of the 2019-2 Special Purpose NOFA, for the Applicant Eligibility provision in Section 2 of the Special Purpose NOFA is approved; and

**FURTHER RESOLVED**, that an award of a \$50,000 Predevelopment Grant from the 2019-2 Special Purpose NOFA to Project Transitions, Inc., for the predevelopment of, Roosevelt Gardens, is hereby approved as presented at this meeting.

## **BACKGROUND**

### **Award of Funds**

The Board approved the 2019-2 Special Purpose NOFA on February 21, 2019 (as amended on March 21, 2019) with \$200,000 in TCAP RF, for the purpose of providing grants to nonprofit organizations to fund third-party costs associated with submitting an Application for Multifamily funds.

Project Transitions, Inc., a nonprofit corporation, requests a Predevelopment Grant of TCAP Repayment Funds. The Predevelopment Grant is requested for the purpose of preparing a Uniform Multifamily Application to submit during the 2019 Program Year.

The proposed development, Roosevelt Gardens, will have 40 units. The applicant will demolish its current 20 unit residential building in Austin. The applicant will then construct a 40 unit residential building. The applicant is anticipating applying for National Housing Trust Funds for an up to 17 unit condo project within the 40 unit residential building. In accordance with Project Transitions, Inc.'s mission, the development proposes serving a Supportive Housing population, whereby all NHTF units and HOME match units will have a preference for persons living with HIV/AIDS. The remaining units in the building are proposed to be a separate condo, and be layered with and limited by federal HOPWA funds. The HOPWA funding limitation shall not be applied to any NHTF or HOME match unit at any point during the federal affordability period. However, if awarded funds utilizing this structure, one of the conditions of the NHTF award would be that the same owner has to own all the residential units in the building for the federal affordability period.

### **Waiver and Experience Certificate**

Staff recommends approval of the requested waiver of Section 2 of the Special Purpose NOFA regarding Applicant Eligibility to allow the Applicant to meet the Experience Requirement under 10 TAC §11.204(6).

Applications requesting an award of Multifamily funds must meet the Experience Requirement required under 10 TAC §11.204(6). An Experience Certificate issued by the Department from 2014 through 2018 is sufficient evidence to meet the requirement, and Applicants cannot meet this requirement using an Experience Certificate issued to any "...Person or an Affiliate of that Person [that] would not be eligible to be an Applicant themselves."

Initially, staff determined the Predevelopment Application 19550 submitted on April 18, 2019, did not meet the Experience Requirement. The Application was resubmitted on June 25, 2019, with an approved Experience Certificate issued by the Department to Walter Moreau on December 20, 2018.

Under Section 2 of the Special Purpose NOFA, Mr. Moreau and Foundation Communities are currently ineligible to receive a Predevelopment grant because they received awards of multifamily funds from the Department after January 1, 2009. The requested waiver, as authorized by Section 9(c) of the NOFA, will permit Mr. Moreau and his affiliate entity to meet the experience requirement for Application 19550.

Mr. Moreau and Foundation Communities will be a co-Developer with the Applicant, using the former's extensive experience to assist in building the capacity of the latter. As illustrated in the attached Organization Chart, Project Transitions, Inc., will retain 90% ownership and majority control of the proposed Development. Co-Developer, Foundation Communities, will have some control with 10% ownership of the proposed Development. Staff recommends approval of the waiver in accordance with Section 9(c) of the Special Purpose NOFA.

**Organizational Structure and Previous Participation**

The Applicant/Borrower is Project Transitions, Inc., and includes the entities and principals as illustrated in Exhibit A. The Applicant's portfolio is considered a Category 1 and the previous participation was deemed acceptable by the EARAC without further review or discussion.

**MULTIFAMILY PREDEVELOPMENT APPLICATION 19550**

**BOARD ACTION REQUEST**

**EXHIBIT A**

# TRUE CASA CONSULTING, LLC

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July 15, 2019

Alena Morgan  
Multifamily Direct Loan Policy Research Specialist  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701

RE: Roosevelt Gardens  
Project Transitions, Inc.  
5606 Roosevelt Avenue  
Austin, Texas 78756  
TDHCA #19550

Dear Alena:

On behalf of my client Project Transitions, Inc. (the “Applicant”), please accept this letter as a request of waiver under the 2019-2 Special Purpose NOFA for the Pre-Development Application #19550 for Project Transitions, Inc. The waiver is requested as by itself, Project Transitions, Inc., meets all of the Eligible Applicant requirements of the 2019-2 Special Purpose NOFA and most pertinent to this waiver, has not received an award of funds from the Department ever in its history. However, in order to meet the TDHCA Experience requirement, Project Transitions, Inc. will partner with Walter Moreau and Foundation Communities, Inc. as a 10% Co-Developer to bring their specialized Property Management and Compliance expertise specific to Supportive Housing to benefit the project and the organization. As you know, Foundation Communities and Walter Moreau have been a long-time beneficiary of TDHCA funding and therefore would seemingly violate Project Transitions’ ability to be considered an Eligible Applicant under the 2019-2 Special Purpose NOFA.

This waiver is requested as a case-specific waiver for the following reasons:

- Project Transitions, Inc. is the only AIDS Service Organization in Central Texas providing housing with wrap-around supportive services for Persons Living with HIV and AIDS. While Project Transitions, Inc. has a successful history of owning and operating housing, they have never been a recipient of TDHCA funding. Project Transitions, Inc. is rising to the alignment of local and Federal resources and priorities, to expand their housing footprint by developing more units of Supportive Housing.
- Project Transitions, Inc. actually have two housing development projects in their pipeline and are already beginning to incur pre-development costs. The purpose of the 2019-2 Special Purpose NOFA is to fund pre-development activities that will result in more affordable housing units for persons with low-incomes. Project Transitions, Inc. will be doing just that and are a perfect beneficiary of this Pre-Development funding. This funding will go to work immediately.

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Jennifer Hicks – Owner

[www.truecasa.net](http://www.truecasa.net)



# TRUE CASA CONSULTING, LLC

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- Project Transitions, Inc. can find no better Experience partner than Foundation Communities, Inc. with their long-history of developing, owning, managing and operating Supportive Housing and will provide a great benefit to Project Transitions, Inc. as they expand their housing footprint. FC will round out an experienced Development team to ensure a safety net that will deliver a high-quality Supportive Housing community. It would make no sense to seek out a generic development partner just to meet the TDHCA Experience requirement. Instead, we would rather add true collaboration and boost to the Project with the FC partnership.

We appreciate the thoughtful consideration of this waiver as it allows this critical housing resource to continue moving forward with expansion in the Austin community.

Please feel free to contact me with any questions at (512) 203-4417.

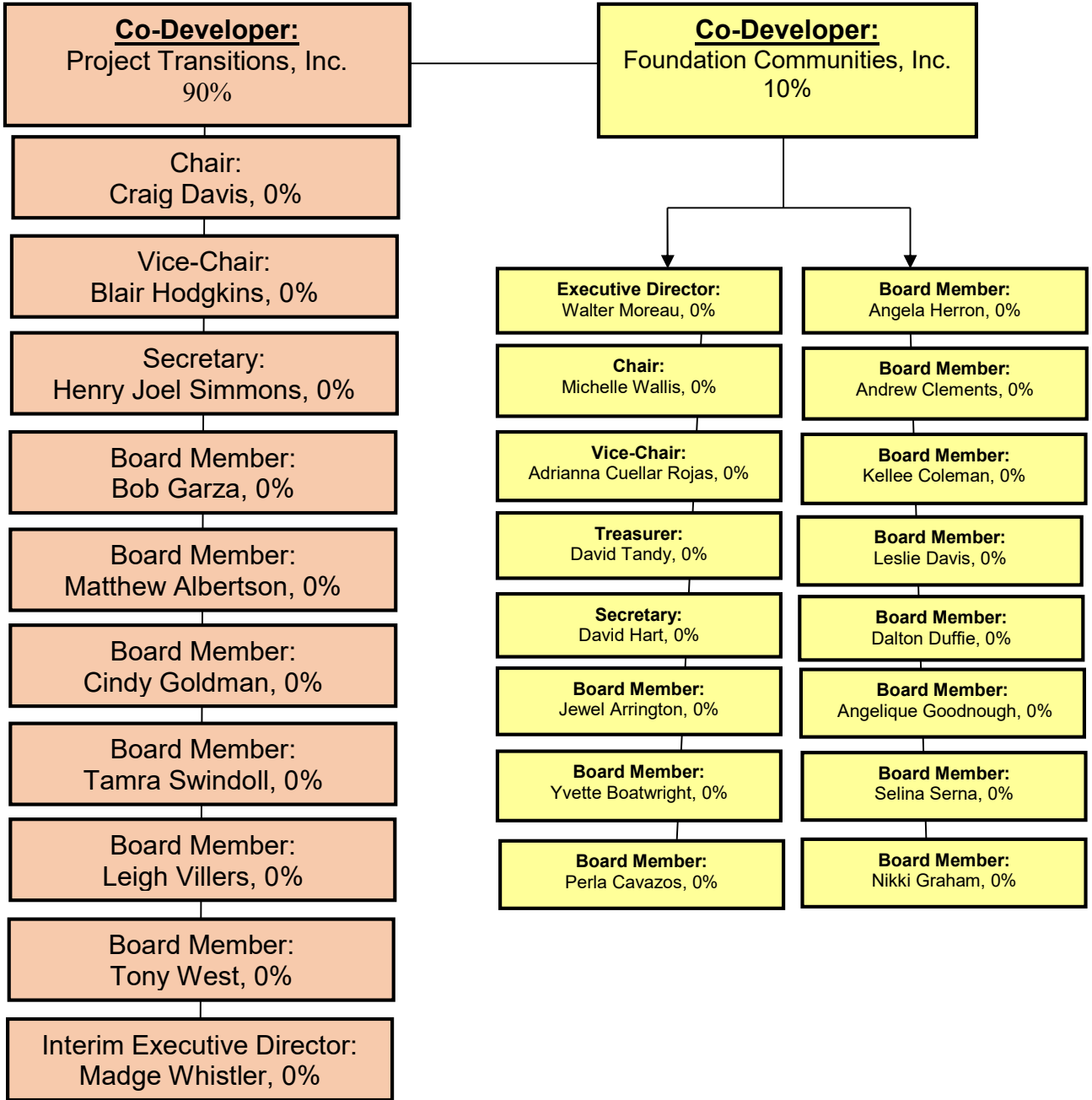
Sincerely,

  
Jennifer Hicks

Owner, True Casa Consulting, LLC

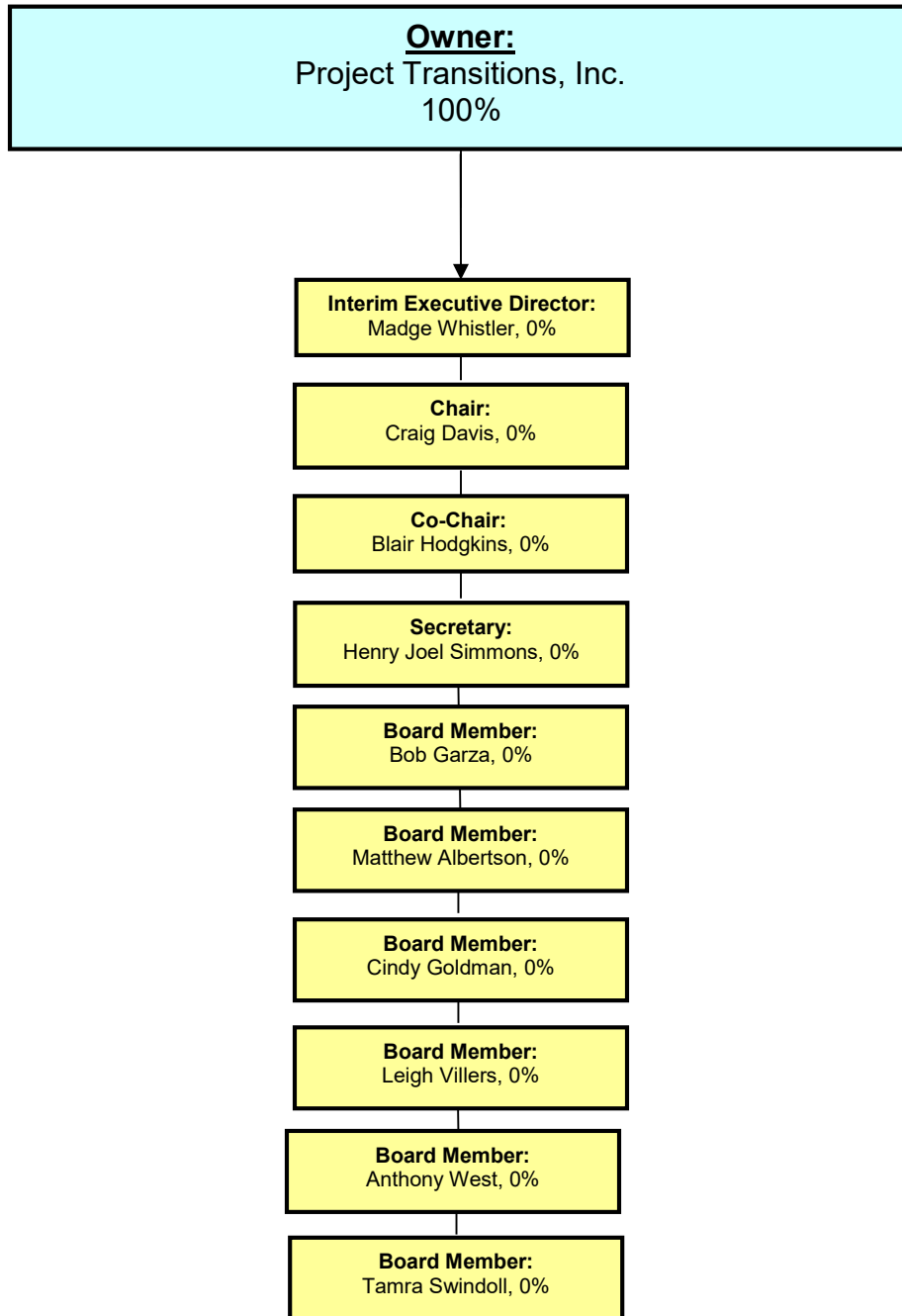
ROOSEVELT GARDENS - AUSTIN, TEXAS

Developer Chart



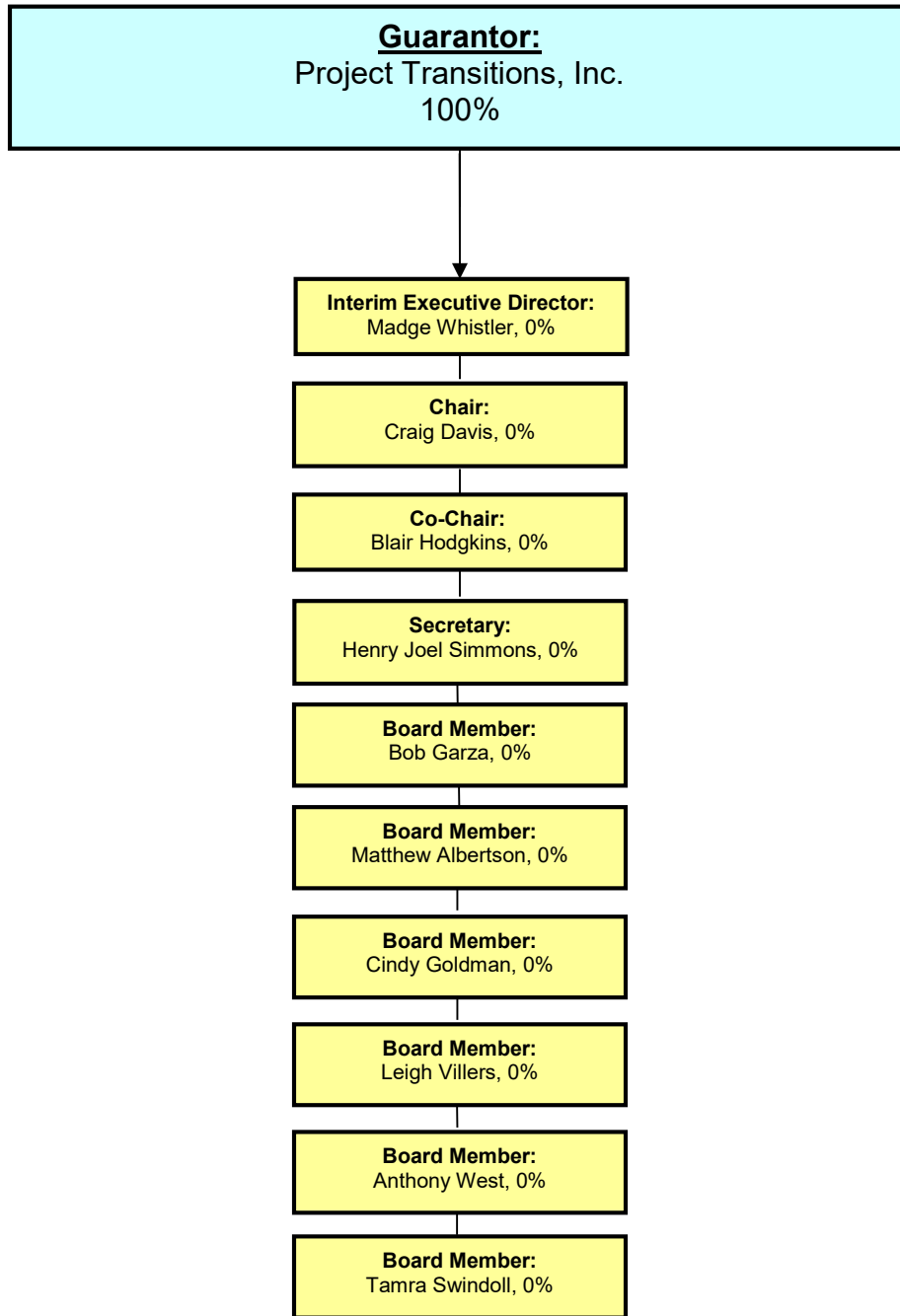
# ROOSEVELT GARDENS - AUSTIN, TEXAS

## Ownership Chart



# ROOSEVELT GARDENS - AUSTIN, TEXAS

## Guarantor Chart





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://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

December 20, 2018

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

Mr. Walter Moreau  
c/o Sabrina Butler  
3036 South First Street  
Austin, Texas 78704

RE: REQUEST FOR EXPERIENCE CERTIFICATE UNDER 2018 UNIFORM MULTIFAMILY RULES

Dear Mr. Moreau:

We have reviewed your request for an experience certificate, which is provided to individuals that meet the requirements of §10.204(6) of the Uniform Multifamily Rules. In order to meet the experience requirements an individual must establish that they have experience in the development and placement in service of at least 150 residential units. We find that the documentation you have provided is sufficient to establish this required experience. Additionally, you have certified to compliance with the requirements of §10.204(6)(B), including the following requirements:

(ii) Experience may not be established for a Person who at any time within the preceding three years has been involved with affordable housing in another state, in which the Person or Affiliate has been the subject of issued IRS Form 8823 citing non-compliance that has not been or is not being corrected with reasonable due diligence. ...

(iv) Notwithstanding the foregoing, no person may be used to establish such required experience if that Person or an Affiliate of that Person would not be eligible to be an Applicant themselves.

Should you choose to participate as a member of the Development Team or an individual providing experience for any Application submitted for funding, a Previous Participation Review (10 TAC §1.5) may be conducted prior to any award of funds. Additionally, should it be determined at any point in time that the information provided in your request for experience is fraudulent, knowingly falsified, intentionally or negligibly materially misrepresented, or omits relevant information, this certificate of experience is null and void and you may be subject to other sanctions under the Texas Department of Housing and Community Affairs' rules and requirements.



If you have any questions or concerns regarding this certificate or the experience requirements, please contact Marni Holloway at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', with a large, stylized flourish extending to the right.

Marni Holloway  
Director of Multifamily Finance

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**BOARD ACTION ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 25, 2019**

Presentation, discussion, and possible action on timely filed appeal of scoring in HTC Application 19003, The Legacy at Piedmont under the Department’s Multifamily Program Rules

**WHEREAS**, the appeal relates to Competitive Housing Tax Credit (HTC) application 19003, The Legacy at Piedmont, which was submitted to the Department by the Full Application Delivery Date;

**WHEREAS**, a notification of scoring adjustment was provided to the Applicant identifying points that the Applicant elected but that staff determined the Application did not qualify to receive under 10 TAC §11.9;

**WHEREAS**, the Applicant timely filed an appeal; and

**WHEREAS**, due primarily to the timing of the appeal relative to the meeting where the Board would make its HTC award decisions, the Acting Director is presenting no recommendation on the appeal, which effectively denies the appeal and presents it to the Board for its final determination.

**NOW, therefore, it is hereby**

**RESOLVED**, that the scoring appeal for 19003, The Legacy at Piedmont is hereby determined.

**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.

The Application proposes the New Construction of 49 units for an elderly population in San Antonio.

Staff determined that the Application does not qualify for points under 10 TAC §11.9(c)(1) related to Income Levels of Tenants because the Application did not exclude from their calculation the 30% Units proffered to qualify for the increase in eligible basis (the boost), and the Income Levels of Tenants for the 44 units (not including the basis boost units) exceeded 54% required for this 16 point item. Staff issued a deficiency notice, and the Applicant answered timely, asserting that the application should qualify for the boost and for all requested points. Staff issued a



notification of scoring adjustment alerting the Applicant of the loss of 16 points, subject to the Applicant's ability to appeal.

The appeal states that the application form "supports the position that the Exclusion does not apply to Income Averaging." Per the appeal, the requirement that these Units not be used under any other provision of the rule means that "the Applicant was unable to exclude the Units utilized to satisfy the Basis Boost from the Income Averaging calculation." The appeal asserts that "The plain language of the QAP directs that the Exclusion does not apply to Income Averaging, and the Application Form supports this." The appeal states further, "Income Levels of Tenants only requires that the Average Income for the Proposed Development be less than or equal to 54%. In other words, the Average Income is derived from the entire Rent Schedule1 (Tab 24 of the Excel application) for the proposed Development, whether or not components of that schedule also make the Applicant eligible for other points. Further, based on the requirements of the QAP and the information in the supplemental documents, it is impermissible to calculate the Average Income using anything other than the entire Rent Schedule, including all Low-Income Units, similar to how many other scoring items in the QAP are calculated. Section 11.9(c)(1) specifically requires the Average Income "for the proposed Development", not some subset of Units within the Development."

Of the eight options in 10 TAC §11.4(c) of the 2019 Qualified Allocation Plan (QAP) related to Increase in Eligible Basis an Application has to choose from to qualify for the 30% basis boost, the Application elected item (3)(D), which states:

(D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. These Units must be in addition to Units required under any other provision of this chapter, or required under any other funding source from the Multifamily Direct Loan program; (emphasis added)

It is acknowledged that 10 TAC §11.9(c)(2) (regarding rent levels of tenants) provides additional points in return for committing various percentages of 30% units and contains the phrase: "[t]hese levels are in addition to those committed under [the Income Levels of Tenants] paragraph . . ." yet these units do not need to be excluded from the Average Income calculation.

A review of the approved 9% applications in the 2019 round has revealed that 19003 is the only Application that both exclusively chose a basis boost under 10 TAC §11.4(c)(3)(D) and Average Income under 10 TAC §11.9(c)(1)(C). Accordingly, there is no point of comparison as to whether other applicants understood staff's view of the need to exclude units proffered under 10 TAC §11.4(c)(3)(D) from the number of units used in the average income computation.

Due primarily to the timing of the appeal relative to the July 25, 2019, meeting where the Board is to make its HTC award decisions, the Acting Director is presenting no recommendation on the appeal, which effectively denies the appeal and presents it to the Board for its final determination.

# 19003 Legacy at Piedmont Deficiency Documents

**From:** [Ben Sheppard](#)  
**To:** [Dan Wilson](#); "[lwong@apcompanies.com](mailto:lwong@apcompanies.com)"; [Henry Flores](#)  
**Subject:** 19003 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.  
**Date:** Tuesday, July 02, 2019 3:18:00 PM  
**Importance:** High

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 §11.1(d)(2) and described in §11.201(7), §11.201(7)(A) and §11.201(7)(B) of the 2019 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.

1. Within the income averaging set-side, this application proposes a unit mix that is sufficient to score 16 points for Income Levels of Tenants and 11 points for Rent Levels of Tenants. However, this scoring requires the application of all 30% units in the Rent Schedule, and none remain to achieve eligibility for the 30% increase in eligible basis. The applicant has the choice of either scoring the 11 points for Rent Levels of Tenants or increasing eligible basis by 30%.

**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 §11.201(7)(B) of the 2019 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 resolved to the satisfaction of the Department by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day will be suspended from further processing, and the Applicant will be notified to that effect, until the deficiencies are resolved. If, during the period of time when the Application is suspended from review, Direct Loan funds become oversubscribed, the Applicant will be informed that unless the outstanding item(s) are resolved within one business day the Application will be terminated. For purposes of priority under the Direct Loan set-asides, if the outstanding item(s) are resolved within one business day, the date by which the item is submitted shall be the new received date pursuant to §13.5(c) of the 2019 Multifamily Direct Loan Rule. Applicants should be prepared for additional time needed for completion of staff

reviews.

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](mailto: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](mailto:jason.burr@tdhca.state.tx.us) or by phone at (512)475-3986.

**All applicants should review §§11.1(b) and 11.1(h) of the 2019 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 Thursday, July 11, 2019. 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](http://www.tdhca.state.tx.us).

Thanks,

Ben Sheppard  
Specialist, Multifamily Finance  
Texas Department of Housing and Community Affairs  
Ph. 512.475.2122

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

**From:** [Ben Sheppard](#)  
**To:** [Dan Wilson](#); "[lwong@apcompanies.com](mailto:lwong@apcompanies.com)"; [Henry Flores](#)  
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**All applicants should review §§11.1(b) and 11.1(h) of the 2019 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.**

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Thanks,

Ben Sheppard  
Specialist, Multifamily Finance  
Texas Department of Housing and Community Affairs  
Ph. 512.475.2122

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# THE LEGACY AT PIEDMONT, LP

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July 11, 2019

Texas Department of Housing and Community Affairs  
Multifamily Division  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701  
Attention: Ben Sheppard

**RE: The Legacy at Piedmont – 2019 Application Deficiency Notice for TDHCA #19003**

Dear Mr. Sheppard,

Please accept this response to the Administrative Deficiency received on July 2<sup>nd</sup> which stated that:

*Within the income averaging set-aside, this application proposes a unit mix that is sufficient to score 16 points for Income Levels of Tenants and 11 points for Rent Levels of Tenants. However, this scoring requires the application of all 30% units in the Rent Schedule, and none remain to achieve eligibility for the 30% increase in eligible basis. The applicant has the choice of either scoring the 11 points for Rent Levels of Tenants or increasing eligible basis by 30%.*

We respectfully disagree with staff's interpretation of the Qualified Allocation Plan ("QAP"). We assert that our Application qualifies for the 30% Eligible Basis Boost, 11 points for Rent Levels of Tenants and 16 points for Income Levels of Tenants based on the below analysis of the QAP which is reinforced by the guidance provided in the 2019 Multifamily Programs Application Procedures Manual ("Manual"), the Uniform Application Excel document and the Application Webinar Questions and Answers 2019.

The Administrative Deficiency indicates that if an Average Income Applicant elects points under *Income Levels of Tenants* and *Rent Levels of Tenants*, it requires "the application of" all 30% AMGI Units with the apparent result being that "none remain to achieve eligibility for the 30% increase in eligible basis". Please note however, there is nothing in the QAP that indicates that the points awarded for the *Income Levels of Tenants* invalidate or modify any of the individual AMGIs being averaged. In other words, the Average Income is derived from the entire Rent Schedule<sup>1</sup> (Tab 24 of the Excel application) for the proposed Development, whether or not components of that schedule also make the Applicant eligible for other points. Further, based on the requirements of the QAP and the information in the supplemental documents, it is impermissible to calculate the Average Income using anything other than the entire Rent Schedule, including all Low-Income Units. QAP Section 11.9(c)(1) specifically requires income averages "for the proposed Development", not some subset of Units within the Development. Moreover, were it otherwise Applicants could reach varying conclusions on how Units that are eligible for other points should be calculated, (examples include - should the 30% AMGI units that earned the basis boost be excluded from the numerator and the denominator for income averaging? Should

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<sup>1</sup> The Legacy at Piedmont elected Average Income under §42(g)(1)(C) of the Code and exceeds the minimum requirements (40%) of this subparagraph by setting aside 100% of the residential units as rent-restricted.

they be included but viewed as 60% units, but only for purposes of creating a synthetic average?) with each interpretation leading to different results of the average.

### **QAP Analysis**

§11.4(c) Increase in Eligible Basis (30 percent Boost) subsection (3)(D) permits an Applicant to qualify for an “Increase in Eligible Basis (30 percent Boost)” if:

*(D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. These Units must be in addition to Units required under any other provision of this chapter, or required under any other funding source from the Multifamily Direct Loan program.*

In The Legacy at Piedmont Application, we restricted five (5) Units, or 10%, of the 49 total Units to support our request for the 30% Boost in housing tax credits.

§11.9(c)(2)(B) Rent Levels of Tenants states that “An Application may qualify to receive up to thirteen (13) points for rent and income restricting a Development for the entire Affordability Period” if:

*(B) At least 10 percent of all Low-Income Units at 30 percent or less of AMGI or, for a Development located in a Rural Area, 7.5 percent of all Low-Income Units at 30 percent or less of AMGI (11 points).*

Our Application restricted five (5) Units, or 10%, of the 49 total Units to qualify for the points under this paragraph. Please note that in making this selection we provided an additional 10% of Units at 30% AMGI beyond the commitment for the *Increase in Eligible Basis* which increased the total number of 30% Units from 5 to 10 Units or 20% of the entire development meeting the requirements of both Sections 11.4(c)(3)(D) Increase in Eligible Basis and 11.9(c)(2)(B) *Rent Levels of Tenants*.

§11.9(c)(1) Income Levels of Tenants reads that “An Application may qualify for up to sixteen (16) points for rent and income restricting a Development for the entire Affordability Period at the levels identified in subparagraph (A), (B), (C), or (D) of this paragraph.” Subparagraph C states:

*(C) For any Development located within a non-Rural Area of the Dallas, Fort Worth, Houston, San Antonio, or Austin MSAs that propose to use the Average Income election under §42(g)(1)(C) of the Code:*  
*(i) The Average Income for the proposed Development will be 54% or lower (16 points). [emphasis supplied]*

Our Application is electing Average Income and is eligible for the 16 points since our Average Income is 53.8%. Please note that Section 11.9(c)(1)(C) does not require additional 30% AMGI Units nor any other specific AMGI restrictions, only that the Average Income be less than or equal to 54%.

### **Additional Guidance from TDHCA Documents**

When completing the Application, we reviewed the Manual, the Uniform Application Excel document and the Application Webinar Questions and Answers 2019 document in addition to the QAP; all of which lead to the same conclusion. Per the directions in the Manual for Tab 19 which addresses both *Income Levels of Tenants* and *Rent Levels of Tenants* elections, Applicants electing Average Income should refer to the worksheet included with the Rent Schedule at Tab 24 which calculated the percentage to be used for points under *Income Levels of the Tenants*. The Manual emphasizes with red text:



**For Applications electing income averaging:**

- o See the income average calculation worksheet added under Tab 24 Rent Schedule. Based on data entered in the Tab 24, the average income percentage calculation will populate in cell AE57:AI57. Changes must be made on the Rent Schedule if the average is not what the Applicant intended.

The Average Income Distribution Tool in the worksheet at Tab 24 Rent Schedule requests that Applicant insert the "Total LI Units". In accordance with the QAP, it does not indicate that the Applicant should exclude any of the 30% AMGI units from this calculation. As mentioned above, our Rent Schedule resulted in an average of 53.8% per this worksheet (shown below) substantiating 16 points under *Income Levels of Tenants*.

**AVERAGE INCOME DISTRIBUTION TOOL**

**This worksheet is not required to be included with the .pdf Application.**

Total LI Units	49
AMFI Average Committed to for Points	54.00
Development AMFI Average	<b>53.87755</b>

Bedrooms)	AMFI Brackets							Total Units by Unit Type (Number of Bedrooms)
	20	30	40	50	60	70	80	
0								0
1		6			24			30
2		4			15			19
3								0
4								0
5								0
<b>Total Units</b>	0	10	0	0	39	0	0	<b>49</b>

This Development is missing	<u>0</u>	Units
Are you missing Units?		

**If average income is elected, 20%, 30%, 40%, 50%, 60%, 70% and 80% Unit designations MUST be dispersed across all Unit Types in a manner that does not violate fair housing laws.**

While the Manual also provides for Tab 19 that "it is extremely important that Units at 30% AMGI are not counted for both scoring items," it does so only in relation to a worksheet that does not apply to the Application for The Legacy at Piedmont under the heading "**IMPORTANT!!! Income Levels of Tenants & Rent Levels of Tenants Worksheet – The worksheet does not apply for those Applications electing income averaging.**"

Similarly, Tab 19 of the Uniform Application Excel document (shown below) provides under the heading for Applications electing 20-50 or 40-60 and before the heading for Average Income Applications that "**\*Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not**

included in the units needed to achieve the Application's scoring elections." Furthermore, note that this is provided as an asterisk (\*) note in relation to Section 11.9(c)(2) *Rent Levels of Tenants* and not in relation to Section 11.9(c)(1) *Income Levels of Tenants*.

**3. Income Levels of Residents (Competitive HTC Applications only) [10 TAC §11.9(c)(1)]**

Application proposes to use the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively.

Total Number of Units at 50% or less of AMGI **COMPLETE THIS SECTION!**

Number of 30% Units used to score points under §11.9(c)(2)\* **CHECK YOUR MATH!**

Number of 30% Units used under §11.4(c)(3)(D) regarding an Increase in Eligible Basis (30% boost)

Number of Units at 50% or less of AMGI available to use for points under §11.9(c)(1)

Percentage used for calculation of eligible points under §11.9(c)(1)

Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA; or

Development proposed in all other areas.

*\* Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not included in the units needed to achieve the Application's scoring elections.*

**OR**

Application proposes to use the Average Income election under §42(g)(1)(C) of the Code, and

Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA

The Average Income for the proposed Development will be 54% or lower (16 points).

The Average Income for the proposed Development will be 55% or lower (14 points).

The Average Income for the proposed Development will be 56% or lower (12 points).

**OR**

Development proposed in all other areas.

The Average Income for the proposed Development will be 55% or lower (16 points).

The Average Income for the proposed Development will be 56% or lower (14 points).

The Average Income for the proposed Development will be 57% or lower (12 points).

**Application is seeking points for Income Levels of Residents. Points Claimed:**

The Application Webinar Questions and Answers 2019 additionally provides that “market rate Units are not used in the calculation of the Average Income for a Development. Only rent-restricted Units, which range from 20% to 80% AMFI, are used.” It does not indicate that any rent-restricted units are to be excluded or modified for the calculation. This is the intended benefit of adding the Average Income option; it allows the Applicant to elect a mix of low-income units, and the units designations can change to any combination of 20%, 30%, 40%, 50%, 60%, 70% or 80% as long as the overall low-income percentage remains at or below 54% AMGI throughout the affordability period.

We would like to share one last observation: There were nine (9) Applications in 2019 spread across Texas that elected Average Income and sought points under both Sections 11.9(c)(1) *Income Level of Tenants* and 11.9(c)(2) *Rent Levels of Tenants*. Not a single one of these Applicants excluded any 30% AMGI Units for purposes of calculating their Average and justifying their scoring request. Rather, they too concluded that neither additional 30% AMGI Units nor additional deeper skewing were required under Section 11.9(c)(1) *Income Level of Tenants* of the QAP. Note that three of the referenced Applications, shown below, are listed in the TDHCA Application Log as having completed the programmatic review process without having to increase the number of 30% AMGI Units. We believe this suggests that staff is misinterpreting this section of the QAP and applying the rule

inconsistently. Further, at the TDHCA Income Averaging Roundtable on May 25, 2018, one of the TDHCA guidelines under Scoring for the QAP and other MF Rules states “We do not want to provide uninformed incentives for aggressive election structures [emphasis supplied] that might place a development at risk in an effort to secure points.” This statement is counter to the Administrative Deficiency received which seemingly incentivizes deeper skewing of rents.

App #	Development Name	Urban/ Rural	Total Low-Income Units	Elected points under §11.9(c)(2)	Average Income committed for points under §11.9(c)(1)	Average Income	Review Status	Underwriting Status
19109	Verdin Square	Urban	87	Yes	54%	53.8%	C	C
19234	The Residences at Alsbury	Urban	72	Yes	54%	53.8%	C	UR
19237	Gatesville Trails	Rural	48	Yes	55%	55.0%	C	UR

### Conclusion

In conclusion, we believe that targeting 20% of the total Low-Income Units at The Legacy at Piedmont qualifies the Application for the 30% Basis Boost and the 11 points for Rent Levels of the Tenants. Further, our Application is utilizing Average Income and is eligible for the full 16 points under Section 11.9(c)(1)(C) since our Average Income is 53.8%.

Upon your review, should you have any questions or require additional information, please do not hesitate to contact us at your convenience.

Respectfully,



Dan Wilson  
 Authorized Representative of The Legacy at Piedmont, LP  
[dwilson@apcompanies.com](mailto:dwilson@apcompanies.com)

# Scoring Notification and Proper Calculation



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

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July 11, 2019

*Writer's direct dial: (512) 936-7834*  
*Email: [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)*

Dan Wilson  
The Legacy at Piedmont, LP  
161 NW 6<sup>th</sup> Street, Ste. 1020  
Miami, FL 33136

RE: NOTICE OF SCORING ADJUSTMENT: 19003 LEGACY AT PIEDMONT LOFTS, SAN ANTONIO

Dear Mr. Wilson:

The Texas Department of Housing and Community Affairs (the Department) is in receipt of the Application named above. Upon review, staff determined that the Application did not include enough 30% Units to qualify for the increase in eligible basis (the boost) and for points. Staff issued a deficiency notice, and the Applicant answered timely, asserting that the application should qualify for the boost and for all requested points. 10 TAC §11.4(c) of the 2019 Qualified Allocation Plan (QAP) related to Increase in Eligible Basis, includes eight separate criteria an Applicant may use to qualify for the boost. Unlike the Applications cited in the deficiency response, this Application elected item (3)(D), which states:

(D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. *These Units must be in addition to Units required under any other provision of this chapter*, or required under any other funding source from the Multifamily Direct Loan program; (emphasis added)

Your response to the deficiency notice appears to show that the Application included enough 30% Units to qualify for the boost and for 11 points under 10 TAC §11.9(c)(2) related to Rent Levels of Tenants. Because the Application does not include enough 30% Units to support the boost and scoring under 10 TAC §11.9(c)(1) related to Income Levels of Tenants, the Application is not eligible for 16 points requested under that item, subject to your ability to appeal.

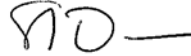
An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §11.902 of the 2019 QAP. If you wish to appeal this decision to the Executive Director, the appeal must be filed, in writing, with the Department not later than seven (7) calendar days after the date of this notification. Please review §11.902 of the 2019 QAP



for full instruction on the appeals process. **Also, if you would like to have your Application listed on the agenda for the next board meeting should the Executive Director deny your appeal, please inform us of your desire to be listed by July 17, 2019, and provide your appeal response by 5:00 p.m. on July 18, 2019** (earlier if possible). Please note that §11.902(f) of the 2019 QAP and Tex. Gov't Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application.

If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'SD' followed by a horizontal line.

Sharon D. Gamble

Competitive HTC Administrator

**AVERAGE INCOME DISTRIBUTION TOOL**

**This worksheet is not required to be included with the .pdf Application.**

Total LI Units	44
AMFI Average Committed to for	54.00
Development AMFI Average	<b>56.591</b>

Unit Type (Number of Bedrooms)	AMFI Brackets							Total Units by Unit Type (Number of Bedrooms)
	20	30	40	50	60	70	80	
0								0
1		3			24			27
2		2			15			17
3								0
4								0
5								0
<b>Total Units</b>	0	5	0	0	39	0	0	<b>44</b>

This Development is missing	<u>0</u>	Units
Are you missing Units?		

**If average income is elected, 20%, 30%, 40%, 50%, 60%, 70% and 80% Unit designations MUST be dispersed across all Unit Types in a manner that does not violate fair housing laws.**

# Board Appeal Documents





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

July 17, 2019

**VIA E-MAIL TRANSMISSION**

Mr. David Cervantes  
Acting Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78711-3941

Re: Appeal for Scoring Notice  
TDHCA No. 19003 – The Legacy at Piedmont

Dear David:

Our Firm represents the Applicant<sup>1</sup> for Housing Tax Credits related to the Development referenced above. This letter responds to the Notice of Scoring Adjustment issued July 11, 2019 in which TDHCA removed the Applicant's points under §11.9(c)(1) of the Qualified Allocation Plan (the "QAP") regarding Income Levels of Tenants. Specifically, TDHCA stated:

*"the Application included enough 30% Units to qualify for the boost and for 11 points under 10 TAC §11.9(c)(2) related to Rent Levels of Tenants. [But] [b]ecause the Application does not include enough 30% Units to support the boost and scoring under 10 TAC §11.9(c)(1) related to Income Levels of Tenants, the Application is not eligible for 16 points requested under that item."*

**The above statement is not supported by the QAP. The Applicant has met each and all of these provisions. Therefore, the Applicant hereby appeals the staff's decision to remove the points, and the points should be restored.**

---

<sup>1</sup> Capitalized terms used but not defined in this letter will have the meanings given them in the 2019 Qualified Allocation Plan.

### Legal Analysis

The Applicant proposes a Development with 49 low-income Units, which will qualify under three provisions of the QAP:

- (1) Section 11.9(c)(1)(C)(i), which provides points if the "Average Income for the proposed Development will be 54% or lower" ("**Income Averaging**");
- (2) Section 11.9(c)(2)(B), which provides points for restricting "at least 10 percent of all Low-Income Units at 30 percent or less of AMGI" ("**Rent Levels**"); and
- (3) Section 11.4(c)(3)(D), which provides a boost in basis if "the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI" ("**Basis Boost**"). The Basis Boost also provides that such "Units must be in addition to Units required under any other provision of this chapter" (the "**Exclusion**").

The Application (i) commits the Development to an Average Income of 53.88%, meeting the Income Averaging requirement; (ii) sets aside 5 of the Units (10%) at 30% AMGI, meeting the Rent Levels requirement; and (iii) sets aside an additional 5 of the Units (10%) at 30% AMGI, meeting the Basis Boost and Exclusion requirements. Thus, the Application clearly qualifies for all three provisions.

Nonetheless, TDHCA has taken the position that the Exclusion mandates that the 5 Units being used to meet the Basis Boost should be removed from the calculation for Income Averaging. And, if those Units are removed from the calculation, the Development will not meet the 54% threshold and will not qualify for the points under Section 11.9(c)(1)(C)(i). But the plain language of the Exclusion does not support this position. The Exclusion, on the one hand, provides that Units set aside for Basis Boost must be in addition to any other "Units required." Income Averaging, on the other hand, does not require any specific Units to be set aside. Income Averaging only requires the Development to meet a certain overall threshold Average Income. And the Development does so.

The 2018 Uniform Application Excel workbook (the "**Application Form**") supports the position that the Exclusion does not apply to Income Averaging. Relevant portions of the Application Form are enclosed as Attachment 1. The Average Income Distribution Tool at Tab 24 requires the Applicant input all low-income Units into the matrix and provides the output "Development AMFI Average." If any Units are left out, the Application provides a large, red warning "This Development is Missing \_\_ Units." TDHCA clearly created the Application such that no Units should be excluded from the Income Averaging calculation. Thus, the Applicant was unable to exclude the Units utilized to satisfy the Basis Boost from the Income Averaging calculation.

Similarly, Tab 19 of the Application Form requires the Applicant select between the "20-50 or 40-60 election" or the "Average Income election". When an Applicant selects, the "20-50 or 40-60

election," the Application automatically populates Units to be separated for the Basis Boost and provides an advisory of the Exclusion:

**\*Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not included in the units needed to achieve the Application's scoring elections.**

However, when an Applicant selects the "Average Income election", the Application does not automatically populate the exclusion of the Units being used for the Basis Boost, nor does the Application provide an advisory for the Exclusion. Had TDHCA meant for the Units qualifying for the Basis Boost to be removed from the Income Averaging calculation, it could have inserted this same advisory on that section of the Application. It did not.

**When the plain language of the QAP states that points will be awarded under Section 11.9(c)(1)(C)(i) if the "Average Income for the proposed Development will be 54% or lower" and the QAP and the Application do not clearly instruct an Applicant to exclude any Units from that calculation, and when the Application meets the plain language of the QAP, the points must be awarded.**

To the extent there is lack of clarity on this issue in the QAP, we believe it stems from the implementation of the new income averaging provisions from Section 42. TDHCA has a long-standing commitment to incentivize Applications that serve residents with incomes below the 60% AMFI threshold. Traditionally, points were awarded based upon setting aside a certain number of Units for residents at certain lower income levels ("**Deep Skewing**"). To avoid double-dipping, any Units committed to meet the Basis Boost were not counted in the Units utilized for Deep Skewing.

When TDHCA added Income Averaging to the 2019 QAP for the first time, it mixed an apple with an orange in Section 11.9(c)(1). An Applicant can be awarded points for Deep Skewing under subparagraphs (A) or (B) by committing to reserve a particular number of Units for lower income residents. Or, an Applicant can be awarded points for Income Averaging under subparagraphs (C) or (D) by committing to an average resident income over the entire Development of something less than 60% AMFI. The calculations are totally different in concept and methodology. Deep Skewing requires certain Units to be set aside. Income Averaging does not; an average can be met by having Units at a variety of income levels, without any specific income level being required to achieve the desired result. Thus, the Exclusion applies to Deep Skewing but does not apply to Income Averaging.

If TDHCA intended a different result for its implementation of Income Averaging, it did not communicate it. The plain language of the QAP directs that the Exclusion does not apply to Income Averaging, and the Application Form supports this. TDHCA had many opportunities to take an alternative position. But nowhere in the QAP, Application, Manuals, Application Webinars, or QAP Roundtables, did TDHCA indicate that the Exclusion applied to Income Averaging or how such a policy would be applied. Using an Average Income concept is very

Mr. David Cervantes

July 17, 2019

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different than the traditional unit set-asides. To treat the apples as oranges may yield a result desired by staff, but Applicants must follow the QAP and the instructions in the Application, which plainly treat the apples and oranges differently.

### Concluding Remarks

Section 11.9(c) of the QAP was changed between 2018 and 2019 to implement a change in federal law to allow income averaging. TDHCA chose to craft this new provision on a Development basis and chose not to adjust the Exclusion to apply to anything other than Deep Skewing. TDHCA Board Books reveal that this change to the QAP received no comments during the public comment period. The lack of commentary indicates that the Applicant community understood what TDHCA was expecting and agreed this change was appropriate for the competitive process. Our client read the plain language of the rule and completed the Application as directed. TDHCA cannot remove points for an expectation that was not clearly articulated. If the result is not what TDHCA intends, then it should change the QAP for 2020 to ensure its expectations are met. **We respectfully request that 16 points under Section 11.9(c)(1)(C)(i) be reinstated because the "Average Income for the proposed Development will be 54% or lower."**

Alternatively, if TDHCA firmly believes that the Exclusion should apply to Income Averaging, we believe this is an inconsistency in the Application which should be addressed with an Administrative Deficiency. The Applicant should be allowed to remove the 5 Units from the Income Averaging calculation and calculate it based upon 44 Units (as suggested in the Notice of Scoring Adjustment) instead of 49 Units (as required by the Application workbook). The Applicant can submit revised Application pages and applicable supporting documentation to address this inconsistency.

If there are any questions about this appeal, we are happy to address them. Thank you.

Sincerely,



Cynthia L. Bast

**Attachment 1**

**Application Form Tab 24:**

AVERAGE INCOME DISTRIBUTION TOOL

This worksheet is not required to be included with the .pdf Application.

Total LI Units	49
AMFI Average Committed to for Points	54.00
Development AMFI Average	53.87755

Bedrooms)	AMFI Brackets							Total Units by Unit Type (Number of Bedrooms)
	20	30	40	50	60	70	80	
0								0
1		6			24			30
2		4			15			19
3								0
4								0
5								0
<b>Total Units</b>	0	10	0	0	39	0	0	<b>49</b>

This Development is missing	<b>0</b>	Units
Are you missing Units?		

If average income is elected, 20%, 30%, 40%, 50%, 60%, 70% and 80% Unit designations **MUST** be dispersed across all Unit Types in a manner that does not violate fair housing laws.

**Application Form Tab 24, with Units left out:**

Total LI Units	49
AMFI Average Committed to for Points	54.00
Development AMFI Average	47.7551

Bedrooms)	AMFI Brackets							Total Units by Unit Type (Number of Bedrooms)
	20	30	40	50	60	70	80	
0								0
1					24			24
2					15			15
3								0
4								0
5								0
<b>Total Units</b>	0	0	0	0	39	0	0	<b>39</b>

This Development is missing	<b>10</b>	Units
Are you missing Units?		

If average income is elected, 20%, 30%, 40%, 50%, 60%, 70% and 80% Unit designations **MUST** be dispersed across all Unit Types in a manner that does not violate fair housing laws.

**Application Form Tab 19:**

<b>3. Income Levels of Residents (Competitive HTC Applications only) [10 TAC §11.9(c)(1)]</b>	
<input type="checkbox"/> Application proposes to use the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively.	
<input type="text" value="0"/> Total Number of Units at 50% or less of AMGI	<b>COMPLETE THIS SECTION!</b>
<input type="text" value=""/> Number of 30% Units used to score points under §11.9(c)(2)*	<b>CHECK YOUR MATH!</b>
<input type="text" value="0"/> Number of 30% Units used under §11.4(c)(3)(D) regarding an Increase in Eligible Basis (30% boost)	
<input type="text" value="0"/> Number of Units at 50% or less of AMGI available to use for points under §11.9(c)(1)	
<input type="text" value="0.00%"/> Percentage used for calculation of eligible points under §11.9(c)(1)	
<input type="checkbox"/> Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA; or	<input type="text" value="0"/>
<input type="checkbox"/> Development proposed in all other areas.	<input type="text" value="0"/>
<i>* Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not included in the units needed to achieve the Application's scoring elections.</i>	

OR

<input type="checkbox"/> Application proposes to use the Average Income election under §42(g)(1)(C) of the Code, and	
<input type="checkbox"/> Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA	
<input type="checkbox"/> The Average Income for the proposed Development will be 54% or lower (16 points).	
<input type="checkbox"/> The Average Income for the proposed Development will be 55% or lower (14 points).	
<input type="checkbox"/> The Average Income for the proposed Development will be 56% or lower (12 points).	<input type="text" value="0"/>
<b>OR</b>	
<input type="checkbox"/> Development proposed in all other areas.	
<input type="checkbox"/> The Average Income for the proposed Development will be 55% or lower (16 points).	
<input type="checkbox"/> The Average Income for the proposed Development will be 56% or lower (14 points).	
<input type="checkbox"/> The Average Income for the proposed Development will be 57% or lower (12 points).	<input type="text" value="0"/>
Application is seeking points for Income Levels of Residents.	Points Claimed: <input type="text" value="0"/>

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# THE LEGACY AT PIEDMONT, LP

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July 18, 2019

David Cervantes  
Acting Executive Director  
Texas Department of Housing and Community Affairs  
Multifamily Division  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

**RE: The Legacy at Piedmont – Scoring Notice Appeal for TDHCA #19003**

Dear Mr. Cervantes,

Please accept this correspondence as an Appeal to the Scoring Notice received on July 11<sup>th</sup> which stated that:

*Staff determined that the Application did not include enough 30% Units to qualify for the increase in eligible basis (the boost) and for points... Unlike the Applications cited in the deficiency response, this Application elected item (3)(D), which states:*

*(D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. These Units must be in addition to Units required under any other provision of this chapter, or required under any other funding source from the Multifamily Direct Loan program; (emphasis added)*

*Your response to the deficiency notice appears to show that the Application included enough 30% Units to qualify for the boost and for 11 points under 10 TAC §11.9(c)(2) related to Rent Levels of Tenants. Because the Application does not include enough 30% Units to support the boost and scoring under 10 TAC §11.9(c)(1) related to Income Levels of Tenants, the Application is not eligible for 16 points requested under that item, subject to your ability to appeal.*

The referenced Administrative Deficiency received on July 2<sup>nd</sup> stated:

*Within the income averaging set-aside, this application proposes a unit mix that is sufficient to score 16 points for Income Levels of Tenants and 11 points for Rent Levels of Tenants. However, this scoring requires the application of all 30% units in the Rent Schedule, and none remain to achieve eligibility for the 30% increase in eligible basis. The applicant has the choice of either scoring the 11 points for Rent Levels of Tenants or increasing eligible basis by 30%.*

We respectfully disagree with staff's interpretation as indicated in the Scoring Notice. We assert that our Application qualifies for the 30% Eligible Basis Boost, 11 points for Rent Levels of Tenants and 16 points for Income Levels of Tenants, based on the below analysis of the plain language of the QAP, which is reinforced repeatedly in multiple documents created by TDHCA as guidance, including the 2019 Multifamily Programs Application Procedures Manual ("Manual"), the Uniform Application Excel document and the Application Webinar Questions and Answers 2019. The language under Income Levels of Tenants relating to Average Income Applications is new to the QAP in 2019, which means this is the first time TDHCA has had to review how it should

be applied. As detailed below, there is only one way to interpret the intent of Section 11.9(c)(1)(C) of the QAP relating to Income Levels of Tenants and the supplementary TDHCA-created documents, as written, which is that the Average Income is derived from all low-income units.

The Administrative Deficiency indicated that if an Average Income Applicant elects points under Income Levels of Tenants and Rent Levels of Tenants, it requires *“the application of”* all 30% AMGI Units with the apparent result being that *“none remain to achieve eligibility for the 30% increase in eligible basis”*. Similarly, the Scoring Notice indicates that *“because the Application does not include enough 30% Units to support the boost and scoring under 10 TAC §11.9(c)(1) related to Income Levels of Tenants, the Application is not eligible for 16 points requested under that item.”* Please note however, there is nothing in the QAP that indicates that the points awarded for the Income Levels of Tenants invalidate or modify any of the individual AMGIs being averaged nor does it require any 30% AMGI Units nor designation of any other specific AMGI restrictions. Income Levels of Tenants only requires that the Average Income for the Proposed Development be less than or equal to 54%. In other words, the Average Income is derived from the entire Rent Schedule<sup>1</sup> (Tab 24 of the Excel application) for the proposed Development, whether or not components of that schedule also make the Applicant eligible for other points. Further, based on the requirements of the QAP and the information in the supplemental documents, it is impermissible to calculate the Average Income using anything other than the entire Rent Schedule, including all Low-Income Units, similar to how many other scoring items in the QAP are calculated. Section 11.9(c)(1) specifically requires the Average Income *“for the proposed Development”*, not some subset of Units within the Development. Moreover, were it otherwise, Applicants could reach varying conclusions on how Units that are eligible for other points should be calculated with each interpretation leading to different results of the average.

### **QAP Analysis**

§11.9(c)(2)(B) Rent Levels of Tenants states that *“An Application may qualify to receive up to thirteen (13) points for rent and income restricting a Development for the entire Affordability Period”* if:

*(B) At least 10 percent of all Low-Income Units at 30 percent or less of AMGI or, for a Development located in a Rural Area, 7.5 percent of all Low-Income Units at 30 percent or less of AMGI (11 points).*

Our Application restricted five (5) Units, or 10%, of the 49 total Units to qualify for the points under this paragraph.

§11.4(c) Increase in Eligible Basis (30 percent Boost) subsection (3)(D) permits an Applicant to qualify for an *“Increase in Eligible Basis (30 percent Boost)”* if:

*(D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. These Units must be in addition to Units required under any other provision of this chapter, or required under any other funding source from the Multifamily Direct Loan program.*

The Legacy at Piedmont restricted five (5) Units, or 10%, of the 49 total Units to support our request for the 30% Boost in housing tax credits. In making this selection, we provided an additional 10% of Units at 30% AMGI beyond the commitment for the Rent Levels of Tenants, meeting the requirements of both Sections 11.9(c)(2)(B) Rent Levels of Tenants and 11.4(c)(3)(D) Increase in Eligible Basis. This follows the QAP precisely, which as TDHCA

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<sup>1</sup> The Legacy at Piedmont elected Average Income under §42(g)(1)(C) of the Code and exceeds the minimum requirements (40%) of this subparagraph by setting aside 100% of the residential units as rent-restricted.



emphasizes in the Scoring Notice, states that, “these Units must be in addition to Units required under any other provision of this chapter” (emphasis added).

These Units were designated as 30% AMGI in addition to those required to be designated as such under any other provision, but they were not subtracted from the total number of Low-Income Units considered. It is critical to understand that subtracting these Units from the total number of Low-Income Units included for eligibility of other provisions of this chapter, would be contrary to how this has been historically viewed and would have unintended consequences<sup>2</sup>.

§11.9(c)(1) Income Levels of Tenants reads that “An Application may qualify for up to sixteen (16) points for rent and income restricting a Development for the entire Affordability Period at the levels identified in subparagraph (A), (B), (C), or (D) of this paragraph.” Subparagraph C states:

*(C) For any Development located within a non-Rural Area of the Dallas, Fort Worth, Houston, San Antonio, or Austin MSAs that propose to use the Average Income election under §42(g)(1)(C) of the Code: (i) The Average Income for the proposed Development will be 54% or lower (16 points). (emphasis added)*

Our Application is electing Average Income and is eligible for the 16 points since our Average Income is 53.8%. The Scoring Notice indicates that “because the Application does not include enough 30% Units to support the boost and scoring under 10 TAC §11.9(c)(1) related to Income Levels of Tenants, the Application is not eligible for 16 points requested under that item, subject to your ability to appeal,” however, Section 11.9(c)(1)(C) does not require additional 30% AMGI Units nor any other specific AMGI restrictions, only that the Average Income for the Proposed Development be less than or equal to 54%.

#### **Additional Guidance from TDHCA Documents**

When completing the Application, we reviewed the Manual, the Uniform Application Excel document and the Application Webinar Questions and Answers 2019 document in addition to the QAP; all of which lead to the same conclusion. Per the directions in the Manual for Tab 19 which addresses both Income Levels of Tenants and Rent Levels of Tenants elections, Applicants electing Average Income should refer to the worksheet included with the Rent Schedule at Tab 24 which calculated the percentage to be used for points under Income Levels of the Tenants. The Manual emphasizes with red text:

***For Applications electing income averaging:***

- o See the income average calculation worksheet added under Tab 24 Rent Schedule. Based on data entered in the Tab 24, the average income percentage calculation will populate in cell AE57:A157. Changes must be made on the Rent Schedule if the average is not what the Applicant intended.*

The Average Income Distribution Tool in the worksheet at Tab 24 Rent Schedule requests that Applicant insert the “Total LI Units”. In accordance with the QAP, it does not indicate that the Applicant should exclude any of the 30% AMGI units from this calculation. As mentioned above, our Rent Schedule resulted in an average of 53.8% per this worksheet (shown below) substantiating 16 points under Income Levels of Tenants.

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<sup>2</sup> Reducing the total Low-Income Units from the calculation would affect Applicants’ eligibility under seven (7) scoring items, which provide up to sixty-nine (69) points, including those under the following Sections: 11.9(c)(1) Income Levels of Tenants; 11.9(c)(2) Rent Levels of Tenants; 11.9(c)(6) Tenant Populations with Special Needs; 11.9(e)(1) Financial Feasibility; 11.9(e)(2) Cost of Development per Square Foot; 11.9(e)(4) Leveraging of Private, State, and Federal Resources; and 11.9(e)(6) Historic Preservation.

**AVERAGE INCOME DISTRIBUTION TOOL**

**This worksheet is not required to be included with the .pdf Application.**

Total LI Units	49
AMFI Average Committed to for Points	54.00
Development AMFI Average	<b>53.87755</b>

Bedrooms)	AMFI Brackets							Total Units by Unit Type (Number of Bedrooms)
	20	30	40	50	60	70	80	
0								0
1		6			24			30
2		4			15			19
3								0
4								0
5								0
<b>Total Units</b>	0	10	0	0	39	0	0	<b>49</b>

This Development is missing	<b>0</b>	Units
<b>Are you missing Units?</b>		

**If average income is elected, 20%, 30%, 40%, 50%, 60%, 70% and 80% Unit designations MUST be dispersed across all Unit Types in a manner that does not violate fair housing laws.**

While the Manual also provides for Tab 19 that *“it is extremely important that Units at 30% AMGI are not counted for both scoring items,”* it does so only in relation to a worksheet that does not apply to the Application for The Legacy at Piedmont under the heading **“IMPORTANT!!! Income Levels of Tenants & Rent Levels of Tenants Worksheet – The worksheet does not apply for those Applications electing income averaging.”**

Similarly, Tab 19 of the Uniform Application Excel document (shown below) provides under the heading for Applications electing 20-50 or 40-60 and before the heading for Average Income Applications that *“\*Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not included in the units needed to achieve the Application’s scoring elections.”* Furthermore, note that this is provided as an asterisk (\*) note in relation to Section 11.9(c)(2) Rent Levels of Tenants and not in relation to Section 11.9(c)(1) Income Levels of Tenants.

3. **Income Levels of Residents (Competitive HTC Applications only) [10 TAC §11.9(c)(1)]**

Application proposes to use the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively.

Total Number of Units at 50% or less of AMGI **COMPLETE THIS SECTION!**

Number of 30% Units used to score points under §11.9(c)(2)\* **CHECK YOUR MATH!**

Number of 30% Units used under §11.4(c)(3)(D) regarding an Increase in Eligible Basis (30% boost)

Number of Units at 50% or less of AMGI available to use for points under §11.9(c)(1)

Percentage used for calculation of eligible points under §11.9(c)(1)

Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA; or

Development proposed in all other areas.

*\* Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not included in the units needed to achieve the Application's scoring elections.*

**OR**

Application proposes to use the Average Income election under §42(g)(1)(C) of the Code, and

Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA

The Average Income for the proposed Development will be 54% or lower (16 points).

The Average Income for the proposed Development will be 55% or lower (14 points).

The Average Income for the proposed Development will be 56% or lower (12 points).

**OR**

Development proposed in all other areas.

The Average Income for the proposed Development will be 55% or lower (16 points).

The Average Income for the proposed Development will be 56% or lower (14 points).

The Average Income for the proposed Development will be 57% or lower (12 points).

Application is seeking points for Income Levels of Residents.

Points Claimed:

The Application Webinar Questions and Answers 2019 additionally provides that “market rate Units are not used in the calculation of the Average Income for a Development. Only rent-restricted Units, which range from 20% to 80% AMFI, are used.” It does not indicate that any rent-restricted units are to be excluded or modified for the calculation. This is the intended benefit of adding the Average Income option; it allows the Applicant to elect a mix of low-income units, and the units designations can change to any combination of 20%, 30%, 40%, 50%, 60%, 70% or 80% as long as the overall low-income percentage remains at or below 54% AMGI throughout the affordability period.

We would like to share one last observation: There were nine (9) Applications in 2019 spread across Texas that elected Average Income and sought points under both Sections 11.9(c)(1) Income Level of Tenants and 11.9(c)(2) Rent Levels of Tenants. Not a single one of these Applicants excluded any 30% AMGI Units for purposes of calculating their Average and justifying their scoring request. Rather, they too concluded that neither additional 30% AMGI Units nor additional deeper skewing were required under Section 11.9(c)(1) Income Level of Tenants of the QAP. Note that three of the referenced Applications, shown below, are listed in the TDHCA Application Log as having completed the programmatic review process without having to increase the number of 30% AMGI Units. We believe this suggests that staff is misinterpreting this section of the QAP and applying the rule inconsistently. Further, at the TDHCA Income Averaging Roundtable on May 25, 2018, one of the TDHCA guidelines under Scoring for the QAP and other MF Rules states “*We do not want to provide uninformed incentives for aggressive election structures that might place a development at risk in an effort to secure points*”

(emphasis added). This statement is counter to the Administrative Deficiency received which seemingly incentivizes deeper skewing of rents.

App #	Development Name	Urban/ Rural	Total Low-Income Units	Elected points under §11.9(c)(2)	Average Income committed for points under §11.9(c)(1)	Average Income	Review Status	Underwriting Status
19109	Verdin Square	Urban	87	Yes	54%	53.8%	C	C
19234	The Residences at Alsbury	Urban	72	Yes	54%	53.8%	C	UR
19237	Gatesville Trails	Rural	48	Yes	55%	55.0%	C	UR

**Conclusion**

In conclusion, we agree with the Scoring Notice in that targeting 20% of the total Low-Income Units at The Legacy at Piedmont qualifies the Application for the 30% Basis Boost and the 11 points for Rent Levels of the Tenants. However, because our Application is utilizing Average Income and our Average is 53.8%, it is additionally eligible for the full 16 points under Section 11.9(c)(1)(C).

Upon your review, should you have any questions or require additional information, please do not hesitate to contact us at your convenience. Also note, should the TDHCA deny the appeal, we would seek to appeal to the Board and would like to have our Application listed on the agenda for the next Board meeting.

Respectfully,

Dan Wilson  
 Authorized Representative of The Legacy at Piedmont, LP  
[dwilson@apcompanies.com](mailto:dwilson@apcompanies.com)

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# THE LEGACY AT PIEDMONT, LP

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July 18, 2019

David Cervantes  
Acting Executive Director  
Texas Department of Housing and Community Affairs  
Multifamily Division  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

**RE: The Legacy at Piedmont – Scoring Notice Appeal for TDHCA #19003**

Dear Mr. Cervantes,

Please accept this correspondence as an Appeal to the Scoring Notice received on July 11<sup>th</sup> which stated that:

*Staff determined that the Application did not include enough 30% Units to qualify for the increase in eligible basis (the boost) and for points... Unlike the Applications cited in the deficiency response, this Application elected item (3)(D), which states:*

*(D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. These Units must be in addition to Units required under any other provision of this chapter, or required under any other funding source from the Multifamily Direct Loan program; (emphasis added)*

*Your response to the deficiency notice appears to show that the Application included enough 30% Units to qualify for the boost and for 11 points under 10 TAC §11.9(c)(2) related to Rent Levels of Tenants. Because the Application does not include enough 30% Units to support the boost and scoring under 10 TAC §11.9(c)(1) related to Income Levels of Tenants, the Application is not eligible for 16 points requested under that item, subject to your ability to appeal.*

The referenced Administrative Deficiency received on July 2<sup>nd</sup> stated:

*Within the income averaging set-aside, this application proposes a unit mix that is sufficient to score 16 points for Income Levels of Tenants and 11 points for Rent Levels of Tenants. However, this scoring requires the application of all 30% units in the Rent Schedule, and none remain to achieve eligibility for the 30% increase in eligible basis. The applicant has the choice of either scoring the 11 points for Rent Levels of Tenants or increasing eligible basis by 30%.*

We respectfully disagree with staff's interpretation as indicated in the Scoring Notice. We assert that our Application qualifies for the 30% Eligible Basis Boost, 11 points for Rent Levels of Tenants and 16 points for Income Levels of Tenants, based on the below analysis of the plain language of the QAP, which is reinforced repeatedly in multiple documents created by TDHCA as guidance, including the 2019 Multifamily Programs Application Procedures Manual ("Manual"), the Uniform Application Excel document and the Application Webinar Questions and Answers 2019. The language under Income Levels of Tenants relating to Average Income Applications is new to the QAP in 2019, which means this is the first time TDHCA has had to review how it should

be applied. As detailed below, there is only one way to interpret the intent of Section 11.9(c)(1)(C) of the QAP relating to Income Levels of Tenants and the supplementary TDHCA-created documents, as written, which is that the Average Income is derived from all low-income units.

The Administrative Deficiency indicated that if an Average Income Applicant elects points under Income Levels of Tenants and Rent Levels of Tenants, it requires *“the application of”* all 30% AMGI Units with the apparent result being that *“none remain to achieve eligibility for the 30% increase in eligible basis”*. Similarly, the Scoring Notice indicates that *“because the Application does not include enough 30% Units to support the boost and scoring under 10 TAC §11.9(c)(1) related to Income Levels of Tenants, the Application is not eligible for 16 points requested under that item.”* Please note however, there is nothing in the QAP that indicates that the points awarded for the Income Levels of Tenants invalidate or modify any of the individual AMGIs being averaged nor does it require any 30% AMGI Units nor designation of any other specific AMGI restrictions. Income Levels of Tenants only requires that the Average Income for the Proposed Development be less than or equal to 54%. In other words, the Average Income is derived from the entire Rent Schedule<sup>1</sup> (Tab 24 of the Excel application) for the proposed Development, whether or not components of that schedule also make the Applicant eligible for other points. Further, based on the requirements of the QAP and the information in the supplemental documents, it is impermissible to calculate the Average Income using anything other than the entire Rent Schedule, including all Low-Income Units, similar to how many other scoring items in the QAP are calculated. Section 11.9(c)(1) specifically requires the Average Income *“for the proposed Development”*, not some subset of Units within the Development. Moreover, were it otherwise, Applicants could reach varying conclusions on how Units that are eligible for other points should be calculated with each interpretation leading to different results of the average.

### **QAP Analysis**

§11.9(c)(2)(B) Rent Levels of Tenants states that *“An Application may qualify to receive up to thirteen (13) points for rent and income restricting a Development for the entire Affordability Period”* if:

*(B) At least 10 percent of all Low-Income Units at 30 percent or less of AMGI or, for a Development located in a Rural Area, 7.5 percent of all Low-Income Units at 30 percent or less of AMGI (11 points).*

Our Application restricted five (5) Units, or 10%, of the 49 total Units to qualify for the points under this paragraph.

§11.4(c) Increase in Eligible Basis (30 percent Boost) subsection (3)(D) permits an Applicant to qualify for an *“Increase in Eligible Basis (30 percent Boost)”* if:

*(D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. These Units must be in addition to Units required under any other provision of this chapter, or required under any other funding source from the Multifamily Direct Loan program.*

The Legacy at Piedmont restricted five (5) Units, or 10%, of the 49 total Units to support our request for the 30% Boost in housing tax credits. In making this selection, we provided an additional 10% of Units at 30% AMGI beyond the commitment for the Rent Levels of Tenants, meeting the requirements of both Sections 11.9(c)(2)(B) Rent Levels of Tenants and 11.4(c)(3)(D) Increase in Eligible Basis. This follows the QAP precisely, which as TDHCA

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<sup>1</sup> The Legacy at Piedmont elected Average Income under §42(g)(1)(C) of the Code and exceeds the minimum requirements (40%) of this subparagraph by setting aside 100% of the residential units as rent-restricted.

emphasizes in the Scoring Notice, states that, “these Units must be in addition to Units required under any other provision of this chapter” (emphasis added).

These Units were designated as 30% AMGI in addition to those required to be designated as such under any other provision, but they were not subtracted from the total number of Low-Income Units considered. It is critical to understand that subtracting these Units from the total number of Low-Income Units included for eligibility of other provisions of this chapter, would be contrary to how this has been historically viewed and would have unintended consequences<sup>2</sup>.

§11.9(c)(1) Income Levels of Tenants reads that “An Application may qualify for up to sixteen (16) points for rent and income restricting a Development for the entire Affordability Period at the levels identified in subparagraph (A), (B), (C), or (D) of this paragraph.” Subparagraph C states:

*(C) For any Development located within a non-Rural Area of the Dallas, Fort Worth, Houston, San Antonio, or Austin MSAs that propose to use the Average Income election under §42(g)(1)(C) of the Code: (i) The Average Income for the proposed Development will be 54% or lower (16 points). (emphasis added)*

Our Application is electing Average Income and is eligible for the 16 points since our Average Income is 53.8%. The Scoring Notice indicates that “because the Application does not include enough 30% Units to support the boost and scoring under 10 TAC §11.9(c)(1) related to Income Levels of Tenants, the Application is not eligible for 16 points requested under that item, subject to your ability to appeal,” however, Section 11.9(c)(1)(C) does not require additional 30% AMGI Units nor any other specific AMGI restrictions, only that the Average Income for the Proposed Development be less than or equal to 54%.

#### **Additional Guidance from TDHCA Documents**

When completing the Application, we reviewed the Manual, the Uniform Application Excel document and the Application Webinar Questions and Answers 2019 document in addition to the QAP; all of which lead to the same conclusion. Per the directions in the Manual for Tab 19 which addresses both Income Levels of Tenants and Rent Levels of Tenants elections, Applicants electing Average Income should refer to the worksheet included with the Rent Schedule at Tab 24 which calculated the percentage to be used for points under Income Levels of the Tenants. The Manual emphasizes with red text:

***For Applications electing income averaging:***

- o See the income average calculation worksheet added under Tab 24 Rent Schedule. Based on data entered in the Tab 24, the average income percentage calculation will populate in cell AE57:A157. Changes must be made on the Rent Schedule if the average is not what the Applicant intended.*

The Average Income Distribution Tool in the worksheet at Tab 24 Rent Schedule requests that Applicant insert the “Total LI Units”. In accordance with the QAP, it does not indicate that the Applicant should exclude any of the 30% AMGI units from this calculation. As mentioned above, our Rent Schedule resulted in an average of 53.8% per this worksheet (shown below) substantiating 16 points under Income Levels of Tenants.

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<sup>2</sup> Reducing the total Low-Income Units from the calculation would affect Applicants’ eligibility under seven (7) scoring items, which provide up to sixty-nine (69) points, including those under the following Sections: 11.9(c)(1) Income Levels of Tenants; 11.9(c)(2) Rent Levels of Tenants; 11.9(c)(6) Tenant Populations with Special Needs; 11.9(e)(1) Financial Feasibility; 11.9(e)(2) Cost of Development per Square Foot; 11.9(e)(4) Leveraging of Private, State, and Federal Resources; and 11.9(e)(6) Historic Preservation.

**AVERAGE INCOME DISTRIBUTION TOOL**

**This worksheet is not required to be included with the .pdf Application.**

Total LI Units	49
AMFI Average Committed to for Points	54.00
Development AMFI Average	<b>53.87755</b>

	AMFI Brackets							Total Units by Unit Type (Number of Bedrooms)
	20	30	40	50	60	70	80	
Bedrooms)								
0								0
1		6			24			30
2		4			15			19
3								0
4								0
5								0
<b>Total Units</b>	0	10	0	0	39	0	0	<b>49</b>

This Development is missing	<b>0</b>	Units
Are you missing Units?		

**If average income is elected, 20%, 30%, 40%, 50%, 60%, 70% and 80% Unit designations MUST be dispersed across all Unit Types in a manner that does not violate fair housing laws.**

While the Manual also provides for Tab 19 that *“it is extremely important that Units at 30% AMGI are not counted for both scoring items,”* it does so only in relation to a worksheet that does not apply to the Application for The Legacy at Piedmont under the heading *“IMPORTANT!!! Income Levels of Tenants & Rent Levels of Tenants Worksheet – The worksheet does not apply for those Applications electing income averaging.”*

Similarly, Tab 19 of the Uniform Application Excel document (shown below) provides under the heading for Applications electing 20-50 or 40-60 and before the heading for Average Income Applications that *“\*Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not included in the units needed to achieve the Application’s scoring elections.”* Furthermore, note that this is provided as an asterisk (\*) note in relation to Section 11.9(c)(2) Rent Levels of Tenants and not in relation to Section 11.9(c)(1) Income Levels of Tenants.



3. **Income Levels of Residents (Competitive HTC Applications only) [10 TAC §11.9(c)(1)]**

Application proposes to use the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively.

Total Number of Units at 50% or less of AMGI **COMPLETE THIS SECTION!**

Number of 30% Units used to score points under §11.9(c)(2)\* **CHECK YOUR MATH!**

Number of 30% Units used under §11.4(c)(3)(D) regarding an Increase in Eligible Basis (30% boost)

Number of Units at 50% or less of AMGI available to use for points under §11.9(c)(1)

Percentage used for calculation of eligible points under §11.9(c)(1)

Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA; or

Development proposed in all other areas.

*\* Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not included in the units needed to achieve the Application's scoring elections.*

**OR**

Application proposes to use the Average Income election under §42(g)(1)(C) of the Code, and

Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA

The Average Income for the proposed Development will be 54% or lower (16 points).

The Average Income for the proposed Development will be 55% or lower (14 points).

The Average Income for the proposed Development will be 56% or lower (12 points).

**OR**

Development proposed in all other areas.

The Average Income for the proposed Development will be 55% or lower (16 points).

The Average Income for the proposed Development will be 56% or lower (14 points).

The Average Income for the proposed Development will be 57% or lower (12 points).

Application is seeking points for Income Levels of Residents.

Points Claimed:

The Application Webinar Questions and Answers 2019 additionally provides that “market rate Units are not used in the calculation of the Average Income for a Development. Only rent-restricted Units, which range from 20% to 80% AMFI, are used.” It does not indicate that any rent-restricted units are to be excluded or modified for the calculation. This is the intended benefit of adding the Average Income option; it allows the Applicant to elect a mix of low-income units, and the units designations can change to any combination of 20%, 30%, 40%, 50%, 60%, 70% or 80% as long as the overall low-income percentage remains at or below 54% AMGI throughout the affordability period.

We would like to share one last observation: There were nine (9) Applications in 2019 spread across Texas that elected Average Income and sought points under both Sections 11.9(c)(1) Income Level of Tenants and 11.9(c)(2) Rent Levels of Tenants. Not a single one of these Applicants excluded any 30% AMGI Units for purposes of calculating their Average and justifying their scoring request. Rather, they too concluded that neither additional 30% AMGI Units nor additional deeper skewing were required under Section 11.9(c)(1) Income Level of Tenants of the QAP. Note that three of the referenced Applications, shown below, are listed in the TDHCA Application Log as having completed the programmatic review process without having to increase the number of 30% AMGI Units. We believe this suggests that staff is misinterpreting this section of the QAP and applying the rule inconsistently. Further, at the TDHCA Income Averaging Roundtable on May 25, 2018, one of the TDHCA guidelines under Scoring for the QAP and other MF Rules states “*We do not want to provide uninformed incentives for aggressive election structures that might place a development at risk in an effort to secure points*”

(emphasis added). This statement is counter to the Administrative Deficiency received which seemingly incentivizes deeper skewing of rents.

App #	Development Name	Urban/ Rural	Total Low-Income Units	Elected points under §11.9(c)(2)	Average Income committed for points under §11.9(c)(1)	Average Income	Review Status	Underwriting Status
19109	Verdin Square	Urban	87	Yes	54%	53.8%	C	C
19234	The Residences at Alsbury	Urban	72	Yes	54%	53.8%	C	UR
19237	Gatesville Trails	Rural	48	Yes	55%	55.0%	C	UR

**Conclusion**

In conclusion, we agree with the Scoring Notice in that targeting 20% of the total Low-Income Units at The Legacy at Piedmont qualifies the Application for the 30% Basis Boost and the 11 points for Rent Levels of the Tenants. However, because our Application is utilizing Average Income and our Average is 53.8%, it is additionally eligible for the full 16 points under Section 11.9(c)(1)(C).

Upon your review, should you have any questions or require additional information, please do not hesitate to contact us at your convenience. Also note, should the TDHCA deny the appeal, we would seek to appeal to the Board and would like to have our Application listed on the agenda for the next Board meeting.

Respectfully,

Dan Wilson  
 Authorized Representative of The Legacy at Piedmont, LP  
[dwilson@apcompanies.com](mailto:dwilson@apcompanies.com)

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 25, 2019**

Presentation, discussion, and possible action regarding awards of Direct Loan funds from the 2019-1 Multifamily Direct Loan Notice of Funding Availability to 9% Housing Tax Credit Layered Applications

**RECOMMENDED ACTION**

**WHEREAS**, the Board previously authorized release of the 2019-1 Multifamily Direct Loan Notice of Funding Availability (2019-1 NOFA) for up to \$34,557,797, which included \$11.5 million in Tax Credit Assistance Program loan repayments (TCAP Repayment Funds or TCAP RF), \$9,638,041 in National Housing Trust Fund (NHTF), \$8,919,756 in HOME funds, and \$4.5 million in NSP Round 1 Program Income (NSP1 PI), with the Application acceptance period beginning on January 14, 2019;

**WHEREAS**, the NOFA has previously been amended and has been further amended through two separate action items on the agenda for this meeting, increasing the amount available to \$57,743,041;

**WHEREAS**, the Department has previously awarded \$6,150,000 in Direct Loan funds to three Applications, leaving an available balance of \$51,593,041;

**WHEREAS**, HOME and NHTF awards totaling \$31,060,000 are being recommended under this Board item, which will result in \$20,533,041 remaining available, of which \$10 million in requests are currently under review;

**WHEREAS**, the Department has received 25 eligible Applications layered with 2019 9% Housing Tax Credits (HTC) by the Application deadline, with requests totaling \$55,078,796 for Multifamily Direct Loan (MFDL) awards under the NOFA;

**WHEREAS**, eight eligible 9% HTC layered Applications with Development Sites ineligible for HOME funds under the General set-aside received notices of oversubscription for Direct Loan funds in accordance with 10 TAC §13.5(f), one of which will be maintained on the waiting list for 9% HTC, one of which revised their Application to request Direct Loan funds from an undersubscribed set-aside (Supportive Housing/ Soft Repayment) and is included among the 14 award recommendations under this Board item, and six of which subsequently revised their financing to replace Direct Loan funds with other sources and are being recommended for 9% HTC without Direct Loan funds;

**WHEREAS**, 14 Applications have received reviews for compliance with program and previous participation requirements while [number] have received reviews for underwriting as of the time of this supplemental posting and are ranked as priority 9% HTC layered Applications under the NOFA;

**WHEREAS**, 12 priority 9% HTC layered Applications are eligible for HOME funds under the General set-aside totaling no more than \$27,945,000 based upon current underwriting, which is being finalized;

**WHEREAS**, three 9% HTC layered Applications with Development Sites in Corpus Christi are eligible for HOME funds by virtue of Tex. Gov't Code §2306.111(c)(1) being waived for Hurricane Harvey impacted areas by the Office of the Governor;

**WHEREAS**, two priority 9% HTC layered Applications are eligible for NHTF funds under the Supportive Housing/ Soft Repayment (SH/SR) set-aside totaling no more than \$3,115,000 based upon the Applicants' request, subject to underwriting and final program review and approval; and

**WHEREAS**, none of the 2019 9% HTC layered Applications will receive a Direct Loan award under the Priority 2 designation unless the 2019 9% HTC are also awarded as anticipated at the Board meeting of July 25, 2019;

**NOW, therefore, it is hereby**

**RESOLVED**, that awards of HOME funding under the General set-aside from the 2019-1 NOFA totaling no more than \$27,945,000, including \$2,500,000 for Casa de Manana Apartments (19051), \$3,000,000 for Riverwood Commons II (19179), \$2,745,000 for Heritage Heights at Big Spring (19202), up to \$3,400,000 for Lakeridge Villas (19214), \$1,050,000 for The Residences at Alsbury (19234), \$950,000 for The Reserves at Saddleback Ranch (19235), \$950,000 for Tool Cedar Trails (19236), \$2,850,000 for Franklin Trails (19238), \$1,700,000 for The Residences at Overlook Ridge (19304), \$2,475,000 for Avanti at South Bluff (19332), \$2,525,000 for Heritage Estates at Huntsville (19365), and \$3,800,000 for Avanti Legacy Bayside (19367) are hereby approved in the form presented at this meeting, and as amended by the Board for any appeals or tax credit allocation decisions previously heard and determined;

**FURTHER RESOLVED**, that awards of NHTF funding under the SH/SR set-aside from the 2019-1 Multifamily Direct Loan NOFA totaling no more than \$3,115,000, including \$2,000,000 for Foundation Village (19053) and \$1,115,000 for Heritage Heights at Abilene (19216), are hereby approved in the form presented at this meeting, and as amended by the Board for any appeals or tax credit allocation decisions previously heard and determined;

**FURTHER RESOLVED**, that these MDFL awards are subject to the Board subsequently awarding the Applicants 2019 9% HTC at this Board meeting;

**FURTHER RESOLVED**, that should the financial mechanisms needed to expend funds by the Department not be timely setup, as detailed in the action items for the Second and Third Amendments to the 2019-1 NOFA, the Department will use its existing prior year HOME funding for Applications 19051, 19179, and 19365, as they have elected points in accordance with 10 TAC §11.9(c)(8), which will allow those Applicants to close HOME financing by November 30, 2019;

**FURTHER RESOLVED**, that Applications 19053 and 19216 must have fulfilled all conditions to be able to enter into a Contract with the Department on or before February 5, 2020, or they may lose access to the NHTF funding in whole or in part, because HUD requires that the Department commit 2017 NHTF funding by that date;

**FURTHER RESOLVED**, that reductions to awarded amount or changes to the interest rate as a result of completed underwriting and/or future reevaluations by Real Estate Analysis staff may be approved by the Acting Director and reported to the Board, or the Acting Director may, in his or her sole discretion, bring the matter to the Board to approve, disapprove or otherwise address;

**FURTHER RESOLVED**, that failure by an awardee under the NOFA to submit a fully completed environmental review including any applicable reports to the Department up to 90 days after the award in accordance with 10 TAC §13.11(c), , may result in penalty or termination of the award;

**FURTHER RESOLVED**, that the Board's approval is conditioned upon satisfaction of all conditions of Executive Award Review and Advisory Committee (as further described in the Board item awarding the 2019 9% HTC at this Board meeting), underwriting conditions, conditions previously approved by the Board regarding 10 TAC §11.101(a)(2) related to Undesirable Site Features, and 10 TAC §11.101(a)(3) related to Neighborhood Risk Factors, the conditions included in the Background of this Action item, and completion of any other reviews required to ensure compliance with all applicable rules and requirements for Direct Loan funds, including but not limited to a 24 CFR Part 58 environmental review as applicable for HOME funds, and a NHTF environmental review under 24 CFR §93.301(f)(1); and

**FURTHER RESOLVED**, that 2019 9% HTC Applications that do not receive a 2019 HTC Application award today, regardless of whether or not they have previously requested MFDL funds, will be considered Priority 3 Applications in accordance with 10 TAC §13.4(c)(3) should they come off the waiting list before November 26, 2019, or decide to to apply to revise their financing subject to federal and state rules, including but not limited to 10 TAC §13.3(e)(13) and 13.8(h)(2)(C), and the 2019-1 NOFA, or the rules and NOFA in effect at the time of a future Application.

## **BACKGROUND**

On December 21, 2018, the 2019-1 NOFA was published in the *Texas Register* announcing the availability of up to \$34,557,797, which has subsequently been amended to increase the amount available to \$57,743,041 within four set-asides:

- \$11,638,041 in Supportive Housing/ Soft Repayment set-aside, composed of \$2 million in TCAP RF and \$9,638,041 in National Housing Trust Fund
- \$500,000 of HOME funds under the CHDO set-aside
- \$2 million in TCAP RF under the Preservation set-aside
- \$43,605,000 in the General set-aside, composed of \$27,945,000 in HOME, \$4.5 million in NSP1 Program Income, and \$11,160,000 in TCAP RF.

Should the awards under this action be approved, approximately \$20,533,041 will remain available under the NOFA with \$8,023,041 under the Supportive Housing/ Soft Repayment Set-Aside, \$500,000 under the CHDO set-aside, \$2,000,000 under the Preservation set-aside, and \$10,010,000 under the General Set-Aside. \$10 million in requests are currently under review.

Staff is recommending the following awards of HOME funds from the General set-aside:

TDHCA#	Property Name	Property City	Multifamily Direct Loan Request	Underwritten/ Recommended Amount
19051	Casa de Manana Apartments	Corpus Christi	\$2,500,000	\$2,500,000
19179	Riverwood Commons II	Bastrop	\$3,000,000	\$3,000,000
19202	Heritage Heights at Big Spring	Big Spring	\$2,745,000	\$2,745,000
19214	Lakeridge Villas	Ennis	\$3,400,000	To be determined
19234	The Residence at Alsbury	Burleson	\$1,050,000	\$1,050,000
19235	The Reserves at Saddleback Ranch	Wolfforth	\$950,000	\$950,000
19236	Tool Cedar Trails	Tool	\$950,000	\$950,000
19238	Franklin Trails	Franklin	\$2,850,000	\$2,850,000
19304	The Residences at Overlook Ridge	Canyon Lake	\$1,700,000	\$1,700,000
19332	Avanti at South Bluff	Corpus Christi	\$2,475,000	\$2,475,000
19365	Heritage Estates at Huntsville	Huntsville	\$2,525,000	\$2,525,000
19367	Avanti Legacy Bayside	Corpus Christi	\$3,800,000	\$3,800,000

Staff is recommending the following awards of NHTF funds from the SH/SR set-aside:

TDHCA#	Property Name	Property City	Multifamily Direct Loan Request	Underwritten/ Recommended Amount
19053	Waters Park Studios	Austin	\$2,000,000	\$2,000,000
19216	Heritage Heights at Abilene	Abilene	\$1,115,000	\$1,115,000

All Applications except 19051, which meets the definition of Reconstruction described in 24 CFR §92.2, and is therefore not subject to Site and Neighborhood Standards, have been found to

meet Site and Neighborhoods Standards requirements in accordance with 24 CFR §92.202 or 24 CFR §93.150, as applicable.

In addition to the standard conditions that apply to all HOME and NHTF awards, recommended awards for Applications 19051, 19053, and 19332 are subject to the demonstration of compliance with all applicable statutes and regulations surrounding relocation, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), and for the HOME awards Section 104d of the Housing and Community Development Act of 1974, as a result of occupied structures existing on the land that they are seeking to acquire. The Applicants must be able to demonstrate such compliance no later than the Commitment Notice execution date. Furthermore, the Direct Loan Award Letter & Loan Term Sheets will not be issued until the applicants have demonstrated compliance with the above-referenced regulations.

Applications 19051, 19179, and 19365, have elected points in accordance with 10 TAC §11.9(c)(8), which will require those Applicants to close all financing by November 30, 2019. As a result, these Applicants have provided the Department with documentation needed to obtain environmental clearance shortly after award.

Application 19179 is the proposed second phase of an existing development (Riverwood Commons (Application #11041)), which was previously funded with HOME in 2012. As a result, the recommended HOME award for Application 19179 is contingent upon having a distinct legal description for phase two that does not overlap with the legal description in phase one.

Application 19051 has HOME funds from the City of Corpus Christi. As underwritten, the units funded by the City's HOME funds must not be the same units funded by the Department's HOME funds, or a HOME match unit for the Department's HOME program.

Application 19216 originally applied for \$2,300,000 under the General set-aside but recently revised their financing in accordance with 10 TAC §13.5(f), as a result of the site being ineligible for HOME funds and TCAP-RF being oversubscribed – for which a letter was sent to the Applicant on May 9, 2019 – resulting in the Direct Loan request being reduced to \$1,115,000 under the SH/SR set-aside.

Applications 19053 and 19216 must have fulfilled all conditions to be able to enter into a Contract with the Department on or before February 5, 2020, or they may lose access to the NHTF funding in whole or in part. This is because HUD requires that the Department enter into a written agreement for 2017 NHTF funding by that date in accordance with 24 CFR §93.404(c)(2).

The following 9% HTC layered Applications will be maintained on the waiting list for 9% HTC, pending the outcome of the 9% HTC Application awards, but per 10 TAC §13.4(c)(2), they are not guaranteed the availability of MFDL funds and would not have Priority 2 status, should they come off the 9% waiting list:



TDHCA#	Property Name	Property City	Multifamily Direct Loan Request
19146	New Hope Housing Avenue J	Houston	\$1,909,398
19030	Freedom's Path at Kerrville II	Kerrville	\$1,909,398
19028	Casitas Lantana	Brownsville	\$500,000
19338	Ennis Trails	Ennis	\$1,150,000
19139	Hamilton Wolfe Lofts	San Antonio	\$4,000,000

The following 9% HTC Applications originally requested MFDL funds under the General set-aside, but were notified on May 9, 2019, that funding for Applications with Development Sites ineligible for HOME funds was oversubscribed, and have subsequently revised their financing in accordance with 10 TAC §13.5(f), to replace Direct Loan funds with other sources. Thus, they are being recommended for 9% HTC without Direct Loan funds:

TDHCA#	Property Name	Property City
19285	Everly Plaza	Fort Worth
19126	3104 Division Lofts	Arlington
19009	Churchill at Golden Triangle	Fort Worth
19136	Luna Flats	San Antonio
19330	Avanti Legacy at Emerald Point	McAllen
19331	Avanti at Emerald Point	McAllen

Staff is continuing to review four additional MFDL Applications that are not layered with 2019 9% Housing Tax Credits, and, if sufficient funding remains available, will review any additional Applications received prior to the deadline of November 26, 2019, to determine if they meet program, NOFA, set-aside, and underwriting requirements. Sufficient funding in some set-asides is currently available to recommend additional Applications for awards at future Board meetings.

The recommended Applications and award amounts are outlined in the attached award recommendations log. Ten of the 12 Applications recommended for HOME propose new construction, while two propose demolition and reconstruction. The two Applications recommended for NHTF propose new construction. In total, these 14 Applications will result in 220 Direct Loan-assisted units, and further support a total of 774 units. Each of the recommended Applications has been or is being underwritten and determined to meet the Real Estate Analysis rules and requirements, and each has received an acceptable previous participation review.



**2019-1 Multifamily Direct Loan Program - Application Log - July 18, 2019**

Per 2019-1 Multifamily Direct Loan Notice of Funding Availability published in the *Texas Register* on 12/21/2018, 1st Amendment to 2019-1 NOFA published in the *Texas Register* on 5/10/19, and 2nd and 3rd Amendments to 2019-1 NOFA to be approved at 7/25/19 Board Meeting

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §511.1(b) and 10.2(a) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications. This log will be updated periodically as staff completes application reviews and as more applications are received. The Multifamily Direct Loan Program - Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

*Applications sorted by date received within each set-aside.*

											TCAP RF	\$2,000,000
											NHTF	\$9,638,041
											Total Set Aside Funding Level:	<b>\$11,638,041</b>
TDHCA Application #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
19601	McMullen Square Apartments	San Antonio	Bexar	8	R	\$ 500,000	General	100	4	4%	3/12/2019	Recommended for TCAP RF award at 5/23/19 Board meeting
19146	New Hope Housing Avenue J	Houston	Harris	6	NC	\$ 1,909,398	Supportive Housing	100	11	9%	4/2/2019	
19053	Foundation Village	Austin	Travis	7	NC	\$ 2,000,000	Supportive Housing	88	11	9%	4/2/2019	To be recommended for NHTF at 7/25/19 Board meeting
19030	Freedom's Path at Kerrville II	Kerrville	Kerr	9	NC	\$ 1,909,398	Supportive Housing	38	38	9%	4/2/2019	
19216	Heritage Heights at Abilene	Abilene	Taylor	2	NC	\$ 1,115,000	Elderly	48	8	9%	4/2/2019	To be recommended for NHTF at 7/25/19 Board meeting
19506	Saline Creek Senior Village	Noonday	Smith	4	NC	\$ 2,000,000	Elderly	60	14	9%	6/3/2019	Received 9% HTC allocation in 2018
19419	Palladium Redbird	Dallas	Dallas	3	NC	\$ 2,000,000	General	300	33	4%	6/21/2019	
<b>Total Amount Requested Under SH/SR Set Aside</b>						<b>\$ 11,433,796</b>	<b>Total Units</b>	<b>734</b>	<b>119</b>			
<b>Total Amount Awarded Under SH/SR Set Aside</b>						<b>\$ 500,000</b>	<b>Total Units</b>	<b>100</b>	<b>4</b>			
<b>Total Amount Remaining Under SH/SR Set Aside (NHTF)</b>						<b>\$ 9,638,041</b>						
<b>Total Amount Remaining Under SH/SR Set Aside (TCAP RF)</b>						<b>\$ 1,500,000</b>						

											Total Set Aside Funding Level:	<b>\$500,000</b>
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
19028	Casitas Lantana	Brownsville	Cameron	11	NC	\$ 500,000	General	80	5	9%	4/2/2019	
<b>Total Amount Requested Under CHDO Set Aside</b>						<b>\$ 500,000</b>	<b>Total Units</b>	<b>80</b>	<b>5</b>			
<b>Total Amount Awarded Under CHDO Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>80</b>	<b>5</b>			
<b>Total Amount Remaining Under CHDO Set Aside</b>						<b>\$ 500,000</b>						

											Total Set Aside Funding Level:	<b>\$2,000,000</b>
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
19503	Sierra Royale Apartments	Robstown	Nueces	10	R	\$ 2,000,000	General	76	0		2/15/2019	Received 9% HTC allocation in 2004 for new construction
<b>Total Amount Requested Under Preservation Set Aside</b>						<b>\$ 2,000,000</b>	<b>Total Units</b>	<b>76</b>	<b>0</b>			
<b>Total Amount Awarded Under Preservation Set Aside</b>						<b>\$ -</b>	<b>Total Units</b>	<b>0</b>	<b>0</b>			
<b>Total Amount Remaining Under Preservation Set Aside</b>						<b>\$ 2,000,000</b>						

HOME (limited availability statewide)	\$27,945,000
NSP1 PI (available statewide, including PJs)	\$4,500,000
TCAP RF (available statewide, including PJs)	\$11,160,000
<b>NSP1 PI and TCAP RF Total</b>	<b>\$15,660,000</b>

											Total Set Aside Funding Level:	<b>\$43,605,000</b>
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
19406	Primrose Village	Weslaco	Hidalgo	11	NC	\$ -	General	242	22	4%	1/14/2019	Direct Loan request withdrawn
19502	City Square Lofts	Garland	Dallas	3	NC	\$ -	General	126	3	9%	3/1/2019	Withdrawn
19409	Grim Hotel Apartments	Texarkana	Bowie	4	ADR	\$ 4,000,000	General	93	25	4%	3/8/2019	Recommended for NSP1 PI award at 5/23/19 Board meeting
19504	Avanti at Sienna Palms Legacy	Weslaco ETJ	Hidalgo	11	NC	\$ 1,650,000	Elderly	114	11	9%	3/11/2019	Recommended for TCAP RF award at 5/23/19 Board meeting
19418	Bridge at Loyola Lofts	Austin	Travis	7	NC	\$ 4,000,000	General	204	67	4%	3/15/2019	

19051	Casa de Manana Apartments	Corpus Christi	Nueces	10	Recon	\$ 2,500,000	General	99	14	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19235	The Reserves at Saddleback Ranch	Wolfforth	Lubbock	1	NC	\$ 950,000	General	40	10	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19338	Ennis Trails	Ennis	Ellis	3	NC	\$ 1,150,000	Elderly	68	10	9%	4/2/2019	
19214	Lakeridge Villas	Ennis	Ellis	3	NC	\$ 3,400,000	Elderly	48	21	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19285	Everly Plaza	Fort Worth	Tarrant	3	NC	\$ 2,200,000	Elderly	88	24	9%	4/2/2019	
19126	3104 Division Lofts	Arlington	Tarrant	3	NC	\$ 4,000,000	General	75	67	9%	4/2/2019	
19009	Churchill at Golden Triangle	Fort Worth	Tarrant	3	NC	\$ 1,300,000	General	99	8	9%	4/2/2019	
19234	The Residences at Alsbury	Burleson	Johnson	3	NC	\$ 1,050,000	Elderly	83	11	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19236	Tool Cedar Trails	Tool	Henderson	4	NC	\$ 950,000	Elderly	48	10	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19365	Heritage Estates at Huntsville	Huntsville	Walker	6	NC	\$ 2,525,000	Elderly	48	19	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19179	Riverwood Commons II	Bastrop	Bastrop	7	NC	\$ 3,000,000	Elderly	36	17	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19095	Sagebrush Terrace	Jarrell	Williamson	7	NC	\$ -	Elderly	57	40	9%	4/2/2019	Withdrawn
19180	St. Elmo Commons	Austin	Travis	7	NC	\$ -	General	100	30	9%	4/2/2019	Terminated
19238	Franklin Trails	Franklin	Robertson	8	NC	\$ 2,850,000	Elderly	38	30	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19304	The Residences at Overlook Ridge	Canyon Lake	Comal	9	NC	\$ 1,700,000	Elderly	30	11	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19136	Luna Flats	San Antonio	Bexar	9	NC	\$ 4,000,000	General	69	67	9%	4/2/2019	
19139	Hamilton Wolfe Lofts	San Antonio	Bexar	9	NC	\$ 4,000,000	General	74	69	9%	4/2/2019	
19332	Avanti at South Bluff	Corpus Christi	Nueces	10	Recon	\$ 2,475,000	Elderly	42	15	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19367	Avanti Legacy Bayside	Corpus Christi	Nueces	10	NC	\$ 3,800,000	Elderly	60	23	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
19330	Avanti Legacy at Emerald Point	McAllen	Hidalgo	11	NC	\$ 1,050,000	Elderly	90	6	9%	4/2/2019	
19331	Avanti at Emerald Point	McAllen	Hidalgo	11	NC	\$ 2,000,000	General	72	11	9%	4/2/2019	
19202	Heritage Heights at Big Spring	Big Spring	Howard	12	NC	\$ 2,745,000	Elderly	66	20	9%	4/2/2019	To be recommended for HOME at 7/25/19 Board meeting
<b>Total Amount Requested Under General Set Aside: Development Sites in HOME-eligible areas</b>						\$ 33,095,000	<b>Total Units</b>	655	224			
<b>Total Amount Requested Under General Set Aside: Development Sites in non-HOME-eligible areas</b>						\$ 24,200,000	<b>Total Units</b>	1,353	385			
<b>Total Amount Requested Under General Set Aside: TOTAL</b>						\$ 57,295,000	<b>Total Units</b>	2,008	609			
<b>Total Amount Awarded Under General Set Aside (HOME)</b>						\$ -	<b>Total Units</b>	0	0			
<b>Total Amount Awarded Under General Set Aside (TCAP RF)</b>						\$ 1,650,000	<b>Total Units</b>	114	11			
<b>Total Amount Awarded Under General Set Aside (NSP1 PI)</b>						\$ 4,000,000	<b>Total Units</b>	93	25			
<b>Total Amount Remaining Under General Set Aside (HOME)</b>						\$ 27,945,000						
<b>Total Amount Remaining Under General Set Aside (TCAP RF)</b>						\$ 9,510,000						
<b>Total Amount Remaining Under General Set Aside (NSP1 PI)</b>						\$ 500,000						

1 = Housing Activity: New Construction=NC, Rehabilitation=R, ADR = Adaptive Reuse, Recon = Reconstruction

2 = Layering of Other Department Funds: 9%+9% Competitive Tax Credits, 4%+4% Tax Credit Program

3 = Date Received: The date that the application, all required 3rd Party Reports, and Application Fees (if applicable) were received. All 2019 9%-layered applications were considered received 4/2/19 in accordance with 10 TAC §13.4(c)(2).

8g

# 19003 The Legacy at Piedmont - Application Summary

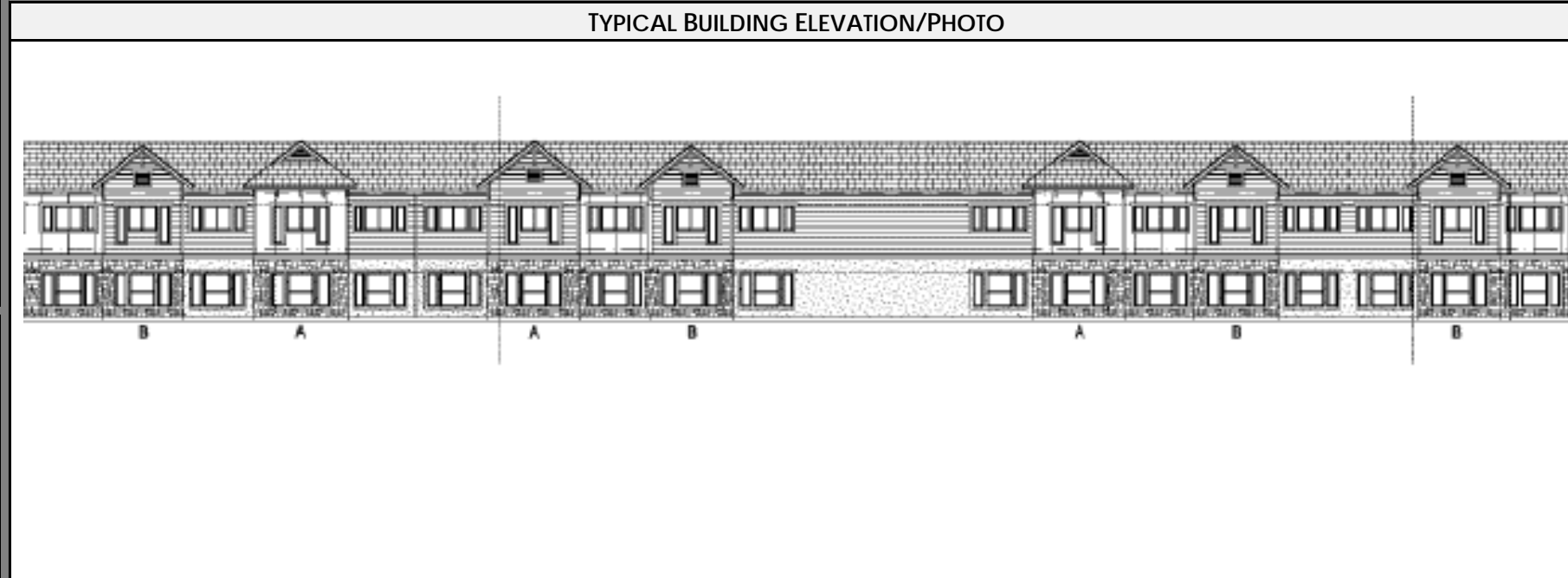
REAL ESTATE ANALYSIS DIVISION

July 19, 2019

PROPERTY IDENTIFICATION	
Application #	19003
Development	The Legacy at Piedmont
City / County	San Antonio / Bexar
Region/Area	9 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

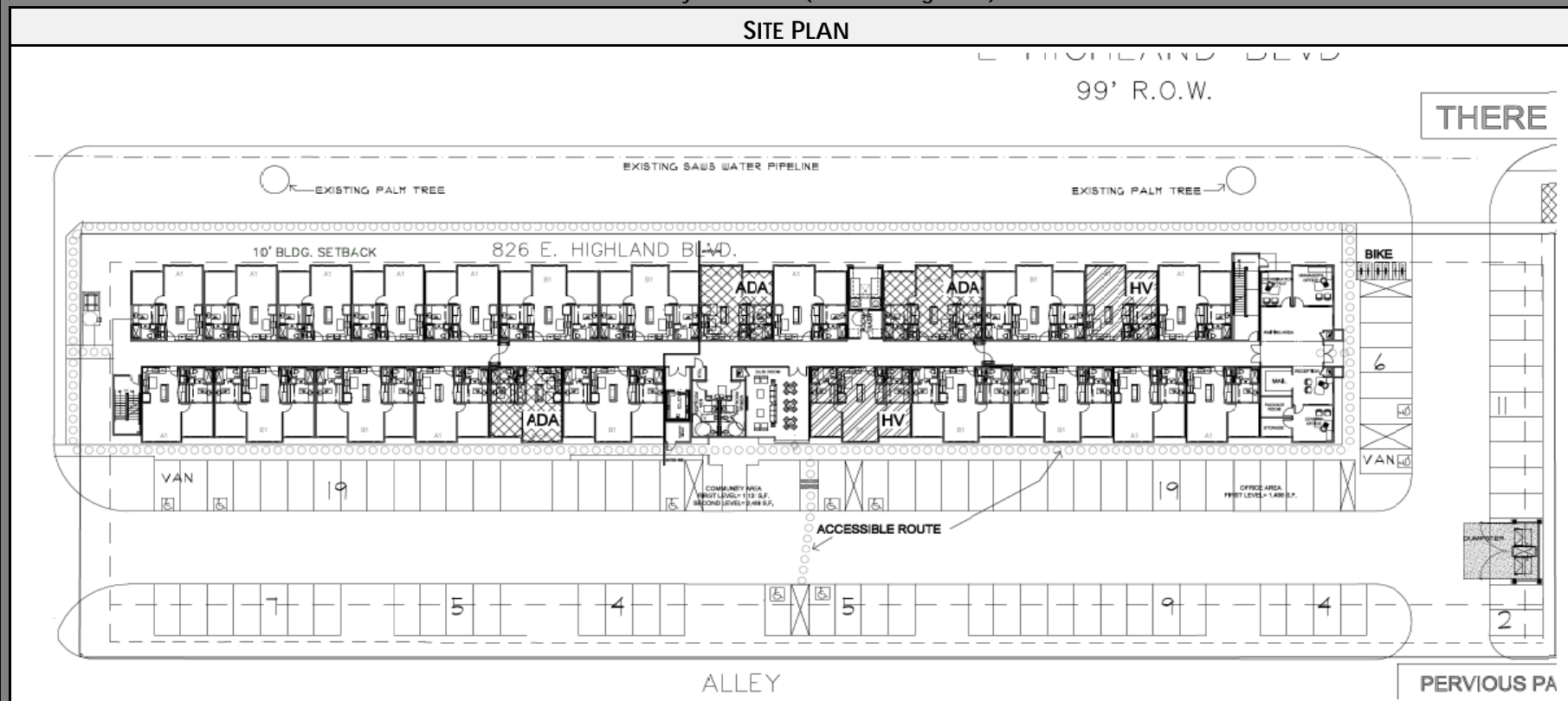
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (9% Credit)	\$1,213,281	\$1,208,945	\$24,672/Unit	\$1.00

KEY PRINCIPAL / SPONSOR		
Atlantic Pacific Companies - MM Randy Weisburd Toby Williams - BMAT, LLC -GM Madhouse Development-Henry Flores-Consultant		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	10	20%
1	30	61%	40%	-	0%
2	19	39%	50%	-	0%
3	-	0%	60%	39	80%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>49</b>	<b>100%</b>	<b>TOTAL</b>	<b>49</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS					
Pro Forma Underwritten			Applicant's Pro Forma		
Debt Coverage	✓ 1.31	Expense Ratio	⚠ 61.8%		
Breakeven Occ.	✓ 84.1%	Breakeven Rent	\$578		
Average Rent	\$638	B/E Rent Margin	✓ \$60		
Property Taxes	\$580/unit	Exemption/PILOT	0%		
Total Expense	\$4,509/unit	Controllable	\$2,859/unit		



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	✓ 1.2%		
Highest Unit Capture Rate	✓ 3%	1 BR/60%	24
Dominant Unit Cap. Rate	✓ 3%	1 BR/60%	24
Premiums (↑60% Rents)			
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	737 SF	Density	28.5/acre
Acquisition	\$27K/unit		\$1,326K
Building Cost	\$113.50/SF	\$84K/unit	\$4,100K
Hard Cost		\$117K/unit	\$5,724K
Total Cost		\$285K/unit	\$13,941K
Developer Fee	\$1,977K	(19% Deferred)	Paid Year: 11
Contractor Fee	\$801K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Wells Fargo	16/35	6.25%	\$1,480,000	1.31	City of San Antonio	0/0	0.00%	\$500	1.31	Wells Fargo	\$12,088,246
										The Legacy at Piedmont Development,	\$371,800
										Additional (Excess) Funds Req'd	(\$0)
<b>TOTAL DEBT (Must Pay)</b>			<b>\$1,480,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$500</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$12,460,046</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$1,480,500</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$13,940,546</b>

**CONDITIONS**

- Receipt and acceptance by Cost Certification:
  - Certification that testing for asbestos and lead-based paint was performed on the existing structure prior to demolition, and if necessary, a certification that any appropriate abatement procedures were implemented.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

	AERIAL PHOTOGRAPH(s)																
<table border="1"> <thead> <tr> <th colspan="2">RISK PROFILE</th> </tr> </thead> <tbody> <tr> <td colspan="2">STRENGTHS/MITIGATING FACTORS</td> </tr> <tr> <td>▫</td> <td>Capture rates</td> </tr> <tr> <td>▫</td> <td>Location</td> </tr> <tr> <td colspan="2">WEAKNESSES/RISKS</td> </tr> <tr> <td>▫</td> <td>Expense sensitive cash flow</td> </tr> <tr> <td>▫</td> <td>Assumes sales tax exemption</td> </tr> <tr> <td>▫</td> <td>Credit price risk</td> </tr> </tbody> </table>	RISK PROFILE		STRENGTHS/MITIGATING FACTORS		▫	Capture rates	▫	Location	WEAKNESSES/RISKS		▫	Expense sensitive cash flow	▫	Assumes sales tax exemption	▫	Credit price risk	
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<table border="1"> <thead> <tr> <th colspan="2">AREA MAP</th> </tr> </thead> <tbody> <tr> <td colspan="2"> </td> </tr> </tbody> </table>	AREA MAP																
AREA MAP																	

# 19204 Cottonview Terrace - Application Summary





REAL ESTATE ANALYSIS DIVISION

July 18, 2019

PROPERTY IDENTIFICATION	
Application #	19204
Development	Cottonview Terrace
City / County	Taft / San Patricio
Region/Area	10 / Rural
Population	General
Set-Aside	At-Risk
Activity	Acquisition/Rehab (Built in 1966)

RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (9% Credit)	\$1,090,000	\$1,090,000	\$15,139/Unit	\$0.91

KEY PRINCIPAL / SPONSOR		
Taft Housing Authority Housing Solutions Alliance Arthur Schultz Jr. Micah Strange		
Related Parties	Contractor - No	Seller - Yes

TYPICAL BUILDING ELEVATION/PHOTO	
Tract 1	Tract 2
	
Tract 3	Tract 4
	

UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	8	11%
1	8	11%	40%	-	0%
2	28	39%	50%	15	21%
3	26	36%	60%	49	68%
4	10	14%	MR	-	0%
<b>TOTAL</b>	<b>72</b>	<b>100%</b>	<b>TOTAL</b>	<b>72</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.16	Expense Ratio	74.8%
Breakeven Occ.	91.7%	Breakeven Rent	\$602
Average Rent	\$624	B/E Rent Margin	\$22
Property Taxes	\$143/unit	Exemption/PILOT	0%
Total Expense	\$5,431/unit	Controllable	\$3,762/unit

MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (30% Maximum)			4.0%
Highest Unit Capture Rate	14%	3 BR/50%	24
Dominant Unit Cap. Rate	9%	2 BR/50%	24
Premiums (↑60% Rents)	N/A	N/A	
Rent Assisted Units	72	100% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	837 SF	Density	6.2/acre
Acquisition		\$40K/unit	\$2,900K
Building Cost	\$102.53/SF	\$86K/unit	\$6,183K
Hard Cost		\$105K/unit	\$7,593K
Total Cost		\$219K/unit	\$15,756K
Developer Fee	\$1,550K	(1% Deferred)	Paid Year: 1
Contractor Fee	\$962K	30% Boost	Yes

REHABILITATION COSTS / UNIT			
Site Work	\$7K	7%	Finishes/Fixtures \$54K 51%
Building Shell	\$21K	20%	Amenities \$3K 3%
HVAC	\$7K	6%	Total Exterior \$31K 32%
Appliances	\$4K	4%	Total Interior \$65K 68%

**SITE PLAN**



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Home Federal Bank	17/30	6.80%	\$1,450,000	1.16	Taft Housing Authority	20/30	2.00%	\$250,000	1.16	R4 Capital, LLC	\$9,917,909
					City of Taft	0/0	0.00%	\$250	1.16	R4 Capital, LLC-Federal HTC	\$1,832,773
<b>TOTAL DEBT (Must Pay)</b>			<b>\$1,450,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$250,250</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$14,055,860</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$1,700,250</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$15,756,110</b>

**CONDITIONS**

- 1 Receipt and acceptance by 10% test:
    - a: Executed CHAP agreement with HUD.
  - 2 Receipt and acceptance by Cost Certification:
    - a: Certification of comprehensive testing for asbestos and lead-based paint; that any appropriate abatement procedures were implemented; and that any remaining asbestos-containing materials or lead-based paint are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.
    - b: Certification of testing for lead in drinking water as recommended by the ESA provider unless all existing water piping will be replaced during the renovation and that any appropriate abatement procedures were implemented.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**RISK PROFILE**

**STRENGTHS/MITIGATING FACTORS**

- 100% RAD rental assistance
- Currently 93% occupied
- Owned by Housing Authority

**WEAKNESSES/RISKS**

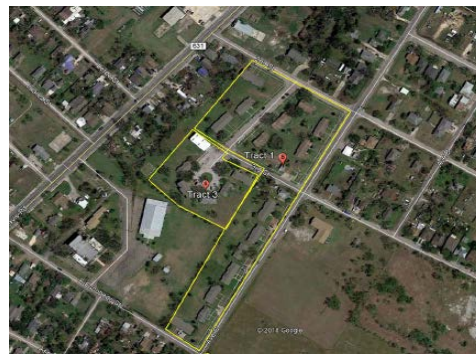
- 75% Expense Ratio
- DCR drops below 1.0 in year 12
- Historically higher expenses

**AREA MAP**

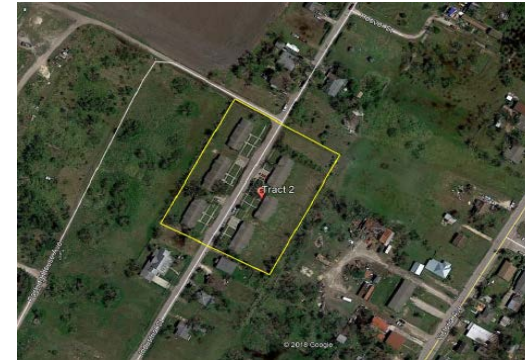


**AERIAL PHOTOGRAPH(S)**

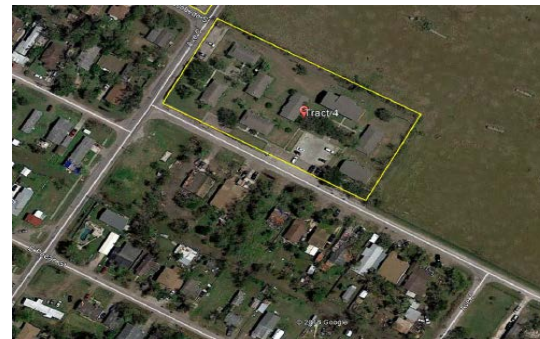
**Tract 1 and 3**



**Tract 2**



**Tract 4**





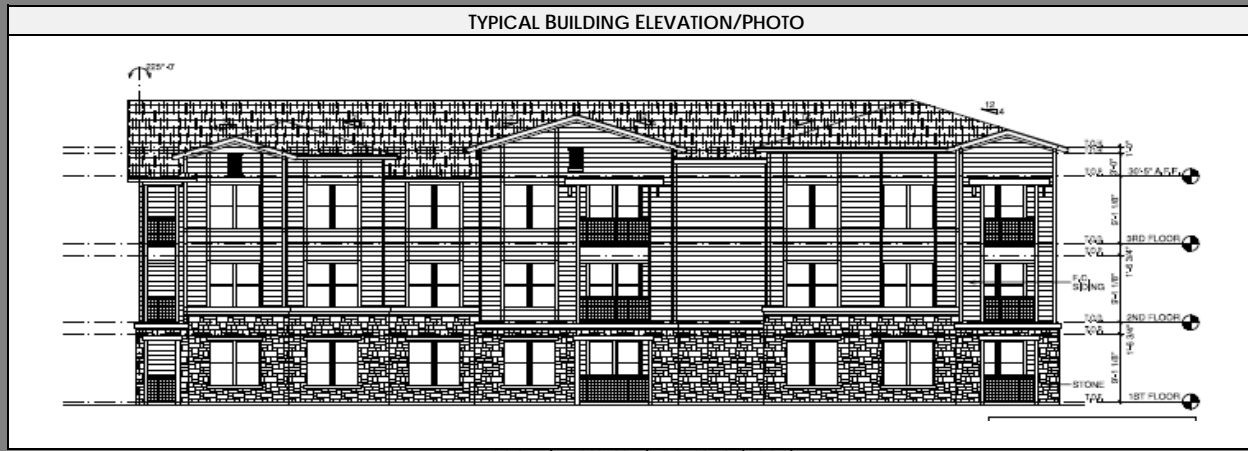
# 19216 Heritage Heights at Abilene - Application Summary

REAL ESTATE ANALYSIS DIVISION  
July 19, 2019

PROPERTY IDENTIFICATION	
Application #	19216
Development	Heritage Heights at Abilene
City / County	Abilene / Taylor
Region/Area	2 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

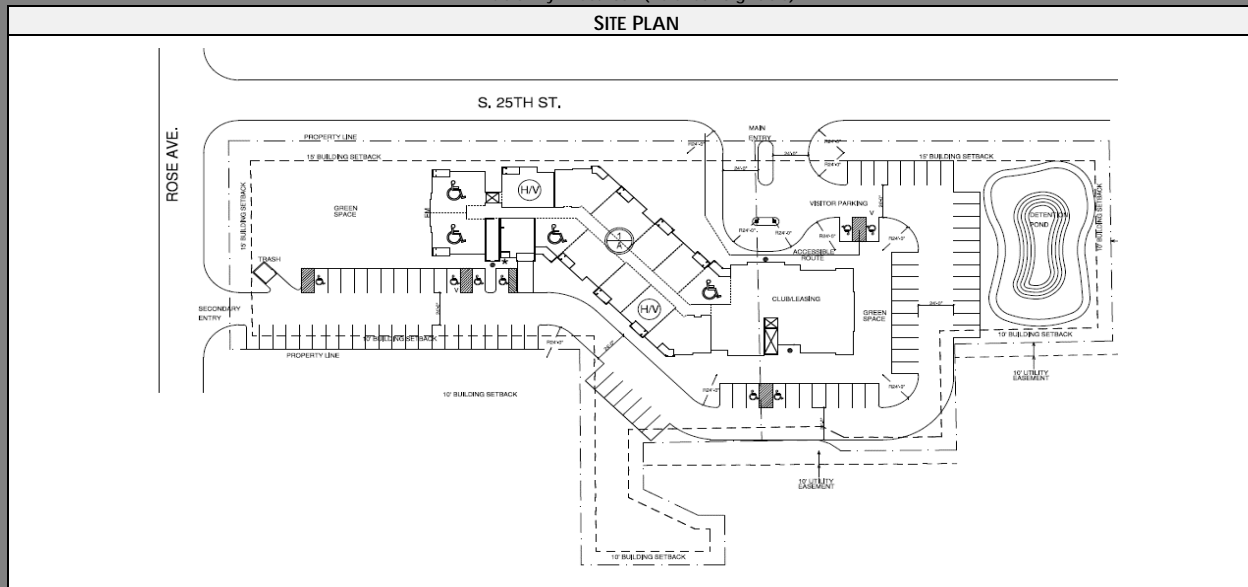
RECOMMENDATION						
TDHCA Program	Request	Recommended				
LIHTC (9% Credit)	\$600,000	\$600,000	\$12,500/Unit	\$0.85		
	Amount	Rate	Amort	Term	Lien	
Multifamily Direct Loan (Soft Repayable)	\$1,115,000	0.00%	30	18	2	

KEY PRINCIPAL / SPONSOR		
Generation Housing Development, LLC Adrian Iglesias Chris Applequist Audrey Martin (Consultant)		
Related Parties	Contractor - No	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	4	8%
1	22	46%	40%	-	0%
2	26	54%	50%	8	17%
3	-	0%	60%	28	58%
4	-	0%	MR	8	17%
<b>TOTAL</b>	<b>48</b>	<b>100%</b>	<b>TOTAL</b>	<b>48</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.27	Expense Ratio	61.6%
Breakeven Occ.	84.9%	Breakeven Rent	\$607
Average Rent	\$663	B/E Rent Margin	\$56
Property Taxes	\$647/unit	Exemption/PILOT	0%
Total Expense	\$4,598/unit	Controllable	\$3,010/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	0.6%		
Highest Unit Capture Rate	2%	2 BR/60%	16
Dominant Unit Cap. Rate	2%	2 BR/60%	16
Premiums (↑60% Rents)	#N/A	#N/A	
Rent Assisted Units	N/A		

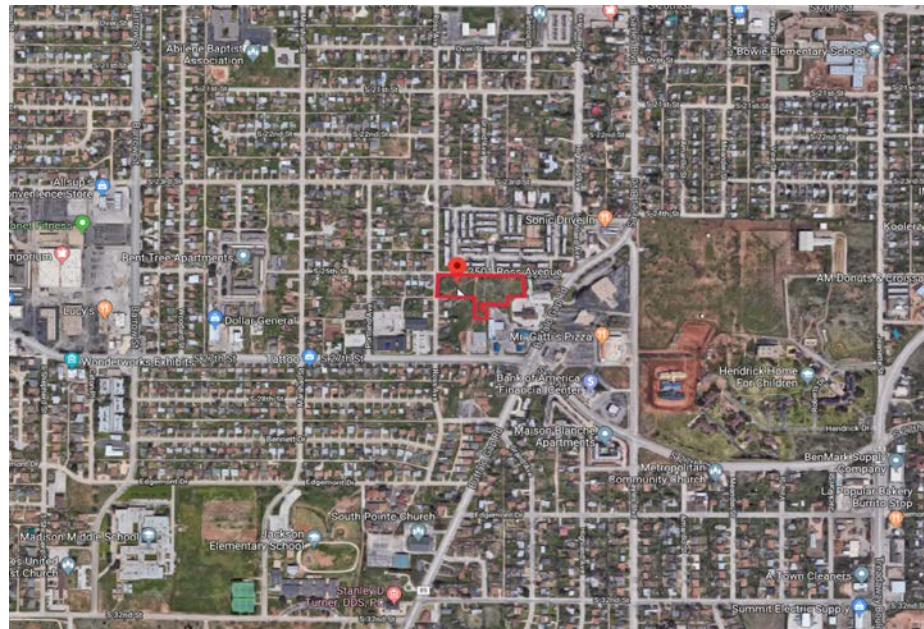
DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	844 SF	Density	18.0/acre
Acquisition	\$09K/unit	\$445K	
Building Cost	\$82.85/SF	\$3,355K	
Hard Cost	\$86K/unit	\$4,118K	
Total Cost	\$160K/unit	\$7,665K	
Developer Fee	\$1,136K	(23% Deferred)	Paid Year: 9
Contractor Fee	\$577K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Bellwether	18/35	5.25%	\$1,135,000	1.94	BGO Architects	0/0	0.00%	\$55,750	1.27	National Equity Fund	\$5,099,490	
TDHCA (Multifamily Direct Loan (Soft Repayable))	18/30	0.00%	\$1,115,000	1.27	City of Abilene	0/0	0.00%	\$500	1.27	TX Reserve Development 2019, LLC	\$259,074	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$2,250,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$56,250</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$5,358,564</b>	
											<b>TOTAL DEBT SOURCES</b>	<b>\$2,306,250</b>
											<b>TOTAL CAPITALIZATION</b>	<b>\$7,664,814</b>

**CONDITIONS**

- 1 Receipt and acceptance before Direct Loan Closing
    - a: Substantially final construction contract with Schedule of Values.
    - b: Updated term sheets with substantially final terms from all lenders
    - c: Substantially final draft of limited partnership agreement.
    - d: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a 1.15 DCR.
    - e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
    - f: Updated TDHCA application exhibits (rent schedule, operating expenses, long-term pro forma, development cost schedule, schedule of sources)
  - 2 Receipt and acceptance by Carryover:
    - a: Results of Phase II ESA on the ground water impact from the adjacent dry cleaners and documentation of any additional cost required for any recommended remediation.
    - b: Results of a Vapor Encroachment Screening and documentation of any additional cost required for any recommended remediation.
  - 3 Receipt and acceptance by Cost Certification:
    - a: Certification that subsurface environmental investigation and Vapor Encroachment Screening was performed as specified in the ESA, and that any recommended mitigation measures were fully implemented.
    - b: Evidence that the units and buildings have met the requirements for use of a Green Discount Utility Allowance.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**AERIAL PHOTOGRAPH(S)**



**RISK PROFILE**

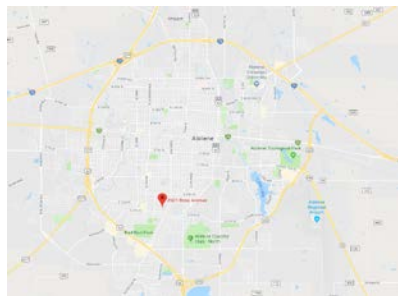
**STRENGTHS/MITIGATING FACTORS**

- ▣ Experienced Developer
- ▣ Elderly properties are 100% occupied
- ▣ Attractive design with many tenant amenities

**WEAKNESSES/RISKS**

- ▣ 64.12% Expense ratio
- ▣ Feasibility dependent on MFDL at 0%

**AREA MAP**



# 19230 Campanile on Fondren - Application Summary

REAL ESTATE ANALYSIS DIVISION

July 22, 2019

PROPERTY IDENTIFICATION		RECOMMENDATION			
Application #	19230	TDHCA Program	Request	Recommended	
Development	Campanile on Fondren	LIHTC (9% Credit)	\$1,500,000	\$1,500,000	\$11,029/Unit \$0.93
City / County	Houston / Harris				
Region/Area	6 / Urban				
Population	Elderly Limitation				
Set-Aside	General				
Activity	New Construction				

KEY PRINCIPAL / SPONSOR		
Les Kilday / Kilday Partners LLC		
Related Parties	Contractor - TBD	Seller - No

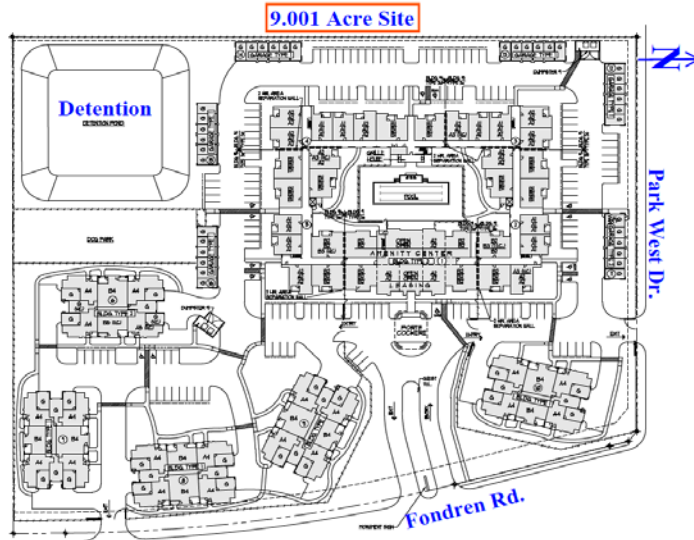
TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	10	0%
1	80	59%	40%	-	7%
2	56	41%	50%	40	0%
3	-	0%	60%	50	29%
4	-	0%	MR	36	37%
<b>TOTAL</b>	<b>136</b>	<b>100%</b>	<b>TOTAL</b>	<b>136</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	✓ 1.31	Expense Ratio	✓ 58.0%
Breakeven Occ.	✓ 83.2%	Breakeven Rent	\$723
Average Rent	\$806	B/E Rent Margin	✓ \$83
Property Taxes	\$758/unit	Exemption/PILOT	0%
Total Expense	\$5,292/unit	Controllable	\$3,158/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			✓ 2.4%
Highest Unit Capture Rate	✓ 5%	2 BR/50%	16
Dominant Unit Cap. Rate	✓ 4%	1 BR/60%	30
Premiums (↑60% Rents)	Yes		\$174/Avg.
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	857 SF	Density	15.1/acre
Acquisition		\$85K/unit	\$11,500K
Building Cost	\$82.81/SF	\$71K/unit	\$9,656K
Hard Cost		\$102K/unit	\$13,810K
Total Cost		\$240K/unit	\$32,665K
Developer Fee	\$2,455K	(17% Deferred)	Paid Year: 4
Contractor Fee	\$1,819K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Capitol One	15/35	6.00%	\$5,800,000	1.31	City of Houston HHCD	40/0	1.00%	\$12,500,000	1.31	Hudson Housing	\$13,948,605
					City of Houston	0/0	0.00%	\$500	1.31	Kilday Partners LLC	\$415,580
<b>TOTAL DEBT (Must Pay)</b>			<b>\$5,800,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$12,500,500</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$14,364,185</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$18,300,500</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$32,664,685</b>

**CONDITIONS**

- Receipt and acceptance by Commitment:
  - Revised term sheet from the City of Houston addressed to the City Borrower, as discussed below, for the \$12.5M of CDBG-DR funds with all terms and conditions.
  - Term sheet for the Project Loan from the City Borrower to the LIHTC partnership, as discussed below, for the \$12.5M of CDBG-DR funds with all terms and conditions.
  - City of Houston's completed cost allocation worksheet indicating eligible expenses to be funded with CDBG-DR proceeds.
- Receipt and acceptance by 10% test:
  - A Phase II ESA evaluating the impact of identified REC's, and documentation of any additional cost required for any recommended remediation.
- Receipt and acceptance by Cost Certification:
  - CPA prepared schedule allocating the CDBG-DR funds to costs that are tax credit basis eligible and non-tax credit basis eligible. If any CDBG-DR funds are used for tax credit basis eligible costs, indicate how those funds are being treated with respect to eligible basis. If any funds are being treated as bona fide debt and not deducted from eligible basis, provide an attorney opinion confirming that the debt is determined to be bona fide debt with a reasonable expectation that it will be repaid in full.
- Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:
  - Certification that testing for asbestos and lead-based paint was performed on the existing structures prior to demolition, and if necessary, a certification that any appropriate abatement procedures were implemented.
  - Only if the original plumbing systems were reused in development, certification of comprehensive testing for lead in the water possibly resulting from the use of lead pipes in the original plumbing, and if necessary, a certification that any recommended abatement procedures were fully implemented.
  - Certification of a subsurface site investigation including soil and groundwater sampling to determine potential impact to the subject property from USTs at the subject property and the east adjoining property, and that any recommended mitigation measures were implemented.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**RISK PROFILE**

**STRENGTHS/MITIGATING FACTORS**

- Gross Capture Rate of 2.4%, with unit capture rates only ranging from 1% to 5%
- Overall market occupancy is 98%, and the one senior property still monitored in the PMA is 100% occupied
- Attractive design, high visibility in-fill location should enhance marketability
- Developer experience

**WEAKNESSES/RISKS**

- Feasibility relies on Hurricane Harvey CDBG funds from the City of Houston in the amount of \$12.5M
- Potential for additional unforeseen environmental remediation costs

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**

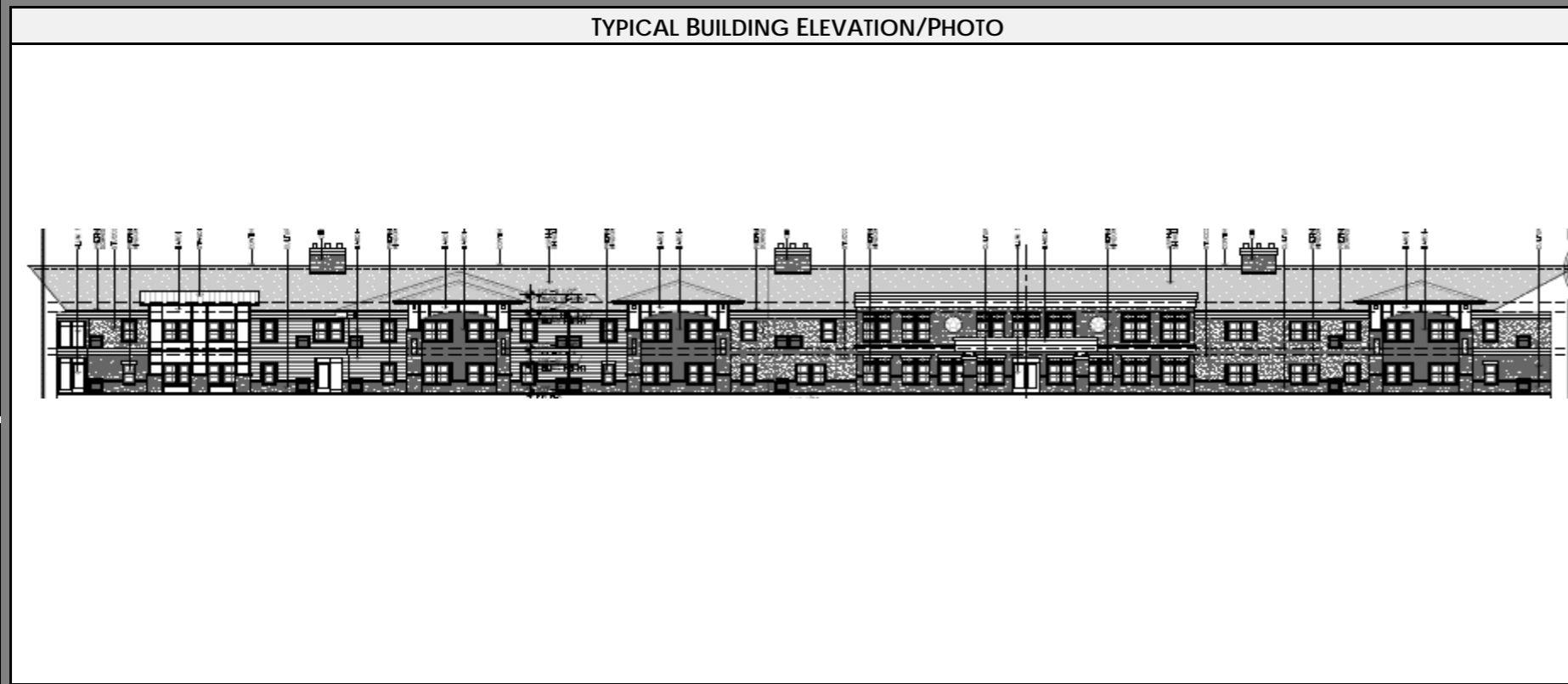


# 19234 The Residences at Alsbury - Application Summary

PROPERTY IDENTIFICATION	
Application #	19234
Development	The Residences at Alsbury
City / County	Burleson / Johnson
Region/Area	3 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

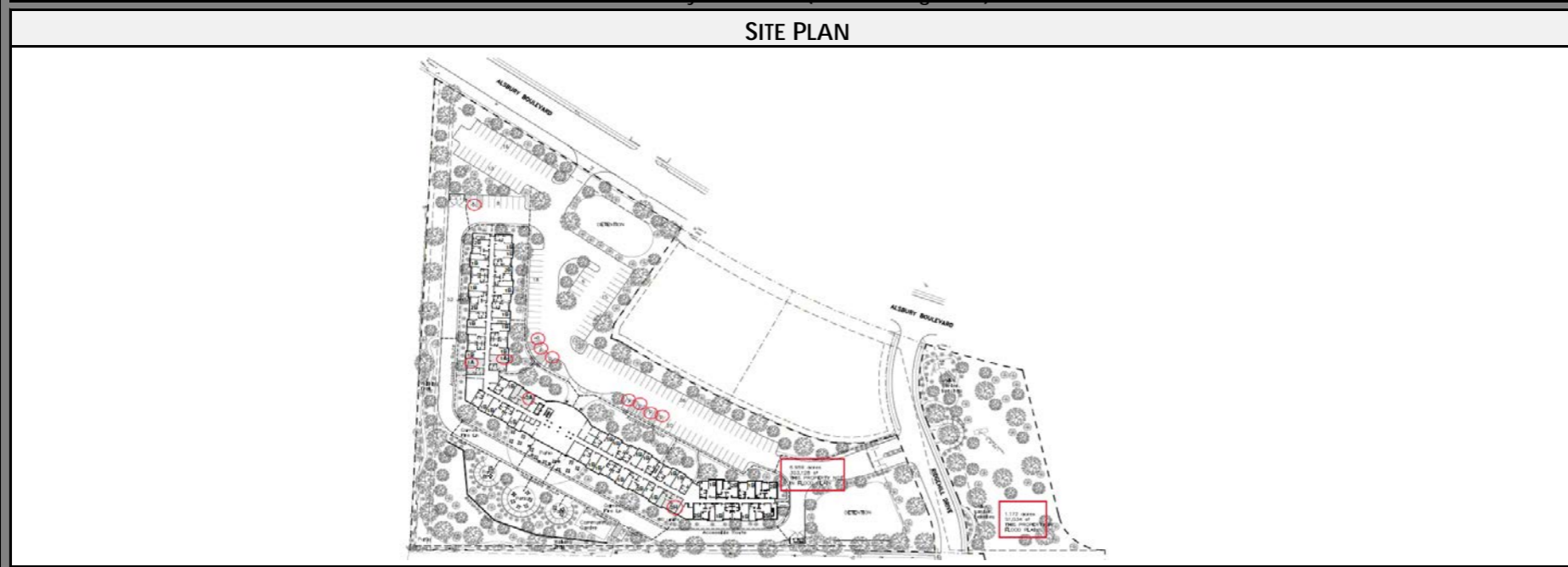
RECOMMENDATION						
TDHCA Program	Request	Recommended				
LIHTC (9% Credit)	\$1,194,300	\$1,194,300	\$14,389/Unit	\$0.92		
	Amount	Rate	Amort	Term	Lien	
MF Direct Loan Const. to Perm. (Repayable)	\$1,050,000	2.50%	30	15	2	

KEY PRINCIPAL / SPONSOR		
Overland Property Group Patrick Beatty Rex Vanier Brett Johnson Kit Sarai		
Related Parties	Contractor - No	Seller - no



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	20%	4	5%
1	63	76%	30%	5	6%
2	20	24%	40%	4	5%
3	-	0%	50%	20	24%
4	-	0%	60%	29	35%
			70%	5	6%
			80%	5	6%
			MR	11	13%
<b>TOTAL</b>	<b>83</b>	<b>100%</b>	<b>TOTAL</b>	<b>83</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.16	Expense Ratio	57.2%
Breakeven Occ.	87.1%	Breakeven Rent	\$761
Average Rent	\$810	B/E Rent Margin	\$49
Property Taxes	\$1,129/unit	Exemption/PILOT	0%
Total Expense	\$5,233/unit	Controllable	\$3,102/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			1.3%
Highest Unit Capture Rate	8%	1 BR/60%	23
Dominant Unit Cap. Rate	8%	1 BR/60%	23
Premiums (↑60% Rents)	Yes		\$361/Avg.
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	720 SF	Density	10.2/acre
Acquisition	\$18K/unit		\$1,500K
Building Cost	\$112.99/SF	\$81K/unit	\$6,754K
Hard Cost		\$112K/unit	\$9,324K
Total Cost		\$195K/unit	\$16,199K
Developer Fee	\$1,822K	(37% Deferred)	Paid Year: 12
Contractor Fee	\$1,237K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES			
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount		
Horizon Bank	15/35	6.00%	\$3,375,000	1.41	McPherson (MCP Group)	0/0	0.00%	\$53,550	1.16	Wells Fargo	\$11,046,170		
TDHCA	15/30	2.50%	\$1,050,000	1.16	City of Burleson	0/0	0.00%	\$500	1.16	Overland Property Group	\$673,974		
<b>TOTAL DEBT (Must Pay)</b>			<b>\$4,425,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$500</b>		<b>TOTAL EQUITY SOURCES</b>		<b>\$11,720,144</b>	
											<b>TOTAL DEBT SOURCES</b>	<b>\$4,425,500</b>	
											<b>TOTAL CAPITALIZATION</b>		<b>\$16,145,644</b>

**CONDITIONS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders
  - c: Substantially final draft of limited partnership agreement.
  - d: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a minimum 1.15 DCR.
  - e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
  - f: Updated TDHCA application exhibits (rent schedule, operating expenses, long-term pro forma, development cost schedule, schedule of sources)
  - g: Documentation that a noise study has been completed, and certification from the Architect that all recommendations from the noise study are incorporated into the development plans.
- 2 Receipt and acceptance by Cost Certification:
  - Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**RISK PROFILE**

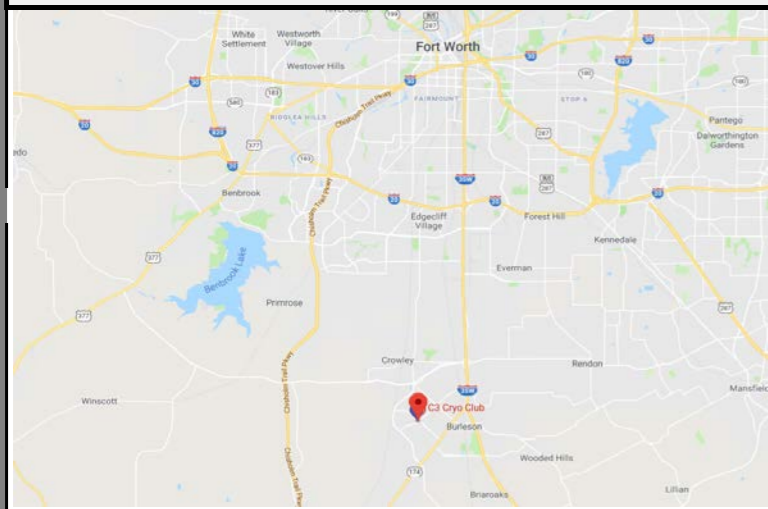
STRENGTHS/MITIGATING FACTORS

- Developer experience
- Low capture rates/high occupancies in PMA

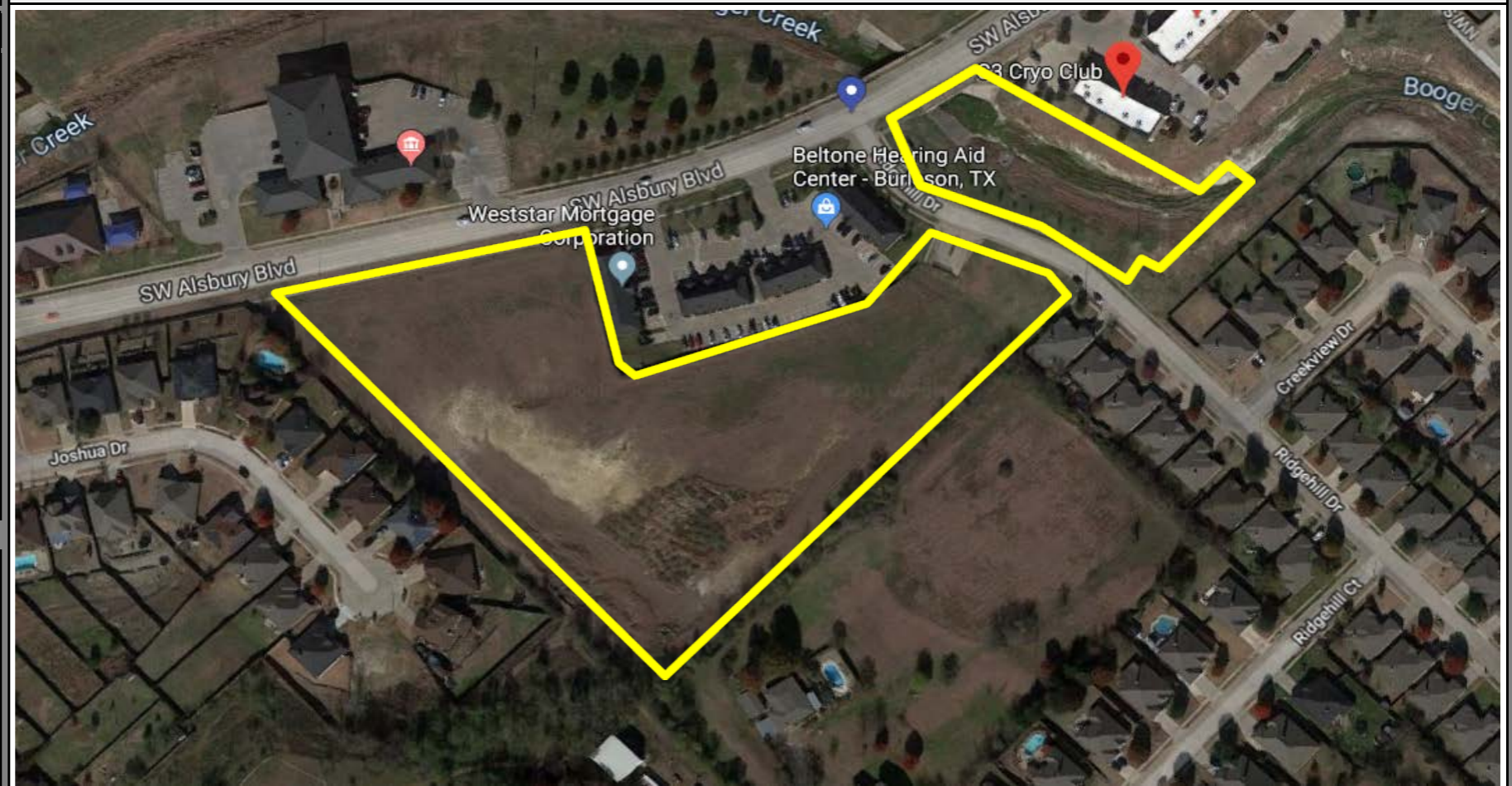
WEAKNESSES/RISKS

- Northeast parcel of property in Flood Zone AE

**AREA MAP**

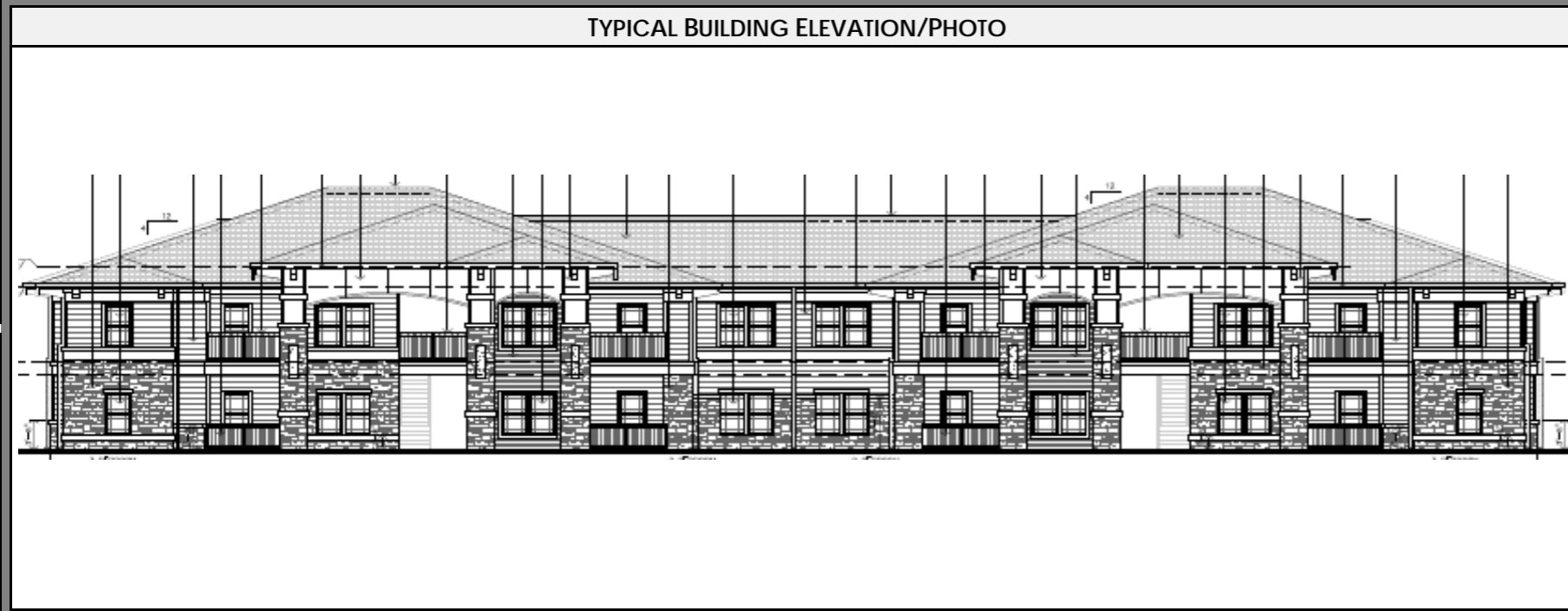


**AERIAL PHOTOGRAPH(S)**



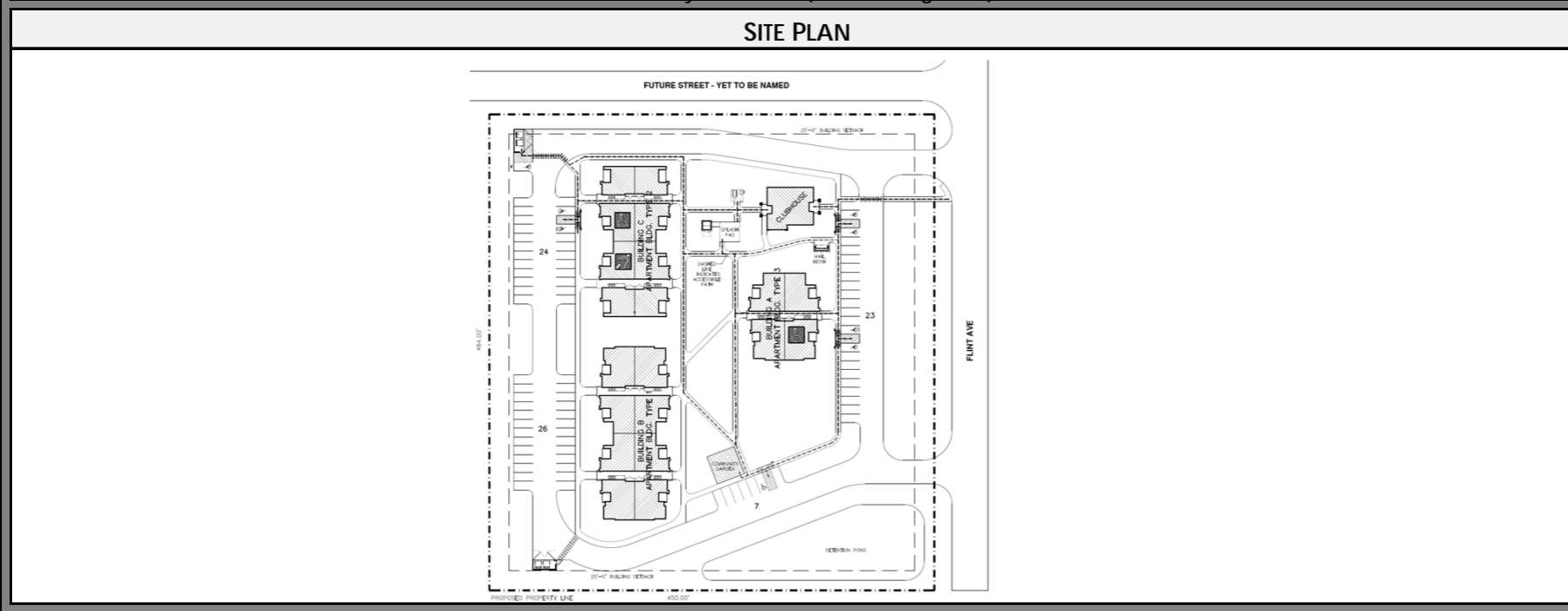
# 19235 The Reserve at Saddleback Ranch - Application Summary

PROPERTY IDENTIFICATION		RECOMMENDATION					KEY PRINCIPAL / SPONSOR		
Application #	19235	TDHCA Program	Request	Recommended		Overland Property Group Patrick Beatty Rex Vanier Brett Johnson Kit Sarai			
Development	The Reserve at Saddleback Ranch	LIHTC (9% Credit)	\$722,312	\$722,312	\$18,058/Unit			\$0.92	
City / County	Wolfforth / Lubbock		Amount	Rate	Amort			Term	Lien
Region/Area	1 / Rural	MF Direct Loan Const. to Perm. (Repayable)	\$950,000	2.50%	30			15	2
Population	General								
Set-Aside	General								
Activity	New Construction								
Related Parties	Contractor - No	Seller - No							



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	3	8%
1	8	20%	40%	-	0%
2	20	50%	50%	7	18%
3	12	30%	60%	24	60%
4	-	0%	MR	6	15%
<b>TOTAL</b>	<b>40</b>	<b>100%</b>	<b>TOTAL</b>	<b>40</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.16	Expense Ratio	56.1%
Breakeven Occ.	86.9%	Breakeven Rent	\$695
Average Rent	\$741	B/E Rent Margin	\$46
Property Taxes	\$965/unit	Exemption/PILOT	0%
Total Expense	\$4,706/unit	Controllable	\$2,654/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (30% Maximum)	0.5%		
Highest Unit Capture Rate	3%	3 BR/60%	7
Dominant Unit Cap. Rate	2%	2 BR/60%	13
Premiums (↑60% Rents)	Yes	\$193/Avg.	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	1,042 SF	Density	8.0/acre
Acquisition	\$15K/unit	\$600K	
Building Cost	\$88.31/SF	\$92K/unit	\$3,679K
Hard Cost	\$128K/unit		\$5,102K
Total Cost	\$231K/unit		\$9,232K
Developer Fee	\$1,392K	(25% Deferred)	Paid Year: 14
Contractor Fee	\$620K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Horizon Bank	15/35	6.00%	\$1,200,000	1.80	McPherson (MCP Group)	0/0	0.00%	\$48,450	1.16	MHEG	\$6,680,718
TDHCA	15/30	2.50%	\$950,000	1.16	City of Wolfforth	0/0	0.00%	\$250	1.16	Overland Property Group	\$353,047
<b>TOTAL DEBT (Must Pay)</b>			<b>\$2,150,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$48,700</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$7,033,765</b>
<b>TOTAL DEBT SOURCES</b>											<b>\$2,198,700</b>
<b>TOTAL CAPITALIZATION</b>											<b>\$9,232,465</b>

**CONDITIONS**

- Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders
  - c: Substantially final draft of limited partnership agreement.
  - d: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a 1.15 DCR.
  - e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
  - f: Updated TDHCA application exhibits (rent schedule, operating expenses, long-term pro forma, development cost schedule, schedule of sources)

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

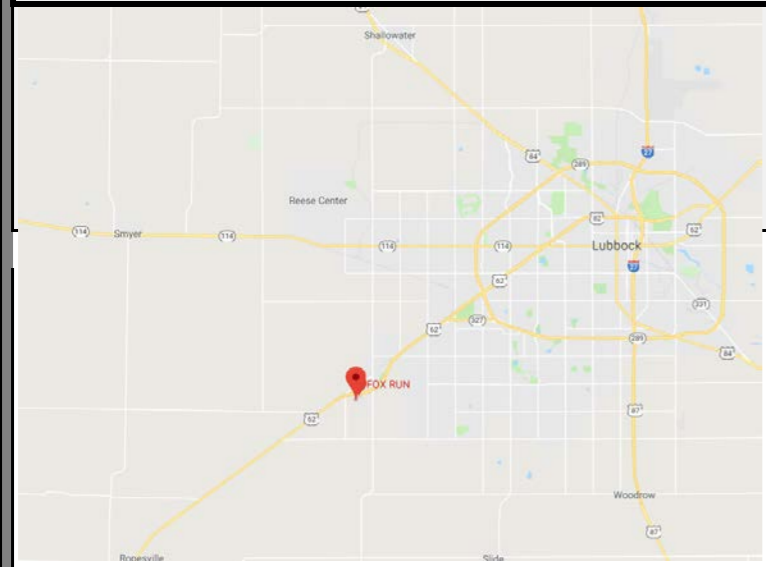
**RISK PROFILE**

**STRENGTHS/MITIGATING FACTORS**

- Developer experience
- Low capture rates/high occupancies in PMA

**WEAKNESSES/RISKS**

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**





# 19239 Talavera Lofts - Application Summary

PROPERTY IDENTIFICATION		RECOMMENDATION			
Application #	19239	TDHCA Program	Request	Recommended	
Development	Talavera Lofts	LIHTC (9% Credit)	\$1,440,347	\$1,440,347	\$15,656/Unit \$0.90
City / County	Austin / Travis				
Region/Area	7 / Urban				
Population	General				
Set-Aside	General				
Activity	New Construction				

KEY PRINCIPAL / SPONSOR		
DMA Development Company		
Diana McIver Janine Sisak JoEllen Smith		
Related Parties	Contractor - No	Seller - No

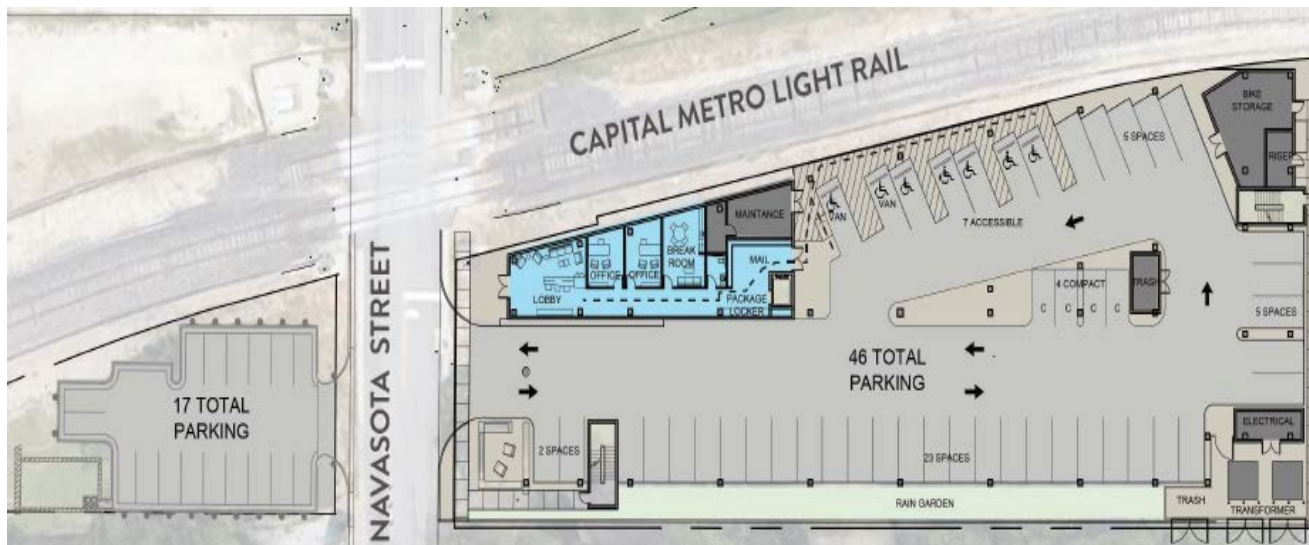
TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	52	57%	30%	15	16%
1	20	22%	40%	-	0%
2	12	13%	50%	46	50%
3	8	9%	60%	29	32%
4	-	0%	MR	2	2%
<b>TOTAL</b>	<b>92</b>	<b>100%</b>	<b>TOTAL</b>	<b>92</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.17	Expense Ratio	60.2%
Breakeven Occ.	87.1%	Breakeven Rent	\$727
Average Rent	\$773	B/E Rent Margin	\$46
Property Taxes	\$924/unit	Exemption/PILOT	0%
Total Expense	\$5,201/unit	Controllable	\$3,027/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	2.1%		
Highest Unit Capture Rate	19%	0 BR/50%	29
Dominant Unit Cap. Rate	19%	0 BR/50%	29
Premiums (↑60% Rents)	Yes	\$65/Avg.	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	720 SF	Density	112.6/acre
Acquisition		\$00K/unit	\$25K
Building Cost	\$128.24/SF	\$92K/unit	\$8,492K
Hard Cost		\$108K/unit	\$9,915K
Total Cost		\$194K/unit	\$17,814K
Developer Fee	\$2,240K	(1% Deferred)	Paid Year: 1
Contractor Fee	\$1,355K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Chase Bank, N.A.	18/30	6.50%	\$2,300,000	1.81	Austin Housing Finance Corp	40/40	0.00%	\$2,000,000	1.17	RBC Capital	\$12,961,827
										DMA Development Company, LLC	\$29,432
<b>TOTAL DEBT (Must Pay)</b>			<b>\$2,300,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$2,522,900</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$12,991,259</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$4,822,900</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$17,814,159</b>

**CONDITIONS**

- 1 Receipt and acceptance by Commitment:
    - Firm commitment for \$2M loan from Austin Housing Finance Corporation clearly stating all terms and conditions.
  - 2 Receipt and acceptance by 10% test:
    - Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.
  - 4 Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:
    - a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
    - b: Certification that if any tanks and/or unanticipated impacted media associated with the tanks are encountered during redevelopment, that the tanks were properly removed and disposed of in accordance with applicable regulations and impacted media should be characterized, removed and disposed of in accordance with applicable regulations.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**RISK PROFILE**

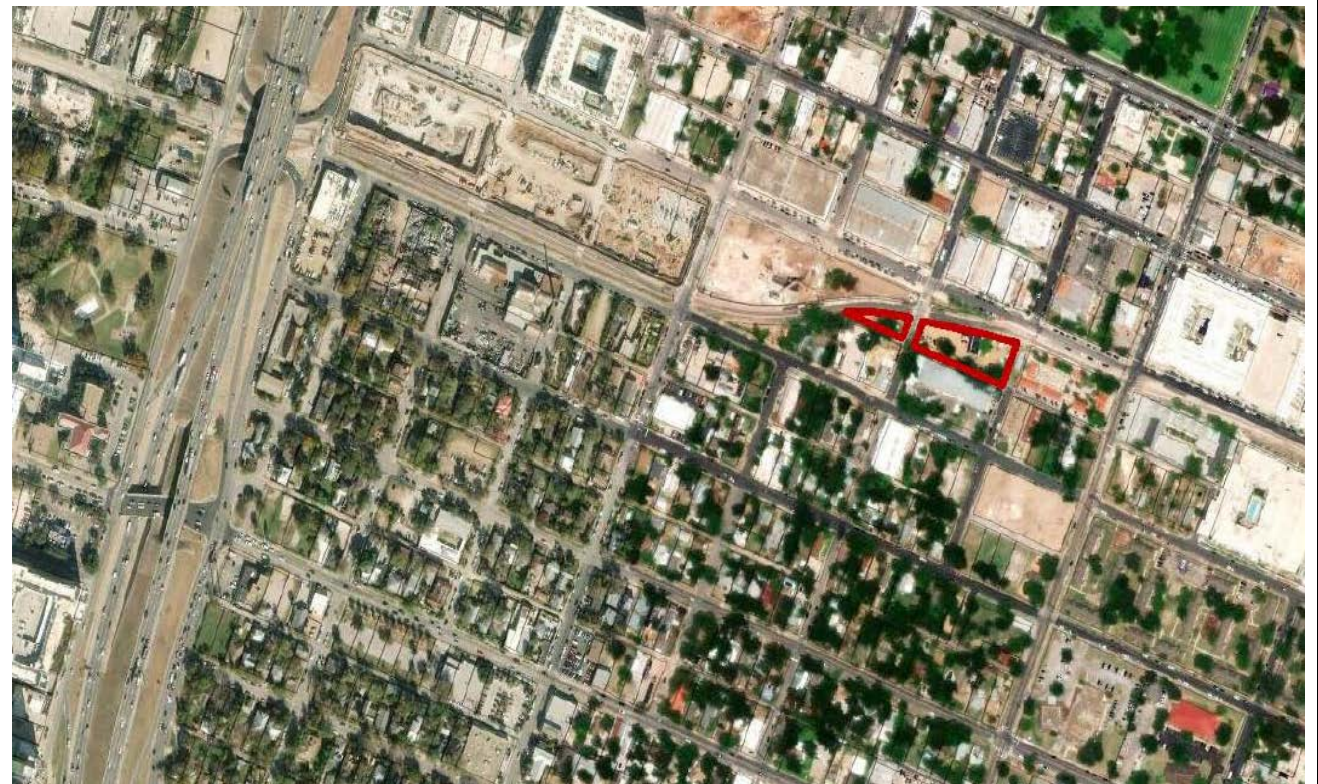
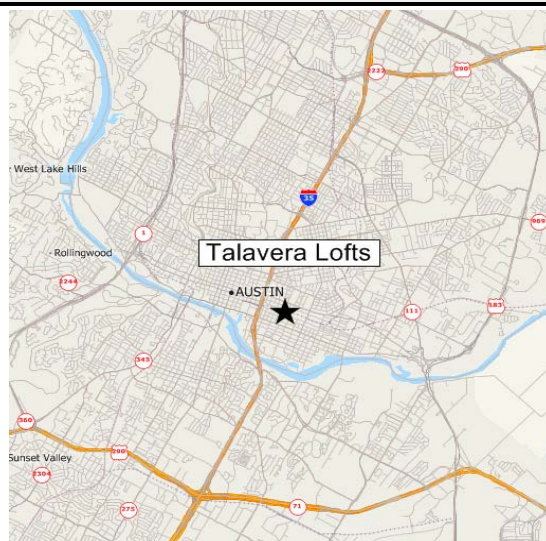
**STRENGTHS/MITIGATING FACTORS**

- Located in the Plaza Saltillo District - Transit Oriented
- Efficient use of a small site.
- Experienced developer

**WEAKNESSES/RISKS**

- Efficiencies are over 50% of unit mix
- Parking ratio 0.7 spaces per unit

**AREA MAP**



# 19244 Mariposa Apartment Homes at Harris Road - Application Summary

REAL ESTATE ANALYSIS DIVISION  
July 22, 2019

PROPERTY IDENTIFICATION	
Application #	19244
Development	Mariposa Apartment Homes at Harris Road
City / County	Arlington / Tarrant
Region/Area	3 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

RECOMMENDATION			
TDHCA Program	Request	Recommended	
LIHTC (9% Credit)	\$1,500,000	\$1,500,000	\$8,333/Unit \$0.94

KEY PRINCIPAL / SPONSOR		
Stuart Shaw / Stuart Shaw Family Development, LLC		
Related Parties	Contractor - Yes	Seller - No

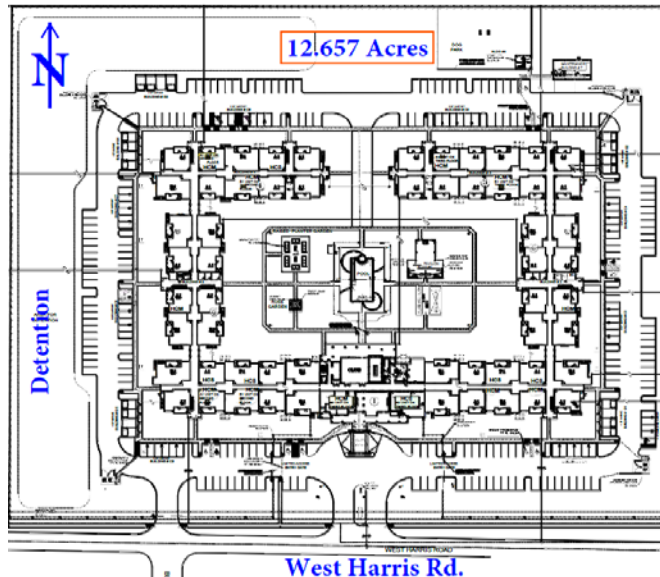
TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	10	0%
1	107	59%	40%	-	6%
2	73	41%	50%	40	0%
3	-	0%	60%	49	22%
4	-	0%	MR	81	27%
<b>TOTAL</b>	<b>180</b>	<b>100%</b>	<b>TOTAL</b>	<b>180</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.15	Expense Ratio	44.2%
Breakeven Occ.	85.7%	Breakeven Rent	\$915
Average Rent	\$989	B/E Rent Margin	\$74
Property Taxes	\$762/unit	Exemption/PILOT	0%
Total Expense	\$4,946/unit	Controllable	\$3,159/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)		5.5%	
Highest Unit Capture Rate	17%	1 BR/50%	28
Dominant Unit Cap. Rate	14%	1 BR/60%	37
Premiums (↑60% Rents)	#N/A	#N/A	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	931 SF	Density	14.2/acre
Acquisition		\$10K/unit	\$1,797K
Building Cost	\$87.65/SF	\$82K/unit	\$14,689K
Hard Cost		\$103K/unit	\$18,474K
Total Cost		\$172K/unit	\$30,924K
Developer Fee	\$3,575K	(36% Deferred)	Paid Year: 7
Contractor Fee	\$2,586K	30% Boost	Yes

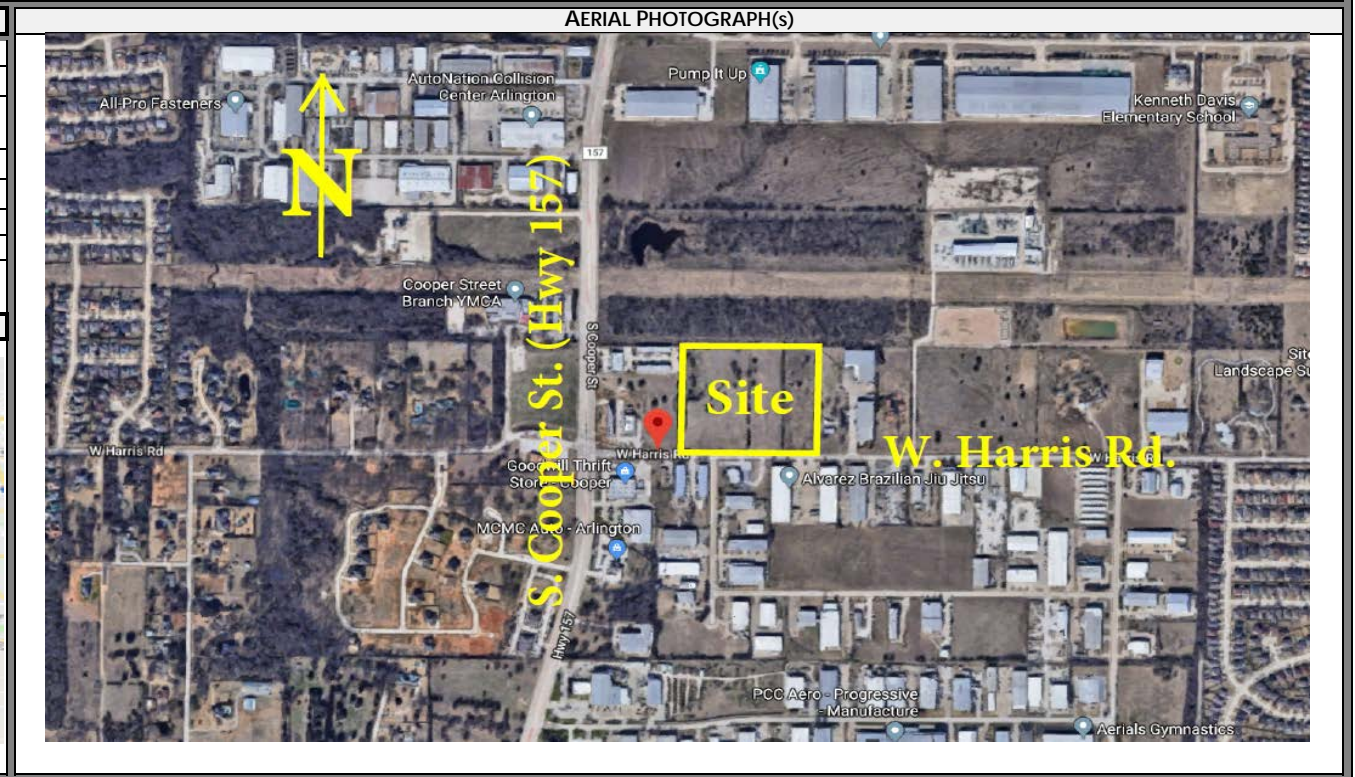
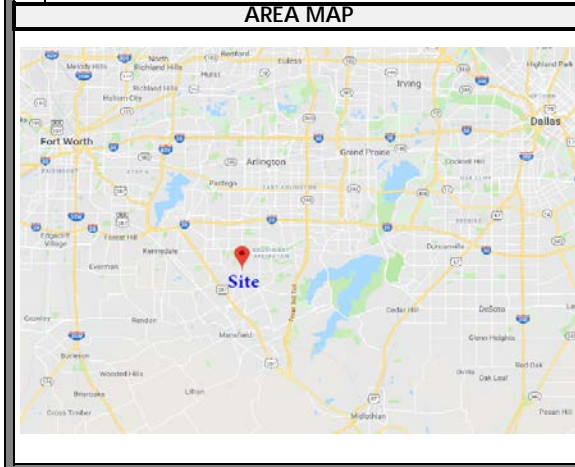
DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Bellwether Enterprise	15/35	5.30%	\$15,540,000	1.15	City of Arlington Fee Waiver	0/0	0.00%	\$500	1.15	RBC Capital Markets	\$14,098,590
										Stuart Shaw Family Development, LLC	\$1,285,315
										<b>TOTAL EQUITY SOURCES</b>	<b>\$15,383,905</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$15,540,500</b>
<b>TOTAL DEBT (Must Pay)</b>			<b>\$15,540,000</b>		<b>CASH FLOW DEBT / GRANTS</b>				<b>\$500</b>	<b>TOTAL CAPITALIZATION</b>	<b>\$30,924,405</b>

**CONDITIONS**

- 1 Receipt and acceptance by Commitment:
  - a: A revised term sheet from permanent lender that acknowledges Supportive Services pursuant to §11.302(d)(2)(K)(ii).
  - b: Evidence of appropriate zoning for the proposed development.
- 2 Receipt and acceptance by 10% test:
  - Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.
- 3 Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:
  - a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
  - b: Certification that any water wells encountered on the site during development were plugged in accordance with the Texas Water Well Driller's Rule 30 TAC 338.48, and that a Plugging Report (TCEQ-0055) was filed with the State of Texas Water Well Driller's Board.
  - c: Certification that any septic systems encountered on the site during development were removed per applicable regulations.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
□	Gross capture rate of 5.5%
□	The two affordable properties still monitored in PMA average 99% occupancy
□	Attractive design should enhance marketability
□	Developer experience
WEAKNESSES/RISKS	
□	Interest rate sensitivity
□	Feasibility dependent on high market premium rents on 45% of units



# 19304 The Residences at Overlook Ridge - Application Summary

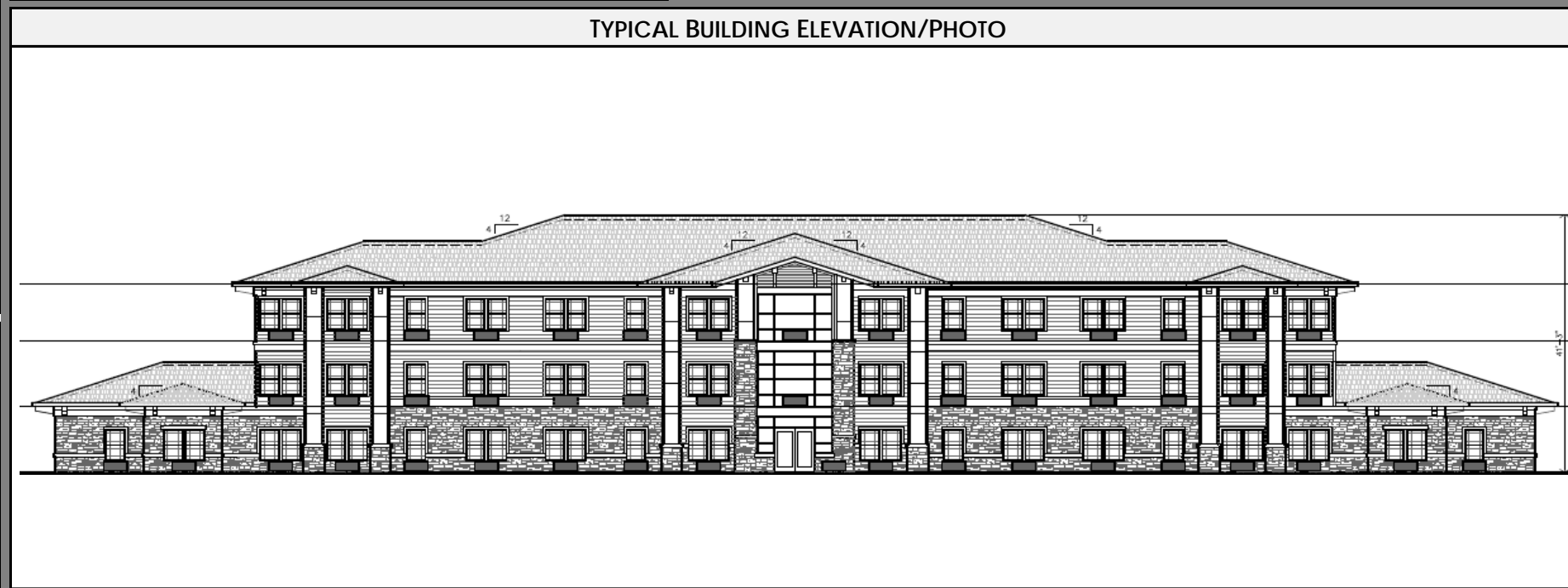
REAL ESTATE ANALYSIS DIVISION

July 19, 2019

PROPERTY IDENTIFICATION	
Application #	19304
Development	The Residences at Overlook Ridge
City / County	Canyon Lake / Comal
Region/Area	9 / Rural
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

RECOMMENDATION						
TDHCA Program	Request	Recommended				
LIHTC (9% Credit)	\$600,000	\$600,000	\$20,000/Unit	\$0.92		
	Amount	Rate	Amort	Term	Lien	
MF Direct Loan Const. to Perm. (Repayable)	\$1,700,000	2.00%	30	30	1	

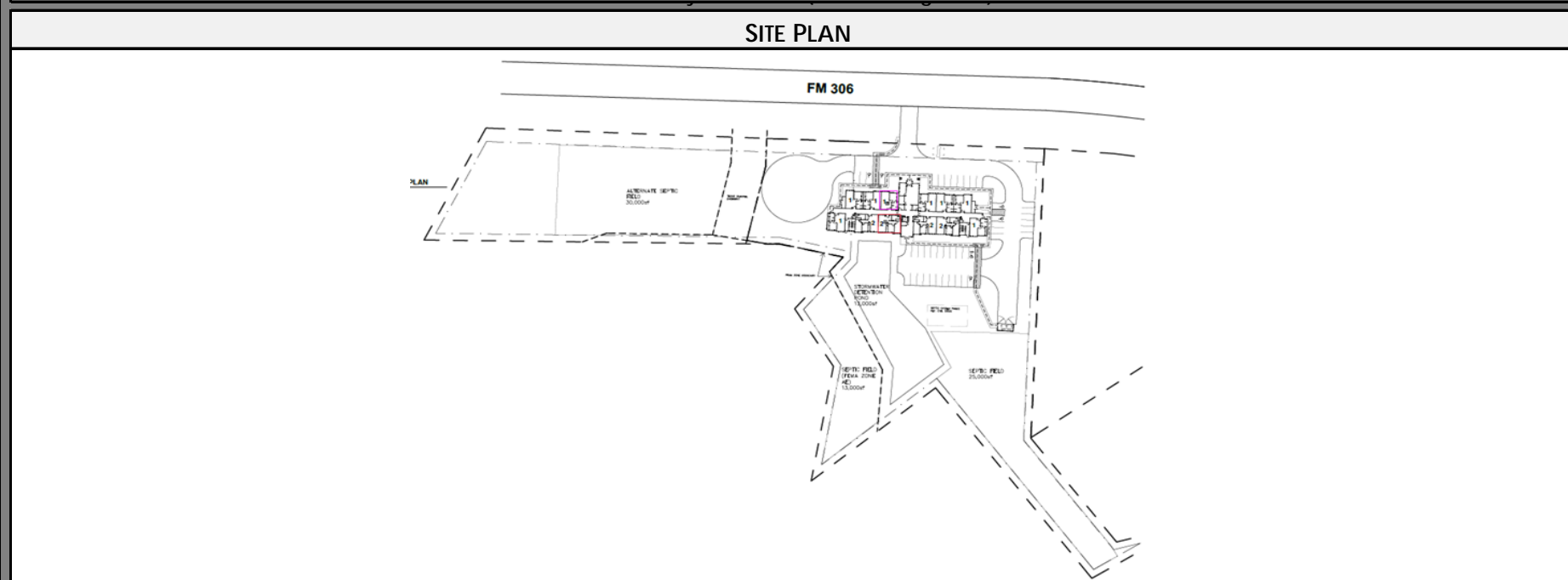
KEY PRINCIPAL / SPONSOR		
Overland Property Group Patrick Beatty Rex Vanier Brett Johnson Kit Sarai		
Related Parties	Contractor - No	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	3	10%
1	18	60%	40%	-	0%
2	12	40%	50%	6	20%
3	-	0%	60%	21	70%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>30</b>	<b>100%</b>	<b>TOTAL</b>	<b>30</b>	<b>100%</b>

**PRO FORMA FEASIBILITY INDICATORS**

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	✓ 1.32	Expense Ratio	✓ 56.9%
Breakeven Occ.	✓ 82.9%	Breakeven Rent	\$605
Average Rent	\$677	B/E Rent Margin	✓ \$72
Property Taxes	\$646/unit	Exemption/PILOT	0%
Total Expense	\$4,366/unit	Controllable	\$2,691/unit



**MARKET FEASIBILITY INDICATORS**

Gross Capture Rate (10% Maximum)	✓ 1.7%
Highest Unit Capture Rate	✓ 6% 2 BR/60% 9
Dominant Unit Cap. Rate	✓ 3% 1 BR/60% 12
Premiums (↑60% Rents)	N/A N/A
Rent Assisted Units	N/A

**DEVELOPMENT COST SUMMARY**

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	740 SF	Density	5.7/acre
Acquisition	\$21K/unit		\$637K
Building Cost	\$127.45/SF	\$94K/unit	\$2,829K
Hard Cost		\$137K/unit	\$4,123K
Total Cost		\$252K/unit	\$7,573K
Developer Fee	\$1,111K	(21% Deferred)	Paid Year: 9
Contractor Fee	\$512K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
TDHCA	30/30	2.00%	\$1,700,000	1.32	Comal County		N/A	\$250	1.32	MHEG	\$5,549,445
					MCP Group		N/A	\$86,700	1.32	Overland Property Group	\$236,840
<b>TOTAL DEBT (Must Pay)</b>			<b>\$1,700,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$86,950</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$5,786,285</b>
<b>TOTAL DEBT SOURCES</b>											<b>\$1,786,950</b>
<b>TOTAL CAPITALIZATION</b>											<b>\$7,573,235</b>

**CONDITIONS**

1 Receipt and acceptance before Direct Loan Closing

- a: Substantially final construction contract with Schedule of Values.
- b: Updated term sheets with substantially final terms from all lenders
- c: Substantially final draft of limited partnership agreement.
- d: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
- e: Updated TDHCA application exhibits (rent schedule, operating expenses, long-term pro forma, development cost schedule, schedule of sources)
- f: Documentation that a noise study has been completed, and certification from the Architect that all recommendations from the noise study are incorporated into the development plans.

2 Receipt and acceptance by Carryover:

- a Wetlands and Jurisdictional Waters of the United States Determination Report with a clear determination of the wetland status of the subject site, indicating whether any mitigation is required.

3 Receipt and acceptance by Cost Certification:

- a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.  
For any buildings remaining in the floodplain, documentation that flood insurance is in place at the property owner's expense covering both the buildings and the residents' personal property; and certification from the owner that flood insurance for the buildings and for the residents' personal property will remain in force as long as the site remains a designated floodplain.
- b: If any portion of the site is determined to be a wetland area, certification that compliance with all federal, state and local wetland mitigation requirements has been met.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

RISK PROFILE
STRENGTHS/MITIGATING FACTORS
<ul style="list-style-type: none"> <li>▫ Strong feasibility indicators</li> <li>▫ Developer experience</li> <li>▫ Low capture rates/high occupancies in PMA</li> </ul>
WEAKNESSES/RISKS
<ul style="list-style-type: none"> <li>▫ Southeast corner of property in Flood Zone AE</li> </ul>
AREA MAP



# 19307 Briarwest Apartments - Application Summary

PROPERTY IDENTIFICATION		RECOMMENDATION			
Application #	19307	TDHCA Program	Request	Recommended	
Development	Briarwest Apartments			\$1,500,000	\$1,500,000
City / County	Houston / Harris	LIHTC (9% Credit)			
Region/Area	6 / Urban				
Population	General				
Set-Aside	General				
Activity	New Construction				

KEY PRINCIPAL / SPONSOR		
Chris Richardson / Nantucket Housing LLC & Christian Fuqua / Richco Rinehart Investments, LLC		
Related Parties	Contractor - Yes	Seller - No



TYPICAL BUILDING ELEVATION/PHOTO

UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	10	8%
1	67	56%	40%	-	0%
2	45	38%	50%	40	33%
3	8	7%	60%	50	42%
4	-	0%	MR	20	17%
<b>TOTAL</b>	<b>120</b>	<b>100%</b>	<b>TOTAL</b>	<b>120</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	✓ 1.29	Expense Ratio	✓ 57.8%
Breakeven Occ.	✓ 83.7%	Breakeven Rent	\$734
Average Rent	\$814	B/E Rent Margin	✓ \$79
Property Taxes	\$885/unit	Exemption/PILOT	0%
Total Expense	\$5,373/unit	Controllable	\$3,217/unit



SITE PLAN

MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)		✓ 0.7%	
Highest Unit Capture Rate	✓ 3%	1 BR/50%	27
Dominant Unit Cap. Rate	✓ 3%	1 BR/50%	27
Premiums (↑60% Rents)	Yes	✗	\$346/Avg.
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	853 SF	Density	22.2/acre
Acquisition		\$21K/unit	\$2,561K
Building Cost	\$93.46/SF	\$80K/unit	\$9,563K
Hard Cost		\$101K/unit	\$12,074K
Total Cost		\$176K/unit	\$21,070K
Developer Fee	\$2,262K	(3% Deferred)	Paid Year: 1
Contractor Fee	\$1,690K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Bank of America	18/35	6.50%	\$4,700,000	1.38	City of Houston - CBDG Loan	18	1.00%	\$2,500,000	1.29	Bank of America	\$13,798,620
										Briarwest Developers, LLC	\$71,852
<b>TOTAL DEBT (Must Pay)</b>			<b>\$4,700,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$2,500,000</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$13,870,472</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$7,200,000</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$21,070,472</b>

**CONDITIONS**

- 1 Receipt and acceptance by Commitment:
  - a: Revised term sheet from the City of Houston addressed to NH Briarwest LP (tbf), as discussed below, for the \$2.5M of CDBG-DR funds with all terms and conditions.
  - b: City of Houston's completed cost allocation worksheet indicating eligible expenses to be funded with CDBG-DR proceeds.
  - c: Clarification from the applicant's ESA provider addressing their discrepancy in reporting Lead in Drinking Water above the maximum contamination level (MCL) in the 2017 Annual Drinking Water Quality Report for the City of Houston, with no further tests necessary at the subject property.
- 2 Receipt and acceptance by Carryover:
  - a: A Wetlands and Jurisdictional Waters of the United States Determination Report with a clear determination of the wetland status of the subject site, indicating whether any mitigation is required.
- 3 Receipt and acceptance by Commitment:
  - a: Certification that if the site is in the 100-year floodplain when it places in service, the finished ground floor elevation of the buildings will be at least one foot above the floodplain and that all drives, parking and amenities will be no more than 6 inches below the floodplain; and that the Owner will provide flood insurance coverage for the buildings and for the residents' personal property until such time that the site is officially designated to be no longer in the floodplain.
- 4 Receipt and acceptance by 10% test:
  - a: Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.
- 5 Receipt and acceptance by Cost Certification:
  - a: CPA prepared schedule allocating the CDBG-DR funds to costs that are tax credit basis eligible and non-tax credit basis eligible. If any CDBG-DR funds are used for tax credit basis eligible costs, indicate how those funds are being treated with respect to eligible basis. If any funds are being treated as bona fide debt and not deducted from eligible basis, provide an attorney opinion confirming that the debt is determined to be bona fide debt with a reasonable expectation that it will be repaid in full.
  - b: Architect or engineer certification that the finished ground floor elevation for each building is at least one foot above the floodplain and that all drives, parking and amenities are not more than 6 inches below the floodplain; or certification (including a Letter of Map Amendment or Revision ("LOMA / LOMR-F") if applicable, documenting that the development is not within the 100 year floodplain.
  - c: For any buildings remaining in the floodplain, documentation that flood insurance is in place at the property owner's expense covering both the buildings and the residents' personal property; and certification from the owner that flood insurance for the buildings and for the residents' personal property will remain in force as long as the site remains a designated floodplain.
  - d: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
  - e: If any portion of the site is determined to be a wetland area, certification that compliance with all federal, state and local wetland mitigation requirements has been met.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

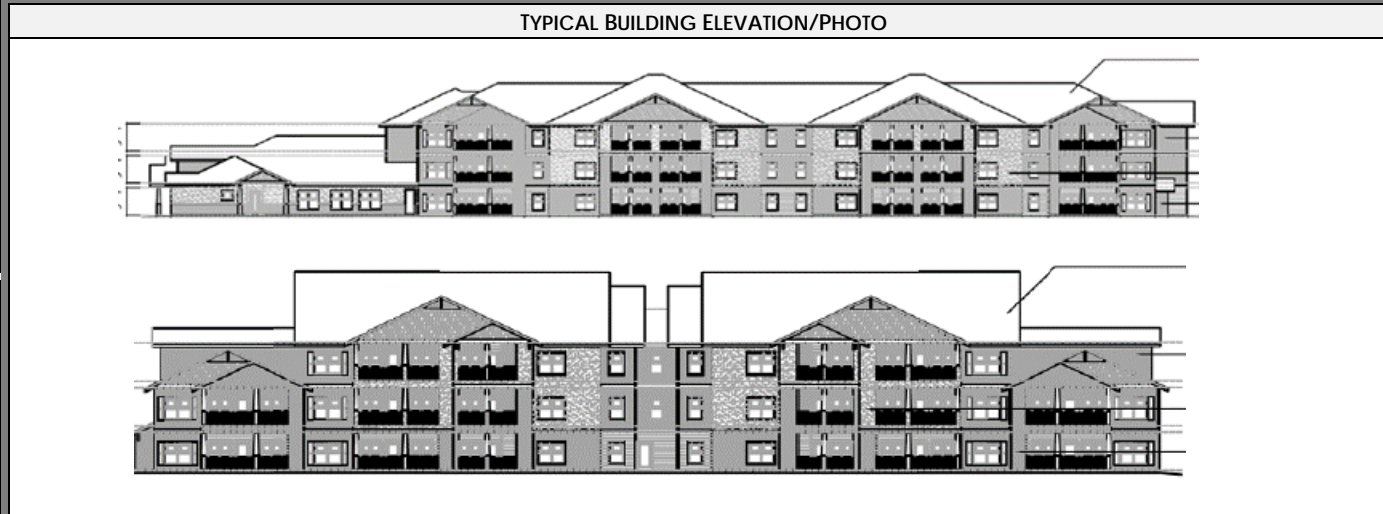


# 19364 Villas Cedar Grove - Application Summary

REAL ESTATE ANALYSIS DIVISION

July 19, 2019

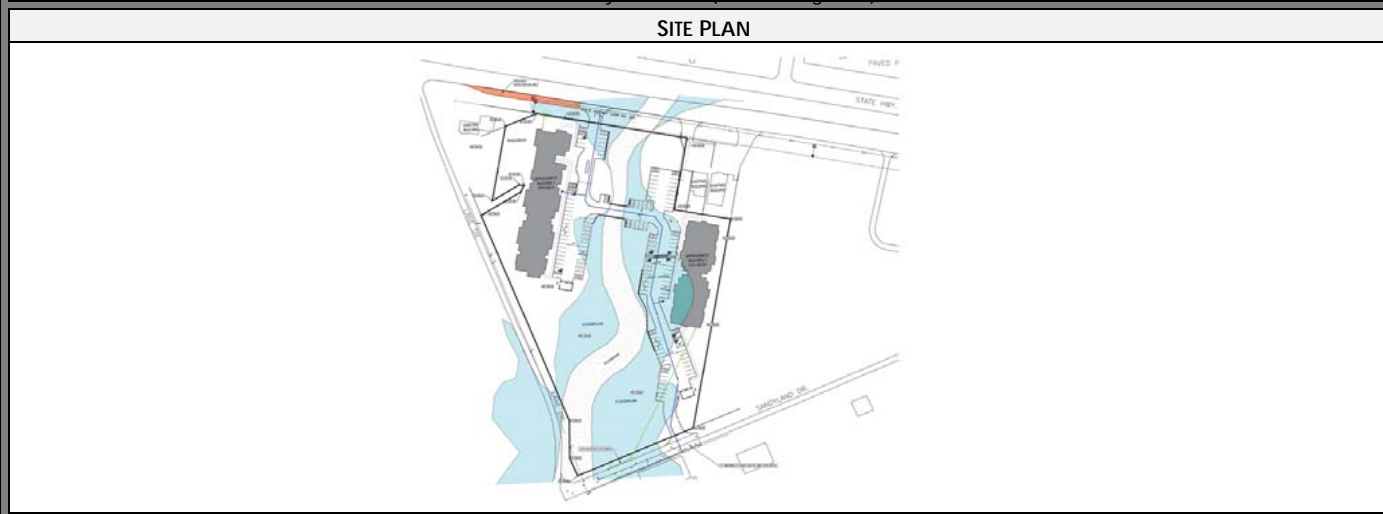
PROPERTY IDENTIFICATION		RECOMMENDATION				KEY PRINCIPAL / SPONSOR		
Application #	19364	TDHCA Program	Request	Recommended		Realtex Development - Rick Deyoe		
Development	Villas Cedar Grove	LIHTC (9% Credit)	\$1,007,000	\$1,005,299	\$14,784/Unit			\$0.89
City / County	Lufkin / Angelina							
Region/Area	5 / Rural							
Population	Elderly Limitation							
Set-Aside	General							
Activity	New Construction							
		Related Parties	Contractor - No	Seller - no				



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	6	9%
1	32	47%	40%	-	0%
2	36	53%	50%	15	22%
3	-	0%	60%	39	57%
4	-	0%	MR	8	12%
<b>TOTAL</b>	<b>68</b>	<b>100%</b>	<b>TOTAL</b>	<b>68</b>	<b>100%</b>

**PRO FORMA FEASIBILITY INDICATORS**

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.21	Expense Ratio	60.1%
Breakeven Occ.	86.2%	Breakeven Rent	\$548
Average Rent	\$590	B/E Rent Margin	\$42
Property Taxes	\$559/unit	Exemption/PILOT	0%
Total Expense	\$4,069/unit	Controllable	\$2,482/unit



**MARKET FEASIBILITY INDICATORS**

Gross Capture Rate (10% Maximum)	2.9%		
Highest Unit Capture Rate	10%	2 BR/60%	21
Dominant Unit Cap. Rate	10%	2 BR/60%	21
Premiums (↑60% Rents)	Yes	\$81/Avg.	
Rent Assisted Units	N/A		

**DEVELOPMENT COST SUMMARY**

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	923 SF	Density	10.9/acre
Acquisition		\$06K/unit	\$420K
Building Cost	\$77.88/SF	\$72K/unit	\$4,889K
Hard Cost		\$99K/unit	\$6,731K
Total Cost		\$169K/unit	\$11,520K
Developer Fee	\$1,294K	(25% Deferred)	Paid Year: 10
Contractor Fee	\$941K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Red Capital	18/35	5.90%	\$2,250,400	1.21	City of Lufkin	0/0	0.00%	\$250	1.21	Affordable Housing Partners	\$8,946,270
										Villas Cedar Grove Development, LLC	\$322,863
<b>TOTAL DEBT (Must Pay)</b>			<b>\$2,250,400</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$250</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$9,269,133</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$2,250,650</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$11,519,783</b>

**CONDITIONS**

1 Receipt and acceptance by Commitment:

- Certification that if the site is in the 100-year floodplain when it places in service, the finished ground floor elevation of the buildings will be at least one foot above the floodplain and that all drives, parking and amenities will be no more than 6 inches below the floodplain; and that the Owner will provide flood insurance coverage for the buildings and for the residents' personal property until such time that the site is officially designated to be no longer in the floodplain.

2 Receipt and acceptance by Carryover:

- a Wetlands and Jurisdictional Waters of the United States Determination Report with a clear determination of the wetland status of the subject site, indicating whether any mitigation is required.

3 Receipt and acceptance by 10% test:

- a: Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.
- b: Architect certification that the development plans incorporate mitigation measures sufficient to satisfy HUD Acceptable Separation Distance ("ASD") guidelines related to residential propane tanks on adjacent properties.

4 Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:

- a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
- b: Architect or engineer certification that the finished ground floor elevation for each building is at least one foot above the floodplain and that all drives, parking and amenities are not more than 6 inches below the floodplain; or certification (including a Letter of Map Amendment or Revision ("LOMA / LOMR-F") if applicable, documenting that the development is not within the 100 year floodplain.

For any buildings remaining in the floodplain, documentation that flood insurance is in place at the property owner's expense covering both the buildings and the residents' personal property; and certification from the owner that flood insurance for the buildings and for the residents' personal property will remain in force as long as the site remains a designated floodplain.

- c: Architect certification that mitigation measures for HUD ASD guidelines were successfully implemented in the completion of the Development.
- d: If any portion of the site is determined to be a wetland area, certification that compliance with all federal, state and local wetland mitigation requirements has been met.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Developer Experience
WEAKNESSES/RISKS	
▫	Multiple environmental site concerns
▫	Pipelines
<p align="center"><b>AREA MAP</b></p>	

