### SUPPLEMENT TO BOARD BOOK OF JULY 14, 2016



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

## **ACTION ITEMS**

#### **BOARD ACTION ITEM**

#### **COMMUNITY AFFAIRS DIVISION**

**JULY 14, 2016** 

Presentation, Discussion, and Possible Action on Timely Filed Scoring Appeals under the Department's 2016 Emergency Solutions Grant ("ESG") Program Notice of Funding Availability ("NOFA")

#### **RECOMMENDED ACTION**

**WHEREAS,** a 2016 ESG Application from the City of Denton, which included a collaboration with partner organizations Christian Community Action, Denton County Friends of the Family, Giving HOPE, Inc, and the Salvation Army of Denton, was submitted to the Department by the application due date;

WHEREAS, staff has determined that the Application is not eligible for four out of ten points under Attachment A, Certificate of Continuum of Care ("CoC") Participation and Coordination, because the CoC Lead Agency certified that two out of five organizations requesting funding in the City of Denton's ESG Application did not participate in a Coordinated Access system;

WHEREAS, the Applicant timely filed an appeal; and

**WHEREAS**, the Executive Director denied the appeal;

NOW, therefore, it is hereby

**RESOLVED**, that the scoring appeal for TX-607COD, City of Denton is denied.

#### **BACKGROUND**

TDHCA released a 2016 ESG NOFA on February 18, 2016. Per the ESG NOFA and related materials, including Application Guide and Attachments, Applicants were required to submit Attachment A, which is a Certificate of CoC Participation and Coordination. The Certificate of CoC Participation and Coordination form is required to be signed by the CoC Lead Agency's staff. For the City of Denton, which is in the Balance of State CoC, the Lead Agency is the Texas Homeless Network. Item 5 on the Certificate of Continuum of Care Participation and Coordination form asks "Does the organization listed above use the Coordinated Access (a.k.a. Coordinated Assessment or Coordinated Entry) established by the CoC?" The form was required to be submitted to the Department for the Applicant and all collaborative partners.

Coordinated Access is required to be used by the ESG Subrecipients per 24 CFR §576.400(d):

"Centralized or coordinated assessment. Once the Continuum of Care has developed a centralized assessment system or a coordinated assessment system in accordance with requirements to be established by HUD, each ESG-funded program or project within the Continuum of Care's area must use that assessment system. The recipient and subrecipient must work with the Continuum of Care to ensure the screening, assessment and referral of program participants are consistent with the written standards required by paragraph (e) of this section. A victim service provider may choose not to use the Continuum of Care's centralized or coordinated assessment system."

Since the CoC is responsible for establishing the Coordinated Access system, the system is defined in the CoC statute 24 CFR §578.3:

"Centralized or coordinated assessment system means a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals. A centralized or coordinated assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertized, and includes a comprehensive and standardized assessment tool."

Attachment A, Certificate of CoC Participation and Coordination, has a possible high score of 10 points for Item 5. Three out of the five organizations within City of Denton's collaborative application had Item 5 marked "yes" by the CoC Lead Agency. The form completed by the CoC Lead Agency does not confirm that the City of Denton's collaborative partners Christian Community Action nor Denton County Friends of the Family participate in the CoC's Coordinated Access system. Therefore, thirty points were given, divided by five agencies, for a final score of six points.

For this item the score was determined by independent verification provided from the CoC Lead Agency affirming whether the Applicant and its collaborative partners do participate in Coordinated Access. The Department relied on this verification for all Applications, and has received no information that the Texas Homeless Network treated the City of Denton differently than similarly-situated Applications.

The City of Denton disagrees that the Domestic Violence ("DV") partner (Denton County Friends of the Family) is shown as not participating in Coordinated Access since per statute DV Providers cannot participate in the Homeless Management Information System ("HMIS"), through which Denton's Coordinated Access occurs. However, HUD rules do not require that Coordinated Access has to occur through HMIS. Therefore, the City of Denton could in the future change its Coordinated Access system to include DV partners.

Because the third-party certification of Attachment A was relied upon in scoring for all Applications, staff recommends denial of the appeal.



#### TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott Governor

BOARD MEMBERS
J. Paul Oxer, Chair
Juan S. Muñoz, PhD, Vice Chair
Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

July 1, 2016

Writer's direct dial: 512.475.3296 Email: tim.irvine@tdhca.state.tx.us

Ms. Danielle Shaw Human Services Coordinator City of Denton 215 E McKinney Street Denton, TX 76201

RE: EXECUTIVE DIRECTOR APPEAL OF 2016 EMERGENCY SOLUTIONS GRANTS APPLICATION

Dear Ms. Shaw:

I am in receipt of your appeal regarding scoring items in connection with the Application submitted by the City of Denton under the 2016 Emergency Solutions Grant ("ESG") Notice of Funding Availability ("NOFA"). I have reviewed the explanations provided in the City of Denton's appeal relating to the score assigned to this application by the Texas Department of Housing and Community Affairs' ("Department") staff.

Regarding item 2.5, Evidence-Based Practices, the supporting material the City of Denton provided with its appeal provided sufficient clarification to substantiate requested points under that item. The score for this item has been increased from 5 points to 15 points, the maximum amount allowed in that category.

Regarding item 2.6, Involvement of Clients, the supporting material the City of Denton provided with its appeal provided sufficient clarification to substantiate the requested points under that item. The score for this item has been increased from 15 points to 25 points, the maximum amount allowed in that category.

Regarding item A.5, Coordinated Access, the supporting material the City of Denton provided with its appeal, unfortunately, did not provide sufficient documentation to substantiate the award of additional points. Therefore, I must deny the appeal on that scoring item. This item in the NOFA grants points if the applicant uses Coordinated Access (a.k.a. Coordinated Assessment or Coordinated Entry) as established by the Continuum of Care ("CoC"). For this item the score was determined by independent verification provided from the CoC affirming whether the Applicant does in fact participate in Coordinated Access. The ESG Notice of Funding Availability requires the CoC Lead Agency to complete the form. In this case, the form completed by the CoC Lead Agency does not confirm that the City of Denton participates in the CoC's Coordinated Access. It also reflects that the participation in Coordinated Access of two proposed



City of Denton July 1, 2016 Page 2

subawards is not applicable. Staff consistently evaluated applicants based on the form completed by the CoC Lead Agency. Therefore, I am unable to conclude that the points requested for this item should be awarded.

If you wish to appeal my determination, you may appeal to the Department's Board as permitted under 10 TAC, §1.7, Staff Appeals Process, which provides in section (d) that "If the Appealing Party is not satisfied with the Executive Director's response to the Appeal, they may appeal in writing directly to the Board within seven days after the date of the Executive Director's response." If you choose to appeal to the Board, please send this response to Naomi Trejo, Coordinator for Homelessness Programs and Policy, at naomi.trejo@tdhca.state.tx.us. If we receive your response by 5 p.m. on Friday, July 8, 2016, this matter will be addressed at the Board Meeting on Thursday, July 14, 2016.

Timothy Is. Irvine

Executive Director

cc: Mr. George C. Campbell

#### RE: EXECUTIVE DIRECTOR APPEAL OF 2016 EMERGENCY SOLUTIONS GRANTS APPLICATION

Date sent to applicant: 7/1/16

Appeal date (seven days from date of this notice): 7/8/2016

Application number: TX-607COD

#### Dear Ms. Naomi Trejeo:

The collaborative application from Denton County for the Emergency Solution Grant is seeking the opportunity to appeal in writing directly to the Department's Board per the appeal notice sent July 1, 2016. The notice indicated that we may appeal the determination of the Executive Director to the Department's Board as permitted under 10 TAC, §1.7, Staff Appeals Process, which provides in section (d) that "If the Appealing Party is not satisfied with the Executive Director's response to the Appeal, they may appeal in writing directly to the Board within seven days after the date of the Executive Director's response." We are providing this appeal in writing to be addressed at the Board Meeting July 14, 2016.

As we provided in our previous appeal, we are in the unique position this year to be able see the current overall application scores (<a href="http://www.tdhca.state.tx.us/community-affairs/esgp/docs/16-ESG-AppScoringLog.pdf">http://www.tdhca.state.tx.us/community-affairs/esgp/docs/16-ESG-AppScoringLog.pdf</a>) for the 2016-17 Emergency Solutions Grant Application. As you might imagine we are well aware that as a community we are facing the very real possibility of not receiving ESG or HPRP funding for the first time since the late 1980's. The potential loss of funding due will have a devastating affect to homeless services in Denton County as well as the agency who use the funds to provide those services.

There is a clear anomaly in the scores in our CoC, the Balance of State, where scores are both higher than in other CoC's and where in one case an application that has never before received ESG funds can score a 720. This is especially difficult when our application's overall score is well above those in other CoC's with visible scores. In addition to the scoring, our CoC received an overall reduction in funding of over \$700,000 this year compared to last year's funding availability. While understanding that the CoC does have the highest funding, it is also by far the largest geography and has a high number of service providers in the CoC as compared to others.

In a time when each and every point matters, the Denton ESG Collaborative is so grateful to the have this opportunity to submit this additional appeal for the final item that is still being scored differently than we have scored ourselves in the 2016-17 Emergency Solutions Grant Application.

#### Attachment A – CoC

At this time we are seeking to have the final four points added back where we are being scored a six by the reviewer instead of the full ten that we scored ourselves.

As written in the Executive Director's letter dated July 1, "For this item the score was determined by independent verification provided from the CoC affirming whether the Applicant does in fact participate in Coordinated Access. The ESG Notice of Funding Availability requires the CoC Lead Agency to complete the form. In this case, the form completed by the CoC Lead Agency does not confirm that the City of Denton participates in the CoC's Coordinated Access."

Respectfully, this collaborative does not agree with the CoC's response to this attachment for the application. The question in the Attachment A very clearly states, "Does the organization listed above use the Coordinated Access (a.k.a. Coordinated Assessment or Coordinated Entry) established by the CoC? This only applies if the CoC has established a Coordinated Assessment process." It does not ask for quality or effectiveness of implementation. While we have learned much and are still in process of revising program implementation to best meet the needs of the community under the support and direction of the CoC, Coordinated Assessment now referred to as Coordinated Entry (CE), is a process that is being implemented in our community under the support and direction of the CoC.

In consideration of this appeal, the CoC's response to Attachment A seems to contradict the program structure of a CE program especially when the questions is only, 'does the organization use the CE established by the CoC?'. It also seems that the CoC is not selecting yes to count the domestic violence provider, Denton County Friends of the Family (DV) because it is not a "front door" and because it cannot report into HMIS.

As a community, we have continued to support all CoC efforts in implementing CE in Denton. When Denton became a pilot community for the CoC to implement CE the community was encouraged to select a small number of "front doors" to process intake for those who are at risk of homeless and homeless. One of the basic principles of CE is to close "side-doors" and improve referral processes by reducing the number of entry points. Therefore, not all agencies involved in the process of CE are "front-doors". These efforts have included testing different intake forms, having the local homeless coalition appoint a electing a chair to head a CE team in the community, developing and distributing information flyers to help the community understand who are the front doors and other efforts as either identified by the CoC or are based on we learn from the process through trial and error. This can be verified by listening to the recent Coordinated Entry Webinars hosted by our CoC where Denton is highlighted for its on-going, long-term efforts.

ESG Collaborative agencies participate in the CE process. Two of the agencies (Giving Hope and The Salvation Army, Denton) serve as the "front doors" for the community. The other agencies are referral agencies that refer clients in the community to the "front doors" and help educate the community on where to refer clients in need. In addition, most members of the Denton County Homeless Coalition are also referrers to the "front doors". Two other non-ESG agencies are "front doors" in this community. CE is a community collaboration as well as a community system approach to homeless services. All the agencies in ESG have been participating in CE since the very first planning meeting without financial reimbursement or fiscal support of any kind.

Related to the CoC decision not to count the DV provider as participating in CE, there has been indication that this is because referrals are not being reported in HMIS. CE referrals are happening from the DV provider in our system of care. This explanation is confusing because the DV provider cannot, under federal law, participate in HMIS. However, we firmly believe that HMIS does actually prove that the DV provider has been referring. We can easy provide proof in ESG monthly performance reports as well as the CoC's own HMIS reports of DV referrals to the "housing "front door". The number of DV clients reported in ESG for rapid re-housing is a clear indicator and in every instance, the "front door" and housing provider Giving Hope, Inc., documents in HMIS where a DV client has been referred and was provided housing services through programs like Rapid Rehousing.

For final consideration, the collaborative would also like to point out again the that this attachment as well as many other areas of scoring this application where the questions considers the average of all partners can negatively impact collaborative applications like ours where the City is the lead agency but is not a direct service provider and acts only as a fiduciary agent. Any time the City is included in the organizational count it has the chance of hurting the scoring for a collaborative application. Currently this can happen in Part II, and Attachments A, C and D. The CoC did finally take this into consideration and provided a revised Attachment A for the City in our first appeal resulting in 2 additional points being added back into our overall score.

On behalf of the Denton ESG Collaborative, we want to thank you for time and consideration. If you have any additional questions please do not hesitate to contact us.

Sincerely,

Danielle Shaw, Human Services Coordinator City of Denton 940-349-7237 Danielle.Shaw@cityofdenton.com

## THIS ITEM HAS BEEN PULLED FROM THE AGENDA

# 6a

#### **BOARD ACTION ITEM**

#### **MULTIFAMILY FINANCE DIVISION**

#### **JULY 14, 2016**

Report and Possible Action regarding Third Party Requests for Administrative Deficiency

16118 The Standard on the Creek Houston

16380 Sierra Vista Lopezville CDP

#### **BACKGROUND**

Pursuant to 10 TAC §11.10 of the 2016 Qualified Allocation Plan related to Third Party Requests for Administrative Deficiency, an unrelated person or entity may bring new, material information about an Application to staff's attention. This process replaced "Challenges of Competitive Housing Tax Credit Applications" from previous years. Third parties may request that staff consider whether an Application should be the subject of an Administrative Deficiency. Staff will consider the request and proceed as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. Requestors must provide, at the time of filing the request, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request.

In this item staff is presenting, as directed by the Board during the June 30, 2016 meeting, a more in depth analysis of two specific applications and presenting them in a manner that will enable the board to provide any policy direction it finds warranted. Generally speaking, staff would take that direction into account in developing future rules. To the extent that staff has addressed certain scoring matters raised through the administrative deficiency process, Tex. Gov't Code §2306.6715(b) provides that a decision under Tex. Gov't Code §2306.6710 may not be appealed by another applicant. Staff is of the view that issues relating to financial feasibility points are such matters. As regards the way staff has utilized the administrative deficiency process to address other issues, it believes it has done so in accordance with both the letter and the spirit of the administrative deficiency rules. Finally, there is an issue that centers upon Applicant ineligibility.

Staff notes that matters it has addressed via administrative deficiency are consistent with the way it has handled similar matters in the past. If the board has any concerns over any of these practices staff would appreciate direction to be used in developing the new rules. Staff, in administering the administrative deficiency process, has already taken into account the criteria in the rule and the issue of materiality.

Staff notes that this item is posted on the agenda as a report with possible action. The Board may, after reviewing the material presented and hearing testimony, make the determination that staff erred

in its application of the rule with regard to specific elements addressed in this report and take action by moving to revise or overrule staff's determination or direct staff to adjust scoring or eligibility in a consistent manner for all applications with similar conditions.

#### 16118 The Standard on the Creek Houston

There are four questions outstanding regarding The Standard at the Creek Application, which staff has further considered since the June 30, 2016, meeting.

1. Payment of the full correct application fee at the time of application. On May 4, 2016, Staff called the applicant and advised them of the identified issue on the fee. The applicant immediately paid the balance of \$100.00 under protest, believing it had correctly calculated and paid the full fee in the correct amount. Attached is a letter from their counsel, Cynthia Bast of Locke Lord, addressing this issue in greater depth. Staff would also point out that in past years there have been similarly handled matters where minor errors in fee calculations and payments were accommodated in similar fashion. No extensive review or reevaluation was necessitated, and staff is of the view that this is the type of minor error or issue that is appropriately handled through the administrative deficiency process. This is underscored by the fact that this applicant has, as expressed by their counsel, a belief that they had in fact acted properly and compliantly. If there was any ambiguity and it can be clarified though a simple phone call that seems an appropriate way to resolve it. However, if the Board directs staff to tighten this in future rules or take other action, staff will do so.

Based on these findings, staff has determined that no further action is recommended on this matter.

Staff would note that a reversal of staff determination on this matter would result in the termination of the application. Staff would note that such reversal would also impact five additional applications which incorrectly calculated their application fees but immediately upon notice paid the small balance under protest.

2. Whether the letter from the applicant's lender contained the required elements to support the full amount of points awarded under "financial feasibility." This is a scoring item under TEX. GOV'T CODE §2306.6710. In the relevant rule (10 TAC §11.9(e)(1)) it provides that 16 points may be obtained if the lender confirms they have reviewed the development only and 18 points if they confirm they have also reviewed the principals. The applicant claimed 18 points but the letter did not address the review of the principals. Staff believed that this indicated an inconsistency in the application that required clarification, precisely the sort of situation that administrative deficiency rule was designed to address

Staff has consistently applied the definition of Administrative Deficiency found at §10.3(2), which states:

(2) Administrative Deficiencies--Information requested by Department staff that is required to clarify or correct one or more inconsistencies or to provide non-material missing information in the original Application or to assist staff in evaluating the Application that, in the Department staff's reasonable judgment, may be cured by supplemental information or explanation which will not necessitate a substantial reassessment or re-evaluation of the Application. Administrative Deficiencies may be issued at any time while the Application or Contract is under consideration by the Department, including at any time while reviewing performance under a Contract, processing documentation for a Commitment of Funds, closing of a loan, processing of a disbursement request, closeout of a Contract, or resolution of any issues related to compliance. (emphasis added)

Staff has received additional information from the requester regarding this issue, which is added to documentation for this meeting. Staff has requested the basis for inclusion, given that an Applicant may not appeal a competitor's Application under Tex. Gov't Code \$2306.6715(b), the question has not been addressed.

Regardless of the question of appropriateness, staff has considered the documentation provided in order to assure that the Board is receiving complete information. The requester presents no new information regarding this question, they reiterate their earlier position that staff should not have resolved this issue through an Administrative Deficiency. The Third Party Administrative Deficiency rule at 10 TAC §11.10 does not contemplate a competitor questioning staff's review or decision regarding an application, its purpose is described as "to allow an unrelated person or entity to bring new, material information about an Application to staff's attention." In this instance, the requester has continued to seek to apply the rule in their client's favor.

The additional information provided does not change staff's recommendation; therefore no further action is recommended.

3. Whether the Applicant made intentional material misstatements or omissions to the office of Chairman Dutton in securing a letter of support. Because the Department is not an adjudicative body capable of weighing credibility issues and competing evidence, staff has focused on whether there is corroborated and uncontroverted evidence of such a misstatement or omission. Based on submissions by both Chairman Dutton's office, including the narrative and notes of his Chief of Staff who led the interview of the Applicant, and the affidavits of the Applicant's representatives, staff has not been able to identify any corroborated and uncontroverted material misstatement. Identifying a material omission is more difficult. Staff has focused on a question Ms. Jones says she asked, whether applicant had met with residents of the neighborhood surrounding the proposed development. We have not been provided any notes or other memorialization of the Applicant's response. Staff spoke with the Chief of Staff and Assistant Chief of Staff in Rep. Dutton's office to gather further limited information regarding the meeting in question.

Tamoria Jones stated that the Applicant said he had met with residents and "everyone was on board." She indicated this is a typical question asked (gauging of community support) to see if Applicants have support for their projects. Kadedra Ellis indicated that while she did not recall the specific language, but she recalled that the Applicant was asked if the proposed Development had community support, and the Applicant indicated they did. Tamoria Jones provided a narrative of the meeting on June 16, 2016, along with her handwritten notes. The notes include the statement "Community Support - no current opposition/full support of project." In a follow up conversation with the Applicant, Matthew Vruggink, staff asked who, if anyone, in the community the Applicant spoke to prior to discussions with the Representative's staff, and if there was any documentation of such discussion. Mr. Vruggink indicated that he had met with Representative Dutton's staff, and that he was not asked about resident support, neighborhood support, or community support. Staff has not been able to make a clear determination that there was a material misstatement or omission on the part of the Applicant, however the evidence preponderates toward Rep. Dutton's staff having asked some question or questions about community support or resident support in general, and an admission by the applicant that they had spoken with no residents or individuals in the community except for two local elected officials.

It should be emphasized that in no way is staff dismissing or rejecting the position set forth in Chairman Dutton's letters, but the challenge of reconstructing what was or not represented from recollection is especially challenging.

On balance it appears that both perspectives support the conclusion that there was no evidence of community support other than the positions of local officials. The information from Ms. Jones and Ms. Ellis, supported by their contemporaneous notes, indicates they asked about it.

Because staff is continuing to have discussions with both the staff of Chairman Dutton and with a representative of the Applicant, staff is not, at this time, prepared to make a definitive recommendation, but is posting these materials to facilitate a full understanding of the issues

4. Since the last board meeting, a member of the Fall Creek Homeowners Association has raised a question regarding pipelines on or near the proposed site. Staff has determined that the pipelines in the easement to the south of the property are not a violation of Department rules. The map provided with the inquiry seems to show a natural gas pipeline running through the development site. Two developments to the west of the proposed site, which are also shown on the map as impacted by the pipeline in question, do not appear to have easements that would indicate the presence of a hazard to the extent of making the site ineligible for development through the tax credit program under the current QAP. Staff has requested that the Environmental Site Assessment provider verify the location of all pipelines on and near the site. Should that evaluation indicate that any pipeline presents a hazard to the proposed Development, appropriate action will be taken by the Department.

Staff considers this matter resolved, unless information is received from the Environmental Site Assessment provider that will impact site eligibility or require mitigation. If that is the case, the Department will take appropriate action as required by the Uniform Multifamily Rules. Staff recommends no further action at this time.

#### Lopezville CDP

#### 16380 Sierra Vista

On the issues surrounding the Lopezville census designated place ("CDP") the program staff was originally of the view that the site did not present the characteristics that staff believed met the criteria to support an award of "underserved area" points. The issue was that the site had been annexed by the City of Edinburg, and thereby seemed inconsistent with being considered part of the Lopezville CDP. A scoring notice was sent denying those points and it was appealed. The appeal was granted by the executive director, who keyed on language in the definition of "place" in 10 TAC §10.3(a)(93) and "census data" in 10 TAC §10.2(d). Because the Census Bureau had not adopted by federal rule a definition of "place," he believed the Department was constrained to honor the designation of this CDP by the Census Bureau's maps. However it is noted that on the Census Bureau website, in addition to the map showing the Lopezville CDP, there is non-regulatory guidance describing the attributes of a CDP, and that guidance indicates that a CDP and a municipality are counterparts and a location cannot be both a CDP and a municipality. It had been on that basis that staff initially denied the points on this item. The executive director disagreed and upheld the applicant's ability to rely on the published designation of the CDP as reflected on the Census Bureau website, due to his reading of the current rule

10 TAC §10.3(a) (93) Place--An area defined as such by the United States Census Bureau, which, in general, includes an incorporated city, town, or village, as well as unincorporated areas know as census designated places. The Department may provide a list of Places for reference.

10 TAC §10.2 (d) Census Data. Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded. For Rural Area and Urban Area designations, the Department shall use in establishing the designations, the U.S. Census Bureau's Topographically Integrated Geographic Encoding and Referencing ("TIGER") shape files applicable for the population dataset used in making such designations.

Staff has reviewed and considered the documentation provided in order to assure that the Board is receiving complete information. The requester has not provided documentation that the Census Bureau has adopted a controlling regulation for the definition of place. They have included information regarding a Board decision in 2007 regarding a similar question where the applicant was denied inclusion in a CDP after incorporation. It is important to note that the QAP in 2007 had a different definition of Area, than present in the current QAP regarding Place. In addition to its not being controlling precedent, this difference is significant and supports a different conclusion for the same question,

10 TAC § 49.9(i)(11)(2007, Superseded by subsequent rule)

Housing Needs Characteristics.(§42(m)(1)(C)(ii)) Applications may qualify to receive up to 7 points. Each Application may receive a score if correctly requested in the self score form based on objective measures of housing need in the Area where he Development is located. This Affordable Housing Need Score for each Area will be published in a Site Demographic Characteristics table in the Reference Manual.

10 TAC §49.3(11) (2007, Superseded by subsequent rule) Area-

- (A) The geographic area contained within the boundaries of:
  - (i) An incorporated place or
- (ii) Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.
- (B) For Developments located outside the boundaries of an incorporated place or CDP, the Development shall take up the Area characteristics of the incorporated place or CDP whose boundary is nearest to the Development site.

Staff recommends no further action.

## 16118 Standard at the Creek

Request Received

Fall Creek HOA member

#### Marni Holloway

From: Scott Elliott [scotteelliott@yahoo.com]
Sent: Thursday, June 30, 2016 9:11 PM

To: Marni Holloway

**Subject:** Application 16118 Undesirable Site Location

Attachments: The Standard at the Creek 16118 Pipeline Daigram from GIS public data.pdf; 20160630\_

192930[1].jpg; 20160630\_192943[1].jpg; 20160630\_193002[1].jpg; The Standard at the

Creek 16118 Pipeline Daigram from GIS public data with imagrey.pdf

Ms. Holloway,

I have reviewed a few of the documents that your department has received on the application 16118, The Standard at the Creek, and have to ask why the staff has not requested termination of this application due to undesirable site features as outlined in your Uniform Multi Family Rules as follows?

(I) Development Sites that contain one or more pipelines, situated underground or aboveground, which carry highly volatile liquids; or

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

On pages 73 and 74 of the applicant's environmental site assessment, the diagrams clearly show multiple pipelines carrying various hazardous substances that are either in CLOSE proximity or even on the property itself. I did a quick search of the Texas RR Commission website GIS data and they confirm that there are no less than SIX PIPELINES running through this area as identified by the TX RR Commission's website. They include the following types of products, per the website:

- 1. Kinder Morgan Texas Pipeline LLC Natural Gas (This is the pipeline that they show running directly across the subject property that was not disclosed formally by the applicant)
- 2. Houston Pipeline LLP Natural Gas Pipeline directly on the back edge of the subject property
- 3. Enterprise Product Operating LLC JET FUEL (This makes sense, since we are only a few miles from the Houston Intercontinental Airport) This pipeline runs in the center of the power lines.
- 4. Enterprise Product Operating LLC Natural Gas (This runs near to Enterprises Jet Fuel pipeline)
- 5. Enterprise Product Operating LLC Natural Gas Liquids
- 6. Kinder Morgan Texas Pipeline LLC Natural Gas

I am attaching PDFs that I ran from the TX RR Commission GIS website You are able to go out and verify this information yourself from that site as well. I have also attached a couple of pictures of the powerline easement showing the plethora of colored pipeline markers.

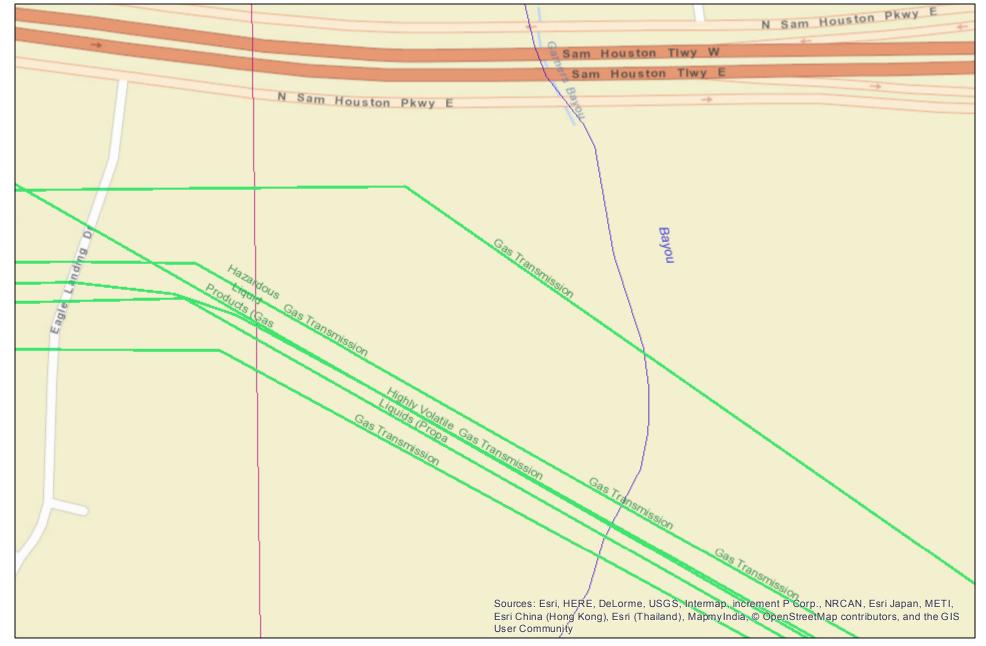
These items are on top of all the other objections that you have already heard from our community relating to this location not being ideal for such a project and the objections from Rep. Dutton.

I respectfully request that the staff ask for termination of the application or I will have to consider other legal options available, as it appears that your agency refuses to follow its own established rules relating to items that should disqualify applications from selection for credit awards.

I look forward to hearing back from you on this ASAP.

Thanks,

Scott Elliott 14819 Winston Falls Lane Humble, TX 77396 832-877-9220



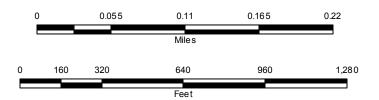
June 30, 2016

#### 1 inch = 376 feet

PREPARED BY:

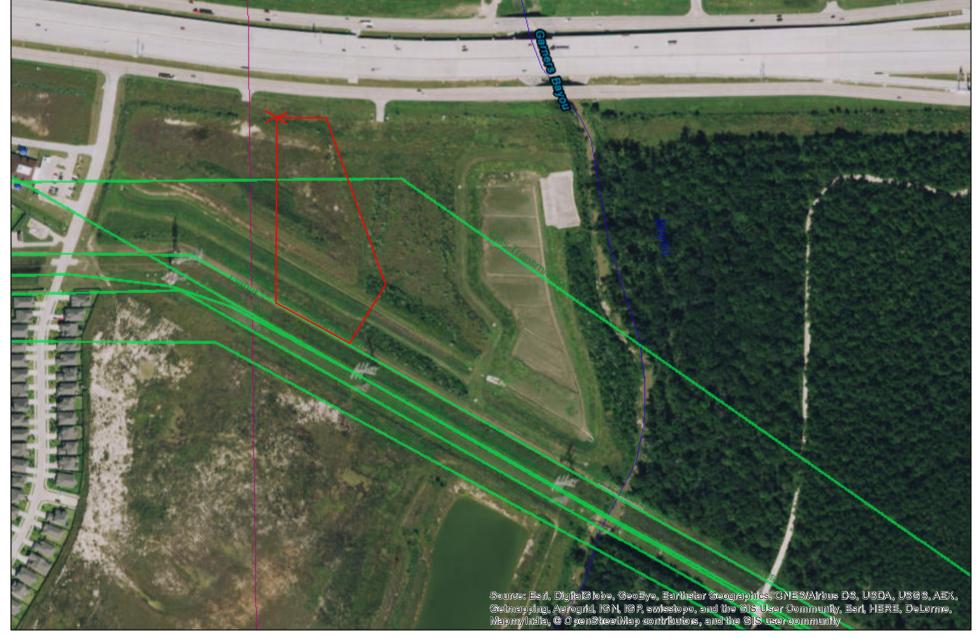
#### **RAILROAD COMMISSION of TEXAS**

P.O. BOX 12967 AUSTIN.TX 78711-2967



NOTICE/DISCLAIMER: Mappiing data sets are provided for informational purposes only. These data sets are continuously being updated and refined. Users are responsible for checking the accuracy, completeness, currency, and/or suitability of these data sets themselves. This is not a survey grade product and should not be used to define orestablish survey boundaries.

Source: RRC Public GIS Viewer



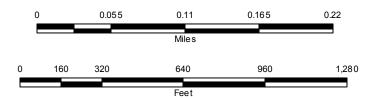
June 30, 2016

#### 1 inch = 376 feet

PREPARED BY:

#### **RAILROAD COMMISSION of TEXAS**

P.O. BOX 12967 AUSTIN,TX 78711-2967



NOTICE/DISCLAIMER: Mappiing data sets are provided for informational purposes only. These data sets are continuously being updated and refined. Users are responsible for checking the accuracy, completeness, currency, and/or suitability of these data sets themselves. This is not a survey grade product and should not be used to define orestablish survey boundaries.

Source: RRC Public GIS Viewer







## 16118 Standard at the Creek

APPLICANT RESPONSE



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 11, 2016

Texas Department of Housing and Community Affairs 221 East 11th Street
Austin, TX 78711-3941
Attention: Marni Holloway

Re: The Standard on the Creek

**TDHCA No. 16118** 

#### Ladies and Gentlemen:

We represent The Standard on the Creek, LP (the "Applicant"), which has applied for low-income housing tax credits for The Standard on the Creek in Houston (the "Development"). TDHCA's Board has requested a report with further information as to staff's handling of certain Administrative Deficiencies with regard to this application. This matter comes to the Board's attention through concerns raised by competitive applicants, a homeowner's association that is not on record with TDHCA and does not include the Development site, and Representative Harold Dutton. These opponents have suggested that TDHCA staff acted inappropriately or misapplied the law when making determinations on this application. Their complaints relate to the following:

- Allegations that the Applicant made material misrepresentations with regard to the Application;
- An omission in the application that was handled through an Administrative Deficiency; and
- Whether the application should be terminated due to non-payment of the application fee

We have attached, for your review, a legal analysis for each complaint, showing how TDHCA staff properly applied the law in each instance. In short:

- There is no credible evidence that the Applicant made material misrepresentations with regard to the Application;
- The rules clearly allow an applicant to cure an omission through the Administrative Deficiency process; and
- The Applicant paid the correct fee in accordance with the law

We hope you will consider each legal analysis carefully.

The competitive LIHTC process is governed by Subchapter DD of the Texas Government Code (the "Statute"), and the Uniform Multifamily Rules and Qualified Allocation Plan (the "Rules"). In general, administrative rules are construed as statutes and must be followed scrupulously. *See Myers v. State*, 169 S.W.3d 731, 734 (Tex. 2005) ("If an agency does not follow the unambiguous language of its own rules, we must consider its actions arbitrary and capricious.") All who have an interest in the LIHTC application round, whether as applicants or public officials or potential residents, benefit from a process that is transparent, consistent, and most importantly, compliant with the law.

Against the context of this body of law, it is important to recognize that each applicant and each application has flaws. If TDHCA were to demand perfection in each 300+ page application, it would wind up with no applications to choose from. Every application reviewed in this year's cycle received one or more Administrative Deficiencies to clarify or correct an inconsistency or provide missing information. All applicants benefit from a system of Administrative Deficiencies; that is why the Administrative Deficiency process is such an important part of our Rules. In this application round, the Administrative Deficiency process has been more transparent than ever before. This transparency allows for greater understanding and discussion.

It is also important to recognize that any competitive process will leave some disappointed. But so long as TDHCA adheres to its body of law, and applies the law consistently, the process cannot be successfully disputed. Disappointments can be repurposed as suggestions for changes in the Rules in the coming year, intended to improve the process or help the agency better achieve its goals. And while some may be disappointed, thousands of units of affordable housing are generated for Texas.

As the Board considers the staff's report relative to this application, we are confident the Board will conclude that the staff applied the Statute and Rules properly and consistently, as described in more detail in the letters attached.

Sincerely,

Cynthia L. Bast

Cynthia L Bast

cc: Standard Residential II, LLC Structure Development

Letter #1 - Legal Discussion On Material Misrepresentation

Letter #2 - Legal Discussion On Administrative Deficiency for Financial Feasibility

Letter #3 - Legal Discussion On Application Fee

#### Letter #1

Legal Discussion On Material Misrepresentation



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 11, 2016

Texas Department of Housing and Community Affairs 221 East 11th Street
Austin, TX 78711-3941

Attention: Marni Holloway

Re: The Standard on the Creek

**TDHCA No. 16118** 

#### Ladies and Gentlemen:

We represent The Standard on the Creek, LP (the "Applicant"), which has applied for low-income housing tax credits for The Standard on the Creek (the "Development"). This letter is provided in response to a request from TDHCA's Board for a report as to staff's handling of certain allegations that the Applicant provided fraudulent information or made a material misrepresentation or omission in the Application. Staff handled these allegations in accordance with the Third Party Request for Administrative Deficiency process and determined that the requestors did not provide sufficient credible evidence that would substantiate a finding of fraud or material misrepresentation or omission to terminate the application. We wish to confirm that TDHCA staff applied its rules appropriately and no further action should be taken on this matter. No fraud or material misrepresentation or omission has occurred.

#### **Background Information**

The Applicant has been conducting outreach to local officials related to this Development since October 2015. Email correspondence, telephone conversations, and personal meetings have been held with Jack Cagle, County Commissioner for Harris County, Jerry Davis, Council Member for the City of Houston, David Turkel, Executive Director of the Harris County Community Services Department, State Representative Harold Dutton and his office, and Dr. Roger Brown, Assistant Superintendent of Humble ISD. A brief timeline of the Applicant's outreach is attached as <a href="Attachment A">Attachment A</a>. Through this outreach, the Applicant has shared standard information about the proposed Development, including its location, proposed architectural design, amenities, unit mix, and proposed tenant population. The Applicant has also provided information about the development team and its experience. As the Applicant engaged with various local officials, requests were made for the Applicant to include additional considerations.

For instance, Commissioner Jack Cagle requested that the Applicant meet with Humble ISD. The Applicant did so. Councilmember Jerry Davis requested that the Applicant include minority and womenowned businesses in the construction. The Applicant committed to do so. Representative Harold Dutton requested that the Applicant not automatically prohibit residents with a criminal background, but rather determine rental eligibility on a case-by-case basis. The Applicant committed to do so. The Applicant has also been engaging in typical development activities, in anticipation that its application for Tax Credits will be successful. This includes meeting with the local Municipal Utility District (the "MUD"). In each interaction, the Applicant has made every effort to provide complete and consistent information about the Development, recognizing that certain matters evolve as the Development proceeds.

Unfortunately, the Fall Creek Home Owners Association (the "**HOA**") has decided that they do not want the Development to be built. Their statements of opposition include reference to the potential residents as "criminals and thieves" and express concerns about "lower property values & in general a substandard neighborhood." See <u>Attachment B</u> containing posts by HOA members on the HOA's online forum.

As an initial matter, it is important to note that the Development site is not located within the boundaries of the HOA, and the HOA is not on record with TDHCA. Thus, under the Texas Government Code Chapter 2306 (the "Statute"), the Applicant had no obligation to meet with the HOA or obtain its support for this Development. Further, prior to submitting its application and while collecting letters of support for the Development, none of the elected officials with which the Applicant met asked the Applicant to reach out to the HOA. Thus, by the time that the HOA started to vocalize its opposition, the Applicant had already submitted its application with letters of support from area politicians.

Because the Application had already been submitted with the necessary political support, the HOA then foisted significant pressure on Representative Dutton to withdraw his support. Both Representative Dutton and, based on public posts made by members of the HOA, the neighborhood knew that Representative Dutton could not simply withdraw his letter of support. Instead, the HOA needed to work with Representative Dutton to find any flaw that could be exploited and cause the application to be unsuccessful<sup>1</sup>.

Thus, the primary objection from the HOA and Representative Dutton has been that the Applicant submitted fraudulent information or made a material misrepresentation or omission in connection with the application. The allegations of misrepresentation that can be distilled from five separate letters submitted by the HOA and Representative Dutton are:

1. The Applicant misled Representative Dutton and induced his letter of support by saying that it would consider the criminal backgrounds of potential residents on a case-by-case basis.

<sup>&</sup>lt;sup>1</sup> See four letters from Representative Dutton, dated May 2, May 25, June 3, and June 29 (the "**Dutton Letters**"). See letter from HOA dated June 14 (the "**HOA Letter**").

Subsequently, the Applicant told members of the HOA that no ex-felons would be permitted to reside in the Development.

- 2. The Applicant misled Representative Dutton and induced his letter of support by claiming that the Applicant had met with the HOA and had the HOA's support.
- 3. The Applicant misled the MUD and the HOA by stating it had support from Humble ISD.
- 4. The Applicant misstated certain items in its application, including: (a) access to public transportation; (b) pedestrian access; and (c) existence in a flood plain.
- 5. The Applicant misled Commissioner Cagle and induced his support by providing inaccurate information.

These allegations are not true, and the Applicant has responded to these allegations in two letters, dated June 14 and June 23 (the "Applicant Letters"). Each response has been supported by evidence in the form of email correspondence, minutes of public meetings, and affidavits. With hundreds of pages of documentation provided, TDHCA staff has concluded that neither Representative Dutton nor the HOA submitted sufficient credible evidence that the Applicant provided fraudulent information or made a material misstatement or omission in connection with the application.

#### **Legal Analysis**

Pursuant to Section 10.202(K) of the Uniform Multifamily Rules (the "Rules"), an application or an applicant may be considered ineligible for TDHCA funding if it:

has provided *fraudulent* information, knowingly falsified documentation, or other intentional or negligent *material* misrepresentation or omission *in an Application* or Commitment, as part of a challenge to another Application or any other information provided to the Department for any reason. (emphasis added)

Key to this analysis is whether the information is *fraudulent* or *material*.

Elements of *fraud* include: (a) a false representation of a fact; (b) that is intentional; (c) that induces another to act in a certain way; (d) that damages the person who relied upon the misrepresentation. Further, a matter is *material* when it forms a substantive part of a decision-making process. See *Black's Law Dictionary*, *online 2nd edition*. These are the standards by which the facts in this matter must be judged.

When the Dutton Letters and HOA Letter were submitted, TDHCA staff chose to address them as a Third Party Request for Administration Deficiency in accordance with Section 11.10 of the Qualified Allocation Plan (the "QAP"). This provided a framework and standard for review which is consistent with the manner in which all other suggestions of flaws in the application process are addressed. The QAP states:

#### §11.10. Third Party Request for Administrative Deficiency for Competitive HTC Applications.

The purpose of the Third Party Request for Administrative Deficiency process is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention. Such Person may request the staff to consider whether a matter in an Application in which the Person has no involvement should be the subject of an Administrative Deficiency. Staff will consider the request and proceed as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. As a practical consideration, the Department expects that such requests be received by June 1. Requests made after this date may not be reviewed by staff. Requestors must provide, at the time of filing the challenge, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered.

Key to this analysis is whether the requestor provides *new, material information* and *sufficient credible evidence* to *substantiate* the request. A requestor may not use the Third Party Request for an Administrative Deficiency process simply to argue about a determination that has been made by staff.

Thus, in order for the Applicant's application to be terminated, the Rules and QAP state that the staff must find sufficient credible evidence to substantiate a finding that the Applicant provided fraudulent information or made material misrepresentations or omissions in connection with the Application.

#### **Application of Facts to the Law**

Against the backdrop of the Statute, Rules, and QAP, we examine the known facts associated with the following allegations:

- The Applicant misled Representative Dutton and induced his letter of support by saying that it
  would consider the criminal backgrounds of potential residents on a case-by-case basis.
  Subsequently, the Applicant told members of the HOA that no ex-felons would be permitted to
  reside in the Development.
- 2. The Applicant misled Representative Dutton and induced his letter of support by claiming that the Applicant had met with the HOA and had the HOA's support.
- 3. The Applicant misled the MUD and the HOA by stating it had support from Humble ISD.
- 4. The Applicant misstated certain items in its application, including: (a) access to public transportation; (b) pedestrian access; and (c) existence in a flood plain.
- 5. The Applicant misled Commissioner Cagle and induced his support by providing inaccurate information.

Item 1. The Applicant did not deceive Representative Dutton regarding its agreement to evaluate all prospective tenants with a criminal history on a case-by-case basis. As evidenced by email correspondence delivered to TDHCA, the Applicant committed to Representative Dutton that it would review the criminal backgrounds of potential residents on a case-by-case basis. Neither Representative Dutton nor the HOA presented sufficient credible evidence that the Applicant made a contrary representation to any other party. In fact, while the HOA alleges the Applicant made a statement that it would not accept felons as residents at the MUD meeting on March 24, 2016 (two months after Representative Dutton delivered his letter of support), the detailed minutes of the meeting (recorded and produced by the MUD) contain no such reference. Meanwhile, the Applicant has submitted evidence that it has consistently stated that it would perform criminal background checks for all potential residents. Without saying that a criminal history would prevent a resident from living in the Development. In a report published by KTRK television station on March 30, 2016, the Applicant is quoted as saying "The Standard on the Creek will employ a thorough screening process that verifies both employment and criminal history of all prospective residents, ensuring a quality living environment."

In the absence of any evidence that the Developer misled Representative Dutton by saying it would consider the backgrounds of ex-felons on a case-by-case basis while not intending to do so, TDHCA staff properly determined that: "accordingly, staff is unable to conclude that the requestor has adduced sufficient, credible evidence to substantiate his request for disqualification and further observes that the nature and timing of the allegation that the Applicant allegedly made an inconsistent assertion in a public meeting weeks after the application was submitted does not impact the scoring of the application or how it meets threshold criteria." And, "there has been no misrepresentation on this issue made to induce the letter of support."

Item 2. The Applicant did not mislead Representative Dutton by claiming that it had met with the HOA or had its support, prior to the issuance of Representative Dutton's letter of support. This is verified by evidence provided by the Applicant to TDHCA.<sup>7</sup> Specifically, the applicant demonstrated that, over a three-month period, it requested to meet in person with Representative Dutton to discuss the Development on at least 30 separate occasions. Prior to submitting his letter of support, Representative Dutton never met with the Applicant in person and never talked to the Applicant on the telephone.

<sup>&</sup>lt;sup>2</sup> See email to Representative Dutton's office at Applicant Letter dated June 14, Exhibit B. See also Applicant Letter dated June 23 at page 3, Exhibits A and B.

<sup>&</sup>lt;sup>3</sup> See minutes of MUD meeting at Applicant Letter dated June 14, Exhibit D.

<sup>&</sup>lt;sup>4</sup> See Applicant Letter dated June 23, Exhibit E.

<sup>&</sup>lt;sup>5</sup> See TDHCA letter to HOA dated June 27.

<sup>&</sup>lt;sup>6</sup> See TDHCA letter to Representative Dutton dated June 27.

<sup>&</sup>lt;sup>7</sup> See Applicant Letter dated June 14, page 1 and page 2 ("...at no time during the meeting did I state that we had neighborhood support") and page 3 ("Had Representative Dutton requested that we meet with members of the Fall Creek neighborhood before issuing a letter of support, we would have done so.") See Applicant Letter dated June 23, Exhibits A and B.

Instead, the Applicant talked only with Representative Dutton's staff. No one from Representative Dutton's staff inquired whether the Applicant had met with the HOA or whether the Applicant had the HOA's support; and at no time did the Applicant represent that it did.

Neither Representative Dutton nor the HOA presented sufficient credible evidence that the Applicant represented to Representative Dutton's office that the HOA was in support of the Development.<sup>8</sup> In the absence of sufficient credible evidence that the Developer misled Representative Dutton's office by saying it had received support from the HOA, TDHCA staff properly determined that: "the evidence presented along with the request does not rise to a level of the 10 TAC § 11.10 standard of sufficient evidence that substantiates the request."

Item 3. The HOA asserts that the Applicant misled the MUD by stating that it had support from Humble ISD.<sup>10</sup> First, because the statement in question was made to the MUD and was not made to TDHCA and was not made anywhere in the Application, such an allegation cannot be grounds for ineligibility under Section 10.202(K) of the Rules. Second, the allegation is untrue. The Applicant merely informed the MUD that it had met with Humble ISD, and there is no sufficient credible evidence otherwise. Indeed, the minutes of the MUD meeting (recorded and produced by the MUD) reflect that the Applicant stated "the developers had *met* extensively with Humble ISD about their proposed development plan."<sup>11</sup> (emphasis added)

TDHCA staff properly determined that: "the request lacks sufficient credible evidence to substantiate his request for disqualification." <sup>12</sup>

Item 4. The HOA asserts that the Applicant misstated certain items in its application, including: (a) access to public transportation; (b) pedestrian access; and (c) existence in a flood plain. Such statements cannot be considered fraudulent because there is no evidence of the Applicant's intent to deceive. Further, any statements as to public transportation and pedestrian access cannot be considered material because they do not relate to threshold or selection criteria in the Rules or QAP, and the statement as to the flood plain was cured in the Administrative Deficiency process which is, by definition, non-material. Thus, the allegation cannot be grounds for ineligibility under Section 10.202(K) of the Rules.

<sup>11</sup> See Applicant Letter dated June 14, Exhibit D. See also Applicant Letter dated June 23, Exhibit K for Humble ISD correspondence.

<sup>&</sup>lt;sup>8</sup> See TDHCA letter to Representative Dutton dated June 27. Notes from Tamoria Jones of Representative Dalton's office indicate that the Applicant stated it had not received any concerns and to his knowledge they had support.

<sup>&</sup>lt;sup>9</sup> See TDHCA letter to Representative Dutton dated June 27.

<sup>&</sup>lt;sup>10</sup> See HOA Letter.

<sup>&</sup>lt;sup>12</sup> See TDHCA letter to HOA dated June 27, page 3.

As to public transportation and pedestrian access, TDHCA staff properly determined that the Applicant's statements appeared to be supported by the map contained in the application. "The requestor has not shown evidence of how this statement was a material misrepresentation in the application." As to the flood plain, TDHCA staff noted that an original inconsistency in the application was properly resolved as an Administrative Deficiency. In response to the HOA Letter, TDHCA staff noted this matter was properly addressed: "As the Applicant has satisfied the Department as to requirements of the relevant rules, the requestor has provided no 'new material information about [the] Application to staff's attention,' then this issue is outside the scope of 10 TAC § 11.10."

Item 5. The HOA asserts that the Applicant misled Commissioner Cagle and induced his support by providing inaccurate information. Specifically, the HOA included pages from a presentation submitted to Commissioner Cagle, noting discrepancies in number of parking spaces, number of units, amount of taxes to be paid, and other matters. Such statements cannot be considered fraudulent because there is no evidence of the Applicant's intent to deceive. Further, Commissioner Cagle has not given any indication that a false statement induced him to take action. Thus, the allegation cannot be grounds for ineligibility under Section 10.202(K) of the Rules.

TDHCA staff properly determined that: "Though changes . . . have been pointed out, their characterization as a material misrepresentation is an allegation that would have to be made by the County, and substantiated with evidence that was not presented as part of this request." <sup>16</sup>

<sup>-</sup>

<sup>&</sup>lt;sup>13</sup> See TDHCA letter to HOA dated June 27, page 3.

<sup>&</sup>lt;sup>14</sup> See TDHCA letter to HOA dated June 27, page 4.

<sup>&</sup>lt;sup>15</sup> See Applicant Letter dated June 23, page 5. ("... each of the items noted by the HOA either reflects a simple change in the development plan it has evolved or is taken out of context.... O course, none of the items noted by the HOA reflect a material discrepancy and certainly having changes to a site plan does not support a finding of fraud.")

<sup>&</sup>lt;sup>16</sup> See TDHCA letter to HOA dated June 27.

### **Conclusion**

We acknowledge that there are many strong feelings associated with this Development. We further acknowledge that human communication and understanding can be imperfect. The Statute, Rules, and QAP do not require perfection. They utilize well-known legal standards to establish thresholds. Allegations of fraud or material misrepresentation or omission cannot be taken lightly and must be measured in strict accordance with the applicable body of law. We believe TDHCA staff did just that, as it relates to the allegations that have been made against this Applicant.

Sincerely,

Cynthia L Bast
Cynthia L. Bast

cc: Standard Residential II, LLC Structure Development

Attachment A – Timeline of Events
Attachment B – HOA Statements in Forum

## Attachment A

# **Timeline of Outreach Events**

10/21/15	Applicant has initial meeting with Jack Cagle, County Commissioner for Harris
	County. Commissioner Cagle expresses desire for Applicant to meet with the
	Humble ISD. Applicant agrees.
12/8/15	Applicant has initial meeting with Jerry Davis, City Councilmember for the City of
	Houston. Councilmember Davis expresses desire to include Minority and Women
	Owned Businesses (MWBE) in the construction process. Applicant agrees.
10/22/15 -	Applicant reaches out to Representative Dutton's office on 30+ different occasions,
1/25/16	via telephone and email, requesting a meeting.
1/21/16	Applicant meets with Tamoria Jones, Rep. Dutton's chief of staff, for 15 minutes.
	Provides overview of Development, location, and architectural designs. Ms. Jones
	advises that Rep. Dutton requires owners to assess criminal backgrounds of tenants
	on a case-by-case basis. Applicant agrees to discuss and respond.
1/21/16	Houston Council Member Jerry Davis provides a letter of support, which is emailed
	to Rep. Dutton's office.
1/26/16	Applicant advises Rep. Dutton's office that it will examine tenant eligibility of ex-
	felons on a case-by-case basis, as requested.
1/26/16	Applicant speaks with a representative of Humble ISD and sends a follow up email.
	Applicant is advised to speak with Dr. Roger Brown, Assistant Superintendent of
	Support Services.
1/28/16	Applicant obtains support letter from Rep. Dutton's office.
1/29/16	Applicant sends an email to Dr. Roger Brown of Humble ISD, with descriptive
	materials.
2/3/16	At the request of Harris County, Applicant meets with Dr. Roger Brown, Assistant
	Superintendent of the Humble ISD.
2/4/16	Applicant corresponds with Dr. Roger Brown of Humble ISD and is advised that the
	Building and Planning Committee has been informed of the Development, and the
	response was "neutral to okay."
2/16/16	Applicant has email correspondence with David Turkel of Harris County Housing
	Department to confirm correspondence with Humble ISD, per Commissioner Cagle's
	wishes.
2/23/16	Applicant obtains resolution of support from Harris County.
2/24/16	Applicant obtains resolution of support from the City of Houston.
3/24/16	Applicant attends a MUD board meeting to request utility connections. Several
	members of the Fall Creek HOA were in attendance. This was the first interaction
	with the Fall Creek HOA. Certain members in attendance stated opposition for the
	development.
4/1/16	Applicant emails Representative Dutton, notifying him of the opposition faced at
	the MUD board meeting and a willingness to meet and discuss at his convenience.
	Applicant emails the same message to Commissioner Cagle.
4/20/16	Tamoria Jones, of Rep. Dutton's office, invites Applicant to a Town Hall meeting on
	April 30. Applicant accepts.
4/29/16	Applicant advises Tamoria Jones that weather may prohibit attendance. Ms. Jones
	advises not to travel if weather does not allow. Applicant offers to meet at another

	time. No response.								
4/30/16	Town Hall meeting.								
5/26/16	The HOA attends the TDHCA board meeting to present opposition.								
6/1/16	Applicant sends an email to TDHCA, defending the unfounded statements made at								
0/1/10									
	the board meeting and expresses willingness to meet and discuss in further detail.								
6/8/16	TDHCA notifies Applicant in writing that it has received three (3) letters from Rep.								
	Dutton. TDHCA requests that Applicant respond.								
6/14/16	Applicant responds to Rep. Dutton's letters, refuting all claims of								
	fraud/misrepresentation, while providing a clear schedule of events, complete with								
	supporting documentation. (Provided in Board Book)								
6/16/16	TDHCA notifies Applicant in writing that it has received a letter from the Fall Creek								
0,10,10	HOA. TDHCA requests that Applicant respond.								
6 100 14 6									
6/23/16	Applicant responds to Fall Creek HOA's letter, refuting all claims of								
	fraud/misrepresentation, providing supportive evidence. (Provided in Board Book)								
6/30/16	TDHCA Board Meeting. TDHCA staff presents an agenda item as to Third Party								
	Requests for Administrative Deficiencies, in which it includes the letters from Rep.								
	Dutton and the HOA, along with letters from competitors. Staff reports its								
	determination that no further action is required. A fourth letter from Rep. Dutton is								
	read that reiterates all of his prior claims, while adding new claims that staff								
	improperly addressed an Administrative Deficiency related to the application. Board								
	takes no action and requests a staff report at the 7/14 meeting.								
7/6/16	Applicant reaches out to Rep. Dutton's office. No response.								

### Attachment B

### **HOA Statements in Forum**

# **Examples of HOA's Forum Posts**



### Scott Elliott from Fall Creek

21 Jan

Last time we got the state representatives involved to kill it.

### Thank Flag

Patrick, Jeff, Val, and 2 others thanked Scott



### KT Murphy from Fall Creek

27 Mar

why would we want to support a subsidized housing project in our neighborhood?? that equals a rise in crime, lower property vales & in general a substandard neighborhood, that nice park that everybody likes will become gang central, there is NO value in having a subsidized property in our area, we already have plenty with all the apartments around here, everyone in here needs to get behind blocking this, now!

Edited on 27 Mar

### Thank Flag

Anthony, Carol, Nermin, and 7 others thanked KT



### Gisselle Blackwell from Fall Creek

29 Jun

Thanks so much for posting this Ashley, I just read the decision and as you said, the TDHCA has discounted all of Dutton's and our points alleging misrepresentation, and thus far tdhca's decision is that they don't consider that any misrepresentation happened on the part of the applicant. So Dutton can't rescind his support! Furthermore, the tdhca is not going to deem Ojala's application ineligible. Worst news I heard all year. What do we do now?? Grin and bare it as criminals and thieves move literally next door??? I can't stick around to find out how horribly this screws up our beautiful community. :( So angry and devastated right now. :( ve

Thank Flag

# Letter #2

Legal Discussion On Administrative Deficiency for Financial Feasibility



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 11, 2016

Texas Department of Housing and Community Affairs 221 East 11th Street Austin, TX 78711-3941 Attention: Marni Holloway

> Re: The Standard on the Creek

> > **TDHCA No. 16118**

### Ladies and Gentlemen:

We represent The Standard on the Creek, LP (the "Applicant"), which has applied for lowincome housing tax credits for The Standard on the Creek (the "Development"). This letter is provided in response to a request from TDHCA's Board for a report as to the use of the Administrative Deficiency process with regard to points under Section 11.9(e)(1) of the Qualified Allocation Plan (the "QAP") with respect to financial feasibility. We wish to confirm that TDHCA staff applied its rules appropriately and no further action should be taken on this matter.

### **Background Information**

The Applicant submitted an application for the Development in which it claimed 18 points under Section 11.9(e)(1) of the QAP for a "lender approval letter." The QAP specifies:

### (e) Criteria promoting the efficient use of limited resources and applicant accountability.

(1) Financial Feasibility. (§2306.6710(b)(1)(A)) An Application may qualify to receive a maximum of eighteen (18) points for this item. To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive sixteen (16) points. If the letter evidences review of the Development and the Principals, it will receive eighteen (18) points.

The application included a letter from BBVA Compass Bank (the "Bank") to satisfy this scoring item. However, TDHCA staff noticed that the lender approval letter failed to include the requisite statement regarding the Bank's review of the Development and/or Principals. Staff issued an Administrative Deficiency to the Applicant on April 14, 2016, which stated:

BBVA letter says nothing of the bank's review and findings about the creditworthiness of the borrowers.

The Applicant responded to the Administrative Deficiency within the requisite timeframe, and submitted a statement from the Bank with the language required. Accordingly, TDHCA staff awarded the Applicant 18 points for financial feasibility.

Several weeks later, two of the Applicant's competitors submitted Third Party Requests for Administrative Deficiency, challenging the same issue. Staff responded that the matter was properly resolved within TDHCA's rules. Now, based upon a letter of opposition from Representative Harold Dutton and public testimony from these dissatisfied competitors, the Board has asked for a report on this matter at an upcoming meeting.

### **Legal Arguments**

The staff's application of TDHCA's rules for an Administrative Deficiency was correct and consistent with its actions in other similar situations. To find otherwise would call into question the utilization of the Administrative Deficiency process for the entire Application Round.

The definition of an Administrative Deficiency, and its application to this particular situation, is clear. Section 10.3(2) of the Uniform Multifamily Rules (the "Rules") defines an Administrative Deficiency as follows:

(2) Administrative Deficiencies--Information requested by Department staff that is required to clarify or correct one or more inconsistencies or to provide non-material missing information in the original Application or to assist staff in evaluating the Application that, in the Department staff's reasonable judgment, may be cured by supplemental information or explanation which will not necessitate a substantial reassessment or re-evaluation of the Application. Administrative Deficiencies may be issued at any time while the Application or Contract is under consideration by the Department, including at any time while reviewing performance under a Contract, processing documentation for a Commitment of Funds, closing of a loan, processing of a disbursement request, close-out of a Contract, or resolution of any issues related to compliance.

An Administrative Deficiency is utilized to *correct* an *inconsistency*. In this case, the fact that the Applicant noted its intent to receive the financial feasibility points was inconsistent with the fact that

the lender approval letter did not contain the requisite language. The Applicant was allowed to correct this inconsistency by submitting the requisite written evidence from the Bank.

The opponents cite Section 11.9(a) of the QAP as authority for the fact that the Applicant should not be allowed to cure this matter as an Administrative Deficiency. It says:

Applicants that elect points where supporting documentation is required but fail to provide *any* supporting documentation will not be allowed to cure the issue through an Administrative Deficiency. (emphasis added)

In this case, the Applicant *did* submit supporting documentation in the form of a lender approval letter. Thus, it was allowed to cure the omission through an Administrative Deficiency.

TDHCA staff has applied the Administrative Deficiency rule consistently across this Application Round. Examples of other applications in this Application Round for which the Administrative Deficiency rule has been applied similarly:

- Pursuant to Section 10.305(a) of the Rules, the environmental site assessment is required to be
  addressed to TDHCA and with the preparer making certain representations. In instances where
  the applicants submitted an environmental site assessment but the report was not addressed to
  TDHCA and did not include the required language, the applicants were permitted to submit a
  revised environmental site assessment that contained the correct language through the
  Administrative Deficiency process.
- Pursuant to Section 11(c) of 2016-1 NOFA for Multifamily Direct Loans, an applicant for a TDHCA
  direct loan is required to include certain language in its purchase contract. In instances where
  the applicants submitted a purchase contract but the purchase contract failed to include the
  required language, the applicants were permitted to submit a revised purchase contract that
  contained the correct language through the Administrative Deficiency process.

Plenty of similar examples exist, where something was submitted but something was omitted and the omission was cured by an Administrative Deficiency. If TDHCA now takes the position that the Applicant's omission was incapable of cure under the Rules, it mandates an examination of the staff's decisions on all similar Administrative Deficiencies, where items omitted were subsequently provided.

Moreover, as noted by TDHCA staff to the competitors, the Third Party Request for Administrative Deficiency process has a specific scope. Section 11.10 of the QAP states:

### §11.10. Third Party Request for Administrative Deficiency for Competitive HTC Applications.

The purpose of the Third Party Request for Administrative Deficiency process is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention. Such Person may request the staff to consider whether a matter in an Application in which the Person has no involvement should be the subject of an Administrative Deficiency. Staff will consider the request and proceed as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. As a practical consideration, the Department expects that such requests be received by June 1. Requests made after this date may not be reviewed by staff. Requestors must provide, at the time of filing the challenge, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered.

The fact that the lender approval letter failed to contain required language was not "new, material information." The competitor was simply arguing about an issue that had already been identified and addressed by staff. Thus, staff responded appropriately:

Per §11.10 of the QAP, the purpose of the Third Party Request for Administrative Deficiency process is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention. The request does not bring new, material information to staff's attention; but poses a question about the way staff scored the application. Such a request is not consistent with the rule.

Competitors may not use the Third Party Request for Administrative Deficiency process to argue a legitimate staff determination.

Further, if TDHCA now decides that the staff acted improperly in handling this Administrative Deficiency, it would be based upon the appeal of a competitor, which is not permitted under the Rules. Section 10.902(b) expressly states:

An Applicant or Development Owner may not appeal a decision made regarding an Application filed by or an issue related to another Applicant or Development Owner.

TDHCA staff submitted its determinations on Third Party Request for Administrative Deficiencies to the Board as a report item, just as it has done in years past with challenges. Absent testimony from competitors and opponents to this Development, the Board would not have given this matter any further consideration. Witness other applicants that were not brought to this level of scrutiny because their competitors and opponents did not testify on June 30. We are not aware of any precedent in which the Board has allowed a competitor to successfully appeal another application. To maintain the integrity of the QAP, the Rules, and the process, the staff's determination on this Administrative Deficiency must be upheld.

### **Conclusion**

When the Applicant omitted required language from the lender approval letter, TDHCA staff acted properly in issuing an Administrative Deficiency and allowing the Applicant to cure the item. The Applicant should retain the 18 points for financial feasibility for this application.

Sincerely,

Cynthia L. Bast

Cynthia L'Bast

cc: Standard Residential II, LLC Structure Development

# Letter #3

# Legal Discussion On Application Fee



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 11, 2016

Texas Department of Housing and Community Affairs 221 East 11th Street Austin, TX 78711-3941 Attention: Marni Holloway

> Re: The Standard on the Creek

> > **TDHCA No. 16118**

### Ladies and Gentlemen:

We represent The Standard on the Creek, LP (the "Applicant"), which has applied for lowincome housing tax credits for The Standard on the Creek (the "Development"). This letter is provided in response to your letter dated July 1, 2016 regarding the application fee for this application. We wish to confirm that no further action should be taken on this matter.

### **Background Information**

The Applicant submitted a pre-application contemplating 130 units, along with a pre-application fee in the amount of \$1300 (\$10 per unit). Prior to filing the application, the Applicant reduced the number of units in the Development to 120. Upon filing the application, the Applicant submitted an additional fee of \$2300, based upon Section 10.901(3)(A) of the Uniform Multifamily Rules (the "Rules"), which states "The fee will be \$30 per Unit based on the total number of Units." With a total fee of \$3600 paid between pre-application and application and a total of 120 units, the fee paid complied with the Rules.

In early May, staff contacted the Applicant by telephone, asserting that the Applicant should have paid \$20 per unit at the time of final application, even if that would result in the Applicant paying more than \$30 per unit overall. We disagreed with this interpretation and submitted our understanding of the Rules on this point, via email. We further noted that, even if the incorrect fee was paid on March 1, the Rules state that the application is ineligible only for so long as the fee remains unpaid. Once the fee is paid, the application is eligible for consideration. See Exhibit A. The Applicant submitted the difference between what was paid at the time of application and what the staff suggested should be

owed, and the matter was cleared. See <u>Exhibit B</u>. No formal notification of Administrative Deficiency was provided.

### **Legal Arguments**

A review of the statutory authority for assessing the fees provides that the fee must reflect the Department's actual costs in processing the application and must be consistently applied. Section 2306.6716(a) of the Texas Government Code (the "Statute") says:

(a) A fee charged by the department for filing an application may not be excessive and must reflect the department's actual costs in processing the application, providing copies of documents to persons connected with the application process, and making appropriate information available to the public through the department's website. (emphasis added)

Next, Section 10.901(3)(A) of the Rules indicates that the fee for an LIHTC application is intended to be \$30 per Unit.

- (3) Application Fee. Each Application must be accompanied by an Application fee.
- (A) Housing Tax Credit Applications. The fee will be \$30 per Unit based on the total number of Units.

When an applicant files both a pre-application and an application, the Rules provide:

- (1) Competitive Housing Tax Credit Pre-Application Fee. A pre-application fee, in the amount of \$10 per Unit, based on the total number of Units reflected in the pre-application, must be submitted with the pre-application in order for the pre-application to be considered accepted by the Department.
- (3)(A) For Applicants having submitted a competitive housing tax credit pre-application which met the pre-application threshold requirements, and for which a pre-application fee was paid, the Application fee will be \$20 per Unit based on the number of Units in the full Application.

In reliance upon these Rules, the Applicant paid a total application fee of \$3600 for 120 units, which calculates to \$30 per unit. However, TDHCA staff questioned whether the Applicant should have paid \$1300 for the pre-application (\$10 per unit for 130 units) and \$2400 for the application (\$20 per unit for 120 units). This results in a total payment of \$3700, which is \$30.83 per unit applied for. In short, staff alleged that the Applicant's total payment was \$100 short.

If the Department's interpretation of the fee provision is correct, then when an applicant changes the number of units from the pre-application to the application, the net payment per unit varies on a case by case basis, which is not consistent with the Statute or Rules. Specifically, the concept is that the applicant pays \$30 per unit unless the applicant has submitted a pre-application. In that scenario, the applicant need only pay \$20 per unit at the time of application because it already paid \$10 per unit at the time of the pre-application. Assuming the number of Units remains the same from the pre-application to the application, this leads to an equal and consistent result—\$30 per unit total (the same as if an applicant had not submitted a pre-application). However, if the applicant changes the number of units between pre-application and application, which the Rules permit, the Rules do not clearly reconcile the fact that the application fee is \$30 per unit with the fact that a change in the number of units between pre-application and application could result in an overpayment or underpayment.

**Example:** Applicant is applying for Green Acres.

Scenario #1 – Applicant submits a pre-application for 200 units and an application for 150 units. Fee paid at pre-application is \$2000 (200 units at \$10 per unit). Fee paid at application is \$3000 (150 units at \$20 per unit). Total paid is \$5000, which is \$33.33 per unit applied for. This exceeds the per-unit fee set forth in the Rules.

Scenario #2 – Applicant submits a pre-application for 100 units and an application for 150 units. Fee paid at pre-application is \$1000 (100 units at \$10 per unit). Fee paid at application is \$3000 (150 units at \$20 per unit). Total paid is \$4000, which is \$26.67 per unit. This is less than the per-unit fee set forth in the Rules, so the Applicant must increase the payment to \$30 per unit.

Scenario #3 – Applicant does not submit a pre-application. It submits an application for 150 units. Fee paid at application is \$4500 (150 units at \$30 per unit).

It cannot be the case that, if an applicant decreases the number of units between preapplication and application, it winds up paying more than it would have in the reverse scenario. That is not consistent with the Statute, which requires that fees reflect the Department's actual costs. It does not cost the Department any more to process an application that decreases the number of units than to process an application that increases the number of units. **An applicant that is required to pay more than the \$30 per unit set forth in the Rules is paying an excessive fee.** 

Thus, we firmly believe that the Applicant should actually be refunded the \$100 overpayment that was submitted to resolve this matter, as it should not be required to pay more than \$30 per unit applied for, in accordance with the Statute and Rules. And even if the staff and Board disagree with this interpretation, Section 10.901 of the Rules indicates that an applicant that has not properly paid its fee is ineligible only so long as the fee remains unpaid.

Any fees, as stated in this section, not paid will cause an Applicant to be ineligible to apply for Department funding, ineligible to receive additional Department funding associated with a Commitment, Determination Notice or Contract, and ineligible to submit extension requests, ownership transfers, and Application amendments until such time the Department receives payment. Payments of the fees shall be in the form of a check and to the extent there are insufficient funds available, it may cause the Application, Commitment, Determination Notice or Contract to be terminated or Allocation rescinded. The Executive Director may grant a waiver for specific extenuating and extraordinary circumstances, provided the Applicant submits a written request for a waiver no later than ten (10) business days prior to the deadline associated with the particular fee. For those requests that do not have a specified deadline, the written request for a fee waiver and description of extenuating and extraordinary circumstances must be included in the original request cover letter. (emphasis added)

### **Other Considerations**

This would not be the first time TDHCA staff has handled a fee shortage in an administrative manner. In the 2015 Application Round, one developer submitted two applications – The Terraces at Canyon Lake and Liberty Shores. The application fee for one application was underpaid and the application fee for the other application was overpaid. TDHCA staff permitted an off-set so that no additional payment was required.

Finally, the Applicant is not the only one in this Application Round that read the Rules in this way – that the appropriate payment is \$30 per unit, as submitted in the final application. All applicants were treated consistently by TDHCA staff, and all paid the extra application fee amount, even though it should not have been required.

### **Conclusion**

The Applicant strictly abided by the Statute and the Rules, paying \$30 per unit applied for. While we disagree with staff's interpretation that the Rules call for payment that exceeds \$30 per unit overall, the Applicant did not object to staff's request for an additional \$100. Rather, it acted promptly to tender the additional payment and handled the inquiry administratively. To the extent a difference of understanding as to the interpretation of the Rules regarding the proper amount of fees rendered the application ineligible, such ineligibility was cured when the additional payment was made. Finally, if nothing else, the Executive Director has authority to grant a waiver for extraordinary circumstances, and if staff requires an excessive payment beyond the scope of the Statute and Rules, that is certainly an extraordinary circumstance.

TDHCA July 11, 2016 Page 5

The Applicant complied with the Rules with its initial application fee payment. Based upon the Statute and Rules, no applicant should be required to pay more than \$30 per unit submitted in the final application. For TDHCA to terminate this application based upon a contrary interpretation would be an unjust result for this Applicant and others similarly situated. We trust this satisfies Representative Dutton's inquiry with definitive information that the Applicant complied with TDHCA Statute and Rules in the payment of its application fee.

Sincerely,

Cynthia L. Bast

Cynthia L Bast

cc: Standard Residential II, LLC Structure Development

Exhibit A - Email Correspondence on Fee Issue Exhibit B - Transmission of Additional Fee

# Exhibit A

# Email Correspondence on Fee Issue

From: Bast, Cynthia L. [mailto:clbast@lockelord.com]

Sent: Thursday, May 05, 2016 5:32 PM

To: Beau Eccles (beccles@tdhca.state.tx.us); Tim Irvine (tim.irvine@tdhca.state.tx.us); Marni Holloway

(marni.holloway@tdhca.state.tx.us); 'Sharon Gamble'

Cc: Matthew J. Vruggink; Clay D. Likover; Leslie Chaggaris (<a href="leslie.chaggaris@rgmfirm.com">leslie.chaggaris@rgmfirm.com</a>); Sarah Andre

(<u>sarah@structuretexas.com</u>); Sallie Burchett **Subject:** Application fees -- #16015 and 16118

Last night, TDHCA staff raised a concern that the application fees paid for Application #16015 and Application #16118 were insufficient. Specifically, TDHCA staff indicated that the application fees were underpaid by \$20 and \$100, respectively. Although we find the provision that sets forth the relevant fees to be, at best, ambiguous as it pertains to applications where the number of units varies from pre-application to application, to avoid any delay or issue, the Applicant immediately tendered to the Department the alleged balance owed. Per §10.901 of the Multifamily Rules, an application is ineligible on the basis of failing to pay a fee only until such time as the Department receives payment. Because the Applicant has tendered both payments, we believe that the Applicant has satisfied all requirements and the applications are eligible.

However, given the seriousness of the issue, and to the extent the Department disagrees that the tendered payments resolve the issue, I would like to address a few additional points that we hope TDCHA will consider before taking any action.

First, a review of the statutory authority for assessing the fees provides that the fee must reflect the Department's actual costs in processing the application and must be consistently applied. Section 2306.6716(a) says:

(a) A fee charged by the department for filing an application may not be excessive and must reflect the department's actual costs in processing the application, providing copies of documents to persons connected with the application process, and making appropriate information available to the public through the department's website.

Next, the Rules indicate that the fee for an LIHTC application is intended to be \$30 per Unit.

- (3) Application Fee. Each Application must be accompanied by an Application fee.
- (A) Housing Tax Credit Applications. The fee will be \$30 per Unit based on the total number of Units.

If the Department's interpretation of the fee provision is correct, then when an applicant changes the number of Units from the pre-application to the application, the net payment per Unit varies on a case by case basis, which is not consistent with the statute or Rules.

Specifically, the concept is that the applicant pays \$30 per Unit unless the applicant has submitted a pre-application. In that scenario, the applicant need only pay \$20 per Unit at the time of application because it already paid \$10 per Unit at the time of the pre-

application. Assuming the number of Units remains the same from the pre-application to the application, this leads to an equal and consistent result—\$30 per Unit total (the same as if an applicant had not submitted a pre-application). However, if the applicant changes the number of Units between pre-application and application, which the Rules permit, the Rules do not clearly reconcile the fact that the application fee is \$30 per Unit with the fact that a change in the number of Units between pre-application and application could result in an overpayment or underpayment.

**Example:** Applicant is applying for Green Acres.

Scenario #1 – Applicant submits a pre-application for 200 Units and an application for 150 Units. Fee paid at pre-application is \$2000. Fee paid at application is \$3000. Total paid is \$5000, which is \$33.33 per Unit. This exceeds the per-Unit fee set forth in the Rules.

Scenario #2 – Applicant submits a pre-application for 100 Units and an application for 150 Units. Fee paid at pre-application is \$1000. Fee paid at application is \$3000. Total paid is \$4000, which is \$26.67 per Unit. This is less than the per-Unit fee set forth in the Rules, so the Applicant must increase the payment to \$30 per Unit.

Scenario #3 – Applicant does not submit a pre-application. Submits an application for 150 Units. Fee paid at application is \$4500.

It cannot be the case that, if an applicant decreases the number of Units between preapplication and application, it winds up paying more than it would have in the reverse scenario. That is not consistent with the statute, which requires that fees reflect the Department's actual costs. It does not cost the Department any more to process an application that decreases the number of Units than to process an application that increases the number of Units. An applicant that is required to pay more than the \$30 per Unit set forth in the Rules is paying an excessive fee.

Given the understandable confusion based upon the rule, these applications should not be terminated, particularly when (1) the amount at issue is so very small, (2) the Applicant was quite clear on the face of its application as to how it was calculating the fee in good faith, and (3) the Applicant paid a net \$30 per Unit, which is the amount of fee specified in the Rules. Regardless, as discussed above, as soon as the Applicant was alerted to the issue, it immediately tendered the payment TDHCA thought was required. Finally, if nothing else, the Executive Director has authority to grant a waiver for extenuating circumstances, which this scenario fits.

Any fees, as stated in this section, not paid will cause an Applicant to be ineligible to apply for Department funding, ineligible to receive additional Department funding associated with a Commitment, Determination Notice or Contract, and ineligible to submit extension requests, ownership transfers, and Application amendments until such time the Department receives payment. Payments of the

fees shall be in the form of a check and to the extent there are insufficient funds available, it may cause the Application, Commitment, Determination Notice or Contract to be terminated or Allocation rescinded. The Executive Director may grant a waiver for specific extenuating and extraordinary circumstances, provided the Applicant submits a written request for a waiver no later than ten (10) business days prior to the deadline associated with the particular fee. For those requests that do not have a specified deadline, the written request for a fee waiver and description of extenuating and extraordinary circumstances must be included in the original request cover letter.

For otherwise qualified applications to be disqualified over such nominal amounts is a severe and unjust result. As you can understand, the Applicant has invested significant time and expenses in order to submit quality applications that support the goals of TDHCA. Therefore, we hope that TDHCA will consider the significant impact of disqualifying these applications based on a good faith disagreement as to the calculation of the application fees, especially when the amounts resulted in a \$20 and \$100 discrepancy.

I am happy to discuss with you further, if it would be beneficial. Thanks for your time and consideration.

### **Cynthia Bast**

Partner

### **Locke Lord LLP**

600 Congress Avenue Suite 2200

Austin, Texas 78701 T: 512-305-4707 F: 512-391-4707

cbast@lockelord.com
www.lockelord.com



Atlanta | Austin | Boston | Chicago | Dallas | Hartford | Hong Kong | Houston | Istanbul | London | Los Angeles | Miami | Morristown | New Orleans | New York | Providence | Sacramento | San Francisco | Stamford | Tokyo | Washington DC | West Palm Beach

For more information visit www.lockelord.com

### CONFIDENTIALITY NOTICE:

This e-mail and any attached files from Locke Lord LLP may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail by accident, please notify the sender immediately and destroy this e-mail and

all copies business.	of it. We	emay scan a	and or monito	r emails sent t	o and from ou	ır servers to e	nsure regulator	y compliance to	protect our clier	its and

# Exhibit B

# Transmission of Additional Fee



Dear Ms. Holloway,

On May 5, 2016, we were advised that the Department believes the application fees paid with Application #16015 and Application #16118 were insufficient. We read the relevant provision pertaining to the fee schedule as requiring a total \$30 per unit in the final application (taking into account any amounts paid per unit with the pre-application). We understand that the Department reads that provision differently such that the application fees were underpaid by \$20 and \$100, respectfully. We also understand Rule 10.901 states that an applicant is ineligible due to nonpayment of fees at any time until the Department receives payment. Therefore, in order to avoid any delay or issue, we are submitting two checks: (1) one check for \$20.00 for Application #16015; and (2) one check for \$100.00 for Application #16118.

Please call us with any questions. We look forward to working with the Department and greatly appreciate your diligence in reviewing this matter.

Sincerely,

Sarah H. Andre

Consultant to the Projects

## MULTIFAMILY DOCUMENT & PAYMENT RECEIPT

TDHCA | Deliver to: 221 E. 11th St., Austin, TX 78701 | Mail to: PO Box 13941, Austin, TX 78711-3941 (This receipt does not attest to the sufficiency of documentation to fulfill Program requirements.)

Development: The Stand	dard at Fall Creek	Owne	er: The Standard at Fall Cree	ek, LP
Contact: Daniel Smith		Email: DLS@OjalaHol	dings com Tel:	Daniel Smith
TDHCA Applic	cation Number		TDHCA Date Tyme Stam	р
161	118		MAY 0 5 2016  TDHCA  Multifamily Finance Dept	
Select Progr	am of Documents/Paymen	ts Submitted (note: H		
X 9% HTC (Competitive)	4% HTC - Tax Exempt Bond I	ssuer:		НОМЕ
	Indicate All	Documents Submitted		
Pre-Application M	Iarket Study Phase I		ign & Dev. Feasibility Repo	ort
X Application A	ppraisal PCA/C	NA Primary	Market Area Map	
Waiver Request Comm	nunity Revitalization Plan	Community Input	Other:	
	Desc	cribe Payment		
Check Amount:  Check Number:	\$100 HTC Ap	polication Fee: 120 ponly) # of U		\$ 2,400.00 App. Fee
Check Amount:		Non	-Profit or CHDO	
Check Number:			N	P Discounted Fee
NOTE: Housing Tax Credit Proreduction, must attach a copy of Date  X Check this box to reque	Applicant S	vidence of 501(c )(2) o	profit Organizations and requer (4) status to this receipt.	Staff Initials
Attach Check Here	st a copy of the state initials.	i tooop.		
EAST 43RD ST SARAH ANDRE 702 SAN ANTONIO AUSTIN, TX 78701-22  Pay to the Order of Transport of T	ST	3- 000 5 633011 1339	1339 88-7740/314 Date  \$ 100  Dollars	9
Harland Clarke				

# 16118 Standard at the Creek

TEX. GOV'T CODE \$2306.6715(b) provides "[A]n applicant may not appeal a decision made under Section 2306.6710 regarding an application filed by another applicant." These materials were provided by another applicant for the apparent purpose of providing their perspective for the Board to consider as it decides whether to make any decision on a matter that is under TEX. GOV'T CODE \$2306.6710. Staff has already made its decision on these matters.

### MARQUE REAL ESTATE CONSULTANTS

710 North Post Oak Road, Suite 400 Houston, TX 77024 (713) 560-0068 - p (713) 583-8858 - f

Donna@MarqueConsultants.com

July 6, 2016

Marni Holloway
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11<sup>th</sup> Street
Austin, Texas 78701

Re: #16118; The Standard on the Creek; Issue concerning qualification for Financial Feasibility points

### Dear Marni:

In connection with the issue of whether The Standard on the Creek qualifies for "Financial Feasibility" points under §11.9(e)(1) of the QAP Rules, and the TDHCA Board's consideration of the matter at the July 14, 2016 meeting, the critical points are as follows:

- 1. An application may qualify to receive 18-points if the applicant includes in its application:
  - a) a 15-year pro forma signed by the lender with its contact information "...evidencing that it has been reviewed and found to be acceptable..."; and
  - b) a lender approval letter "...must be submitted." If the lender approval letter evidences the lender's review of the development alone, then the letter will receive 16 points, and if the letter evidences the lender's review of the development and the creditworthiness of the Principals of the applicant then the letter will receive 18 points.
- 2. The lender approval letter with the required language is the operative requirement to qualify for the points in this scoring category.
- 3. §11.9(e)(1) of the QAP Rules also recognizes that an acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. The applicable template describes the specific language the Department would be looking for in the lender approval letter to be eligible for the points.
- 4. The Standard applicant did not include a lender approval letter with the required language for the points in its application, nor was the required language included in the lender's term sheet.
- 5. The Standard applicant submitted the lender approval letter with the required language on April 14, 2016 in response to an administrative deficiency question by staff.
- 6. Submission of documentation to support scoring criteria after the application submission deadline is explicitly not allowed under §11.9(a) of the QAP Rules.

TDHCA – Appl. No. 16118 July 6, 2016 Page -2-

Financial Feasibility is an 18-point scoring category, the highest in the point ranking system and therefore one that has by Texas State Statute been given the highest value in the Rules. The Rules are very clear as to what an applicant must provide in order to qualify for the points. The Standard applicant did not include in its application a lender approval letter containing the required language necessary to qualify for the 18-points claimed.

I also point out that all other applicants competing in Region 6 did include the required lender approval letter in their applications including those working with the same lender as the Standard applicant.

Given the importance of this scoring category, the unambiguous requirements in the Rules to qualify for the Financial Feasibility points and recognizing that all other competing applicants understood the requirements and included an eligible approval letter from their lender in their application, the 18-points claimed by the Standard applicant should be deducted from the final score awarded by the Department.

We respectfully request that this letter and the supporting documentation be made a part of the Board materials in connection with the Board's consideration of this matter at the July 14, 2016 meeting.

Sincerely,

Donna Rickenbacker

cc: Tim Irvine Tom Gouris

Kim Murphy (Royal American)

Donna Ricknebacker

Attachments – 5/3/16 Third Party Adm. Deficiency

### MARQUE REAL ESTATE CONSULTANTS

710 North Post Oak Road, Suite 400
Houston, TX 77024
(713) 560-0068 - p
(713) 583-8858 - f

Donna@MarqueConsultants.com

May 3, 2016

Marni Holloway Director of Multifamily Finance Texas Department of Housing and Community Affairs 221 E. 11<sup>th</sup> Street Austin, Texas 78701

Re: Application No. 16118-The Standard at Fall Creek

Dear Ms. Holloway,

Pursuant to §11.10 of the QAP Rules, please let this letter serve as our Third Party Request for Administrative Deficiency in connection with Application No. 16118-The Standard at Fall Creek (the "Application") filed in Region 6.

The Standard at Fall Creek, LP (the "Applicant") did not submit the required documentation in its Application to qualify for points under §11.9(e)(1)-Financial Feasibility of the QAP Rules and should not be awarded such points by the Department.

An application may qualify to receive a maximum of eighteen (18) points under §11.9(e)(1)-Financial Feasibility of the QAP Rules. To qualify for the points, an applicant must submit:

- (a) a 15-year *pro forma* that includes the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of the Third Party construction or permanent lender; and
- (b) in addition to the signed *proforma*, a separate "lender approval letter". If the lender approval letter evidences,
  - (i) review of the Development alone it will receive sixteen (16) points; or
  - (ii) review of the Development and the Principals, it will received eighteen (18) points.

The Financial Feasibility scoring category also states that an acceptable form of lender approval letter may be found in the Uniform Multifamily Application Templates ("UMA Templates"). The applicable template states that the lender approval letter must be submitted on the lender's letterhead and the required language can be:

- (a) contained within a separate letter; or
- (b) included in the commitment and/or term sheet of the construction and/or permanent lender.

Attached please find as <u>Attachment I</u> §11.9(e)(1)-Financial Feasibility of the QAP Rules and as <u>Attachment II</u> the Sample Language for 16 & 18 point letter(s) from the UMA Templates.

TDHCA – Appl. No. 16118 Administrative Deficiency May 3, 2016 Page -2-

The Applicant included in the Application the required 15-year *proforma* appropriately signed by Ken Overshiner, with BBVA Compass, the construction/permanent lender and a preliminary financing term sheet from BBVA Compass. However, the Applicant did not submit a separate lender approval letter on its letterhead containing the required language necessary to be eligible for either 16 or 18 points under §11.9(e)(1) nor was such language incorporated in the lender term sheet provided by BBVA Compass. Attached please find as <u>Attachment III</u> the 15-year *proforma* and as <u>Attachment IV</u> the lender term sheet provided by BBVA Compass and made part of the Application.

The Department reviewed the Application and sent an Administrative Deficiency notice to the Applicant dated 4/14/16 containing a statement by the reviewer that the "BBVA letter says nothing about the bank's review and findings about the creditworthiness of the borrowers", the BBVA letter being the lender term sheet provided by BBVA Compass and made a part of the Application. Attached please find as <u>Attachment V</u> the Administrative Deficiency of 4/14/16. In response to the reviewer's statement, the Applicant submitted the attached (<u>Attachment VI</u>) lender approval letter on BBVA Compass letterhead dated 4/14/16 ("BBVA Compass Approval Letter") specifically highlighting the bank's review of the credit worthiness of the Principals of the Development Owner. In addition to addressing the creditworthiness of the Principals, the BBVA Compass Approval Letter includes specific language on BBVA Compass's review of the Development's feasibility, which would have qualified the Application for the full 18-points under §11.9(e)(1) of the QAP Rules had the letter been dated and submitted with the Application as of the application delivery deadline of 3/1/16.

The stated language under §11.9(e)(1) of the QAP Rules supported by the applicable template made a part of the UMA Templates is clear on what an applicant must provide at application in order to qualify for points under this scoring category. The rules are also very clear on the competitive nature of the tax credit program and what an applicant can and cannot change or supplement in its application after the filing deadline or while its application is under consideration for an award. Attached please find as **Attachment VII** §11.9(a) of the QAP Rules informing applicants that elect points where supporting documentation is required but fail to provide such supporting documentation will not be allowed to cure the issue through the Administrative Deficiency process. Attached please also find as **Attachment VIII** §10.201(7)(A) of the Multifamily Rules expanding the restrictions on deliverables to the Department after the application submission deadline. Applicants are informed that they may not change or supplement any part of an application "in any manner" after the filing deadline or while the application is under consideration for an award except in response to a "direct" request from the Department to do so as a result of an Administrative Deficiency.

The Applicant did not include in the Application a lender approval letter evidencing the lender's review of (i) the Development's feasibility, or (ii) the credit worthiness of the Principals required to support the points under the Financial Feasibility scoring category set forth in §11.9(e)(1) of the QAP Rules. Furthermore, the BBVA Compass Approval Letter dated and delivered to the Department by the Applicant after the application submission deadline of 3/1/16 and without a "direct" request from the Department to do so should not qualify the Application for the 18-points selected by the Applicant under the Financial Feasibility scoring category and such points should be deducted accordingly from the Applicant's final score awarded by the Department.

TDHCA – Appl. No. 16118 Administrative Deficiency May 3, 2016 Page -3-

Enclosed please find the required Third Party Deficiency Request Fee in the amount of \$500. We appreciate your due consideration of this administrative deficiency.

Sincerely,

Donna Richenbacker Donna Rickenbacker

cc: Kim Murphy (Royal American)

Attachment I - §11.9(e)(1)-Financial Feasibility of the QAP Rules

Attachment II - Sample Language for 16 & 18 point letters from UMA Templates

Attachment III – 15-year proforma

Attachment IV – BBVA Compass lender term sheet

Attachment V - Administrative Deficiency of 4/14/16

Attachment VI – BBVA Compass Approval Letter

Attachment VII - §11.9(a) of the QAP Rules

Attachment VIII - §10.201(7)(A)

- (ii) To qualify under clause (i) of this subparagraph, the Applicant must provide a letter from a government official with specific knowledge of the project (or from an official with a private utility company, if applicable) which must include:
  - (I) the nature and scope of the project;
  - (II) the date completed or projected completion;
  - (III) source of funding for the project;
  - (IV) proximity to the Development Site; and
  - (V) the date of any applicable city, county, state, or federal approvals, if not already completed.

### (e) Criteria promoting the efficient use of limited resources and applicant accountability.

- (1) Financial Feasibility. (§2306.6710(b)(1)(A)) An Application may qualify to receive a maximum of eighteen (18) points for this item. To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive sixteen (16) points. If the letter evidences review of the Development and the Principals, it will receive eighteen (18) points.
- (2) Cost of Development per Square Foot. (§2306.6710(b)(1)(F); §42(m)(1)(C)(iii)) An Application may qualify to receive up to twelve (12) points based on either the Building Cost or the Hard Costs per square foot of the proposed Development, as originally submitted in the Application. For purposes of this paragraph, Building Costs will exclude structured parking or commercial space that is not included in Eligible Basis, and Hard Costs will include general contractor overhead, profit, and general requirements. Structured parking or commercial space costs must be supported by a cost estimate from a Third Party General Contractor or subcontractor with experience in structured parking or commercial construction, as applicable. The square footage used will be the Net Rentable Area (NRA). The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule. If the proposed Development is a Supportive Housing Development, the NRA will include common area up to 50 square feet per Unit.
  - (A) A high cost development is a Development that meets one of the following conditions:
    - (i) the Development is elevator served, meaning it is either a Elderly Development with an elevator or a Development with one or more buildings any of which have elevators serving four or more floors;

## Financial Feasibility – Sample Language

Pursuant to §11.9(e)(1) of the QAP an Application may qualify to receive a maximum of eighteen (18) points for evidence of financial feasibility. To qualify for points, a 15-year *pro forma* itemizing all projected income, including Unit rental rates and basis for the rental rate assumptions, operating expenses and debt service, specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The *pro forma* can be prepared by the Applicant or can be independently prepared by the Third party construction or permanent lender. The *pro forma* must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of the lender. In addition to the signed *pro forma*, a lender approval letter on lender letterhead must be submitted. If the approval letter evidences review of Development feasibility alone it will receive sixteen (16) points. If the letter evidences review of Development feasibility and the Principals of the Development Owner, it will receive eighteen (18) points.

Sample language for 16 & 18 point letters are provided below (*Note: the required language for points can be included in the commitment and/or term sheets from the construction and/or permanent lender*).

### **Sample Language eligible for 16 Points:**

"The attached 15-year *pro forma* was prepared by the [Applicant] or [independently prepared by [name of lender] for [Development name] located in [Development City]. The *pro forma* is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on [name of lender] current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio."

### Sample Language eligible for 18 Points:

"The attached 15-year *pro forma* was prepared by the **[Applicant]** or **[independently prepared by [name of lender]** for **[Development name]** located in **[Development City]**. The *pro forma* is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on **[name of lender]** current underwriting parameters and consistent with the loan terms indicated in the term sheet and is preliminarily considered feasible, pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

Additionally, we have performed a preliminary review of the credit worthiness of **[Development Owner]** and its Principals. At this time, **[name of lending institution]** has no reservations with the Development Owner or any of the Principals. We anticipate no additional guarantors or financial strength will be needed to facilitate a loan to this borrower, other than those requirements disclosed herein.

## 15 Year Rental Housing Operating Pro Forma

#### All Programs Must Complete the following:

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit,

INCOME		YEAR 1		YEAR 2	ij	YEAR 3	YEAR 4	YEAR 5	YEAR 10		YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME		\$985,944		\$1,005,663		\$1,025,776	\$1,046,292	\$1,067,217	\$1,178,294		\$1,300,932
Secondary Income	\$	28,800	\$	29,376	\$	29,964	\$ 30,563	\$ 31,174	\$ 34,419	\$	38,001
POTENTIAL GROSS ANNUAL INCOME		\$1,014,744		\$1,035,039		\$1,055,740	\$1,076,854	\$1,098,392	\$1,212,713		\$1,338,933
Provision for Vacancy & Collection Loss		(\$76,106)		(\$77,628)		(\$79,180)	(\$80,764)	(\$82,379)	(\$90,953)		(\$100,420)
Rental Concessions		\$0					if the real				
EFFECTIVE GROSS ANNUAL INCOME		\$938,638		\$957,411		\$976,559	\$996,090	\$1,016,012	\$1,121,760		\$1,238,513
EXPENSES											
General & Administrative Expenses		\$43,200		\$44,496		\$45,831	\$47,206	\$48,622	\$56,366		\$65,344
Management Fee	\$	46,932	\$	47,871	\$	48,828	\$ 49,805	\$ 50,801	\$ 56,088	\$	61,926
Payroll, Payroll Tax & Employee Benefits	\$	134,400	\$	138,432	\$	142,585	\$ 146,863	\$ 151,268	\$ 175,362	\$	203,292
Repairs & Maintenance	\$	66,000	\$	67,980	\$	70,019	\$ 72,120	\$ 74,284	\$ 86,115	\$	99,831
Electric & Gas Utilities	\$	27,600	\$	28,428	\$	29,281	\$ 30,159	\$ 31,064	\$ 36,012	\$	41,747
Water, Sewer & Trash Utilities	\$	48,000	\$	49,440	\$	50,923	\$ 52,451	\$ 54,024	\$ 62,629	\$	72,604
Annual Property Insurance Premiums	\$	45,000	\$	46,350	\$	47,741	\$ 49,173	\$ 50,648	\$ 58,715	\$	68,067
Property Tax	\$	115,833	\$	119,308	\$	122,887	\$ 126,574	\$ 130,371	\$ 151,136	\$	175,208
Reserve for Replacements	\$	30,000	\$	30,900	\$	31,827	\$ 32,782	\$ 33,765	\$ 39,143	\$	45,378
Other Expenses	\$	11,400	\$	11,742	\$	12,094	\$ 12,457	\$ 12,831	\$ 14,874	\$	17,244
TOTAL ANNUAL EXPENSES		\$568,365		\$584,947		\$602,016	\$619,588	\$637,678	 \$736,440		\$850,640
NET OPERATING INCOME		\$370,273		\$372,464		\$374,543	\$376,502	\$378,334	\$385,320		\$387,873
DEBT SERVICE											
First Deed of Trust Annual Loan Payment		\$297,772	Me	\$297,772		\$297,772	\$297,772	\$297,772	\$297,772		\$297,772
Second Deed of Trust Annual Loan Payment					1						
Third Deed of Trust Annual Loan Payment	-		10								
Other Annual Required Payment											
Other Annual Required Payment			MI							L	
ANNUAL NET CASH FLOW		\$72,501		\$74,692		\$76,771	\$78,730	\$80,562	\$87,548	_	\$90,101
CUMULATIVE NET CASH FLOW		\$72,501		\$147,194		\$223,965	\$302,695	\$383,257	\$803,531		\$1,247,654
Debt Coverage Ratio		1.24		1.25	152	1.26	1.26	1,27	1.29	lin-	1.30
Other (Describe)									F1 17 12		
Other (Describe)											

By signing below I (we) are certifying that the above 15 Year pro forma, is consisstent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under \$11.9(e)(1) relating to Financial Feasibility)

Phone:

Email:

30 1 BVar, com

Date

Signature, Authorized Representative, Construction or Permanent Lender



Ken L. Overshiner
Senior Vice President
Community Development Capital
Phone 713-966-2303
Ken.Overshiner@bbva.com
BBVA Compass

2200 Post Oak Blvd. 20th Floor

Houston, TX 77056

February 29, 2016

The Standard at Fall Creek, LP C/O Clay Likover 6440 North Central Expressway, Suite 900 Dallas, TX 75206

Re: The Standard at Fall Creek

Houston, Texas

Dear Clay,

BBVA Compass Bank (the "Bank") is pleased to provide you with this Letter of Terms for the Construction and Permanent financing of The Standard at Fall Creek affordable housing project. The following terms and conditions were based upon a preliminary review of the Borrower's 2016 TDHCA Housing Tax Credit Application:

### **Construction Loan:**

**Borrower:** The Standard at Fall Creek, LP

Collateral: The Subject Loan shall be secured by a first position leasehold mortgage

and an assignment of rents and leases on the 120 Unit LIHTC project to be located in Houston, Texas. Additionally, the Loan shall be secured by an Assignment of the General Partner Interest and Deferred Developer's Fee.

Amount: Up to \$13,791,070. The Loan amount shall be limited to 80% of the LIHTC

Investment Value, which is the combined value of the Tax Credits plus the stabilized value of the Real Estate based upon an Appraisal acceptable to

the Bank.

Interest Rate: 1 month Libor + 3.00%. Interest-only payments shall be due monthly. The

Bank will utilize an underwriting rate of 5.00%.

Fees: 1% Origination Fee. Additionally, the Borrower shall be responsible for the

reimbursement of other costs related to the extension of this loan including, but not limited to: appraisal fees, the Bank's legal fees, environmental and

other third party review fees.

Maturity: Twenty-four (24) Months from Closing with a six month extension at Bank's

option.

Guarantee: Full payment and completion guarantees and environmental indemnity by a

quarantor or quarantors satisfactory to BBVA Compass.

Tax Credit Equity: Approximately \$14,700,000. Equity pay in schedule and investor must be

acceptable to BBVA Compass.

**Repayment:** Construction loan will be repaid from equity funded at completion or after

completion, along with the permanent loan (if any).

**Loan to Value:** Up to 80% including the value of the real estate and tax credits.

### Permanent Loan:

Provided that there are no events of default, the Borrower my elect to exercise the option to convert the Construction Loan to the Permanent Loan provided that 1) the Construction Loan has been Paid down to the Perm Loan Amount; 2) the Property has achieved a minimum occupancy of 90% for 90 days; and 3) the Property has achieved a Pro Forma Debt Service Cover Ratio of 1.15.

Amount: Up to \$4,138,830. The Loan amount shall be limited to 80% of the stabilized

value of the Real Estate based upon an Appraisal acceptable to the Bank.

Interest Rate: Fixed rate based on the 10 Year Treasury + 350 bps for a 24 month forward

rate lock. The Bank estimates utilizing an Underwriting Rate of 5.50%.

Fee: 1% Conversion Fee, required third-party report updates and Bank's legal

fees.

Maturity: Up to Eighteen (18) Years.

**Amortization:** Thirty (30) Years.

**Recourse:** The loan is specifically to be non-recourse.

### **Additional Requirements:**

- 1. Construction budget to be acceptable to bank
- 2. Evidence of reservation of tax credits from TDHCA to be acceptable to bank
- 3. Contractor shall be acceptable to bank
- 4. Funding of draws to be made upon completion of work and after approval of construction consultant satisfactory to the Bank
- 5. Disbursement of loan proceeds will be made on evidence of written approval of a third party construction consultant satisfactory to the Bank
- 6. Closing costs and other loan expenses are the responsibility of the Borrower
- 7. Appraisal to be acceptable to Bank
- 8. Environmental assessment to be acceptable to Bank
- 9. Market study to be acceptable to Bank
- 10. Mortgage title insurance policy insuring the bank's lien shall contain no objectionable liens, including matters of the survey
- 11. Construction shall be completed in accordance with the final plans and specs approved by TDHCA
- 12. Bank shall receive and approve the following items prior to the closing of the construction loan:

- a. Final plans and specs stamped by architect
- b. Copy of construction contract and final budget
- c. Copy of builders risk policy with Compass Bank named as loss payee
- d. Copy of recorded limited partnership and syndication agreements
- 13. No adverse change in the financial condition of the borrower or guarantors
- 14. All terms subject to market fluctuation

Unless extended by the Bank at its sole discretion, the preliminary terms contained in this proposal shall automatically expire December 31, 2016, and are subject to receipt, review and acceptance of all due diligence materials by BBVA Compass. BBVA Compass cannot issue a legally binding lending commitment until formal credit approval has been obtained.

BBVA Compass wishes to thank you for the opportunity to provide financing for this project. If you have any questions, please feel free to contact me at 713-966-2303.

Sincerely,

Ken L. Overshiner

Senior Vice President, Community Development Capital

From: Ben Sheppard

To: "dls@ojalaholdings.com"; "mjv@ojalaholdings.com"; "Sarah Andre"

Subject: 16118 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - please email reply to acknowledge receipt

**Date:** Thursday, April 14, 2016 11:21:00 AM

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(A) and/or §10.201(7)(B) of the 2016 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. Preliminary Site plan must bear the engineer's statement that the plan materially adheres to all applicable zoning, site development, and building code ordinances.
- ESA recommends actions and the applicant must certify that the recommendations will be implemented.
- 3. Zoning letter from Harris County is needed.
- 4. Site Information Form Part I says site is in flood zone X. ESA says it is in AE. Please revise the application page.
- 5. Documentation of attendance zones of the schools is required.
- 6. Development Activities (Continued) page of the application, section 5 requests points under Tenant Populations with Special Needs for the 811 Program. The site is in the 100-year floodplain and ineligible for the 811 Program. Please revise the application page.
- 7. Building floorplans must state separate total areas of porches, patios, breezeways, stairs, outside storage closets, etc.
- 8. Elevations must state roof pitches.
- 9. Clubhouse dimensions are not shown.
- 10. Clubhouse floorplan must state separate areas of porches, patios, maintenance room, storage, mechanical and mail area.
- 11. Parking stated on site plan is inconsistent with parking stated on Specifications and Building/Unit Type Configuration form.
- 12. Sources and Uses states permanent loan maturity as 15 years. Letter says 18 years.
- 13. BBVA letter says nothing of the bank's review and findings about the creditworthiness of the borrowers.
- 14. List of Organizations and Principals has too many principals listed for Org. 1.
- 15. List of Organizations and Principals lists Michael N. Casias as an organization.
- 16. Previous Participation Form needs the section one box to be marked in the forms of The Standard at Fall Creek, LP; SR Fall Creek GP, LLC; and Standard Residential II, LLC.

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 CST on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(A) of the 2016 Uniform Multifamily Rules.



# MF-4/19/2016-4:57pm-bps

Ken L. Overshiner
Senior Vice President
Community Development Capital
Phone 713-966-2303
Ken.Overshiner@bbva.com
BBVA Compass
2200 Post Oak Blvd. 20th Floor
Houston, TX 77056

April 14, 2016

Texas Department of Housing and Community Affairs Multifamily Programs 221 E. 11<sup>th</sup> Street Austin, TX 78701

Re: The Standard on the Creek, Houston, TX

To Whom it May Concern:

I have received and reviewed the 15 year pro forma for The Standard on the Creek. The attached pro forma, which has been reviewed and executed by an authorized representative of BBVA Compass, reflects the total operating expenses, net operating income, and debt service for the first year of stabilized operations based on preliminary information provided by the borrower. BBVA Compass has not independently verified any such information.

The attached 15 year pro forma indicates that the development would maintain no less than a 1.15 debt coverage ratio throughout the initial fifteen years of operation following stabilization. These projections, which indicate that the Development is expected to be feasible for fifteen years, are made based upon the preliminary information provided by the borrower, and are subject to due diligence review and revision by BBVA Compass.

Additionally, BBVA Compass has performed a preliminary review of the credit worthiness of Matt Vruggink, Clay Likover, Shawn Rosenzweig and Rad Weaver. At this time, BBVA Compass has no reservations with any of the Principals or Guarantors of the borrower.

Please be advised that this letter does not represent a commitment by BBVA Compass to provide financing for the Development, nor an offer to commit. Any such commitment would be subject to receipt and satisfactory review of all then-current due diligence materials required by BBVA Compass.

If you should have any questions, please feel free to contact me at 713-966-2303.

Sincerely,

Ken L. Overshiner

Senior Vice President, Community Development Capital

# 16118 Standard at the Creek

Representative Dutton Letter

Read at June 30, 2016 Board Meeting

# STATE of TEXAS HOUSE of REPRESENTATIVES



Harold V. Dutton, Jr.

District 142

June 29, 2016

Committees:

Juvenile Justice and Family Issues, Chair Public Education Sunset Advisory Commission

Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701
SENT VIA EMAIL: tim.irvine@tdhca.state.tx.us

Re:

Application No. 16118; The Standard on the Creek

Dear Mr. Irvine:

I have communicated with you in writing and in person opposing The Standard on the Creek application and gave you specific examples of deception and fraudulent misrepresentations committed by the Applicant to secure my letter of support. I felt reasonably assured on several occasions that my letter would be withdrawn and the associated points deducted from this application. I received a letter from your staff last night that you have concluded otherwise and intend to allow my letter of support to stand in spite of your assurances to the contrary.

lam terribly disappointed by your actions. I strongly believe that this Applicant violated the rules by committing a fraud and my letter of support should be withdrawn. It has also come to my attention that the Fall Creek neighborhood brought similar concerns to your attention. We cannot allow applicants to say whatever is expedient to his or her audience to get what they want including making knowingly false statements to elected officials, neighborhood organizations and MUD boards. This type of behavior undermines the program and your leadership and should not be allowed.

I also want you to explain staff's position on the following matters that relate to specific errors and omissions in the Standard application and in the manner in which these items were evaluated by your staff. The first deals with the financial feasibility of the project and one that I asked that you address in prior written communication. The second deals with information obtained by the neighborhood through an open records request to TDHCA:

#### 1. Financial Feasibility:

The Department received 2 separate letters challenging points claimed by the applicant under the Financial Feasibility scoring category, each of which recognizes that the applicant failed to provide specific documentation in its application to qualify for these 18-points.

One of the challenges makes the Department aware of the fact that your staff allowed the applicant to supplement its application and submit the required financial feasibility information after the applicable deadline and took exception to this rule violation by pointing out in BOLD that submission of documentation to support scoring criteria after the application submission deadline is explicitly not allowed under §11.9(a) of the QAP.

# STATE of TEXAS HOUSE of REPRESENTATIVES



Harold V. Dutton, Jr.

District 142

Tim Irvine June 29, 2016 Page -2Committees:

Juvenile Justice and Family Issues, Chair Public Education Sunset Advisory Commission

If the rules do not allow an applicant to supplement their application with point based scoring information through the administrative deficiency process, then this Applicant should not be given any special privileges by the Department to do so and I request that you re-evaluate these claims and make the necessary scoring adjustment.

#### 2. Insufficient Payment of Application Fee:

The Fall Creek community learned through an open records request to TDHCA that the applicant failed to pay the required application fee in a timely manner and then when they were made aware of the error submitted the missing fee with a check that was back dated so that it corresponded with the application submission deadline. It is my understanding that the rules specifically state that the full amount of the required application fee must **accompany** the application, and if this was not done, which it appears that it was not, then the Standard application should have been terminated. The documentation provided to the neighborhood also shows that your staff recommended that the application be terminated based on the fee error. Your staff went on to say that the consultant to the Applicant made similar mistakes with other applications. Why did the termination not take place and what is the status of the other applications where this similar error occurred?

I am very disappointed to learn about the matters set forth in this letter. Staff should strictly interpret and implement the rules that apply to the tax credit program in a transparent and impartial manner. If the Standard applicant did not provide the documentation necessary to support the Financial Feasibility scoring category in its application then it should not be eligible for the 18-points claimed, and if this applicant did not pay the full amount of the required fee in a timely manner then its application should be terminated.

I intend to have my staff read this letter into the record at the Board meeting of June 30, 2016. I respectfully request that you review the matters raised in this letter and explain why TDHCA has chosen to approve what I believe is a seriously flawed application.

Best regards,

HAROLD V. DUTTON, JR.

/me Enclosure

cc:

Honorable J. Paul Oxer, PE, Chairman - Via Email -terri.roeber@tdhca.state .tx.us and TDHCA Board Members

The Honorable Speaker Joe Straus, Texas House Speaker

Honorable Carol Alvarado

Fall Creek HOA

☐ AUSTIN OFFICE: State Capitol Room 3N.5

Post Office Box 2910 • Austin, Texas 78768-2910 • 512/463-0510 • FAX: 512/463-8333

☐ HOUSTON OFFICE: 8799 North Loop East, Suite 200 • Houston, Texas 77029 • 713/692-9192 • FAX: 713/692-6791

E-Mail: harold.dutton@house.state.tx.us

# 16118 Standard at the Creek

Narrative and Notes

Tamoria Jones

12/14 Changing Back -> ?? TBP Standard CFAIL Crock-Walker V. - Between - Hos to ST -non-profit to - AEFORD HOLE + BUSING L starte for custod ingent Jilas trea 80er decelepments - HOUSTEN - TREA Late Cropper ale i + Housele Lan pues Lyther to short bidg a the actions support Commission Entrols Enver Aman vi lada u ocer entitles Sport & poyet lempy List Mannar - MR presented to Convert = Dry FAMCB. 4 my balder - & Support - suiter view & kelmonity to agree to change will I'V It is wrear famous for case by

## Standard at Fall Creek Inconsistencies

- 1. The meeting with Matthew Vruggink in regards to the Standard at Fall Creek was held on Thursday, January 21, 2016 with me, Matthew Vruggink, and Kadedra Ellis, Assistant Chief of Staff to Rep. Harold V. Dutton, Jr. At the initial outset of the meeting, I apologized for the delay in trying to set up the meeting with Chairman Dutton due to scheduling conflicts and I was currently part time due to law school. During the meeting Matthew advised of a 120 unit affordable housing, the location and other developments from the developers in Texas. He had a brochure of pictures of other developments to show a sample of past works. I asked about the pricing and would all units be based on affordable income. I asked Matthew if he had spoken to the residents in the area and if they had received any concerns. I was advised by Matthew they had not received any concerns and to his knowledge they had the support. He then proceeded to advised of other elected officials who had already either written or agreed to write support letters. I advised Matthew that we do not base our letters on the support of other elected officials. Additionally, I asked Matthew about their denial of persons who have a criminal history background. Matthew advised that the management company do not allow those with criminal history backgrounds. I proceeded to tell Matthew that Rep. Dutton' belief is that once a person has served their time, society should not continue to punish those individuals and deny housing, but looked at on a case by case basis. Matthew advised that he would speak to his partners because he did not have the authority to make any agreements at that time. Then I told Matthew that other than the automatic denials of persons with a criminal history background, I did not see a reason as to why we could not support the project. I had to cut the meeting short to return to school, but I advised Matthew that I would talk to Chairman Dutton and get back with him with a response on Friday, January 22, 2016, no later than Monday, January 25, 2016.
- 2. I never had the opportunity to speak with Chairman Dutton on the matter until late night Monday, January 25<sup>th</sup>, 2016, after receiving a follow up email from Matthew in regards to the support letter, as the matter had slipped my mind due to more pressing matters. I spoke with Chairman Dutton and advised him of the meeting I had with Matthew that had taken place on Thursday, January 21, 2016. Chairman Dutton asked their criteria on persons with if they would past criminal history backgrounds. I told Chairman Dutton that Matthew advised he did not have the authority to make any agreements. Chairman Dutton proceeded to state that if they agree to look at applicants on a case by case basis in writing then he would write a letter of support, but if not we could not write the letter of support but would write a negative letter.
- 3. On Tuesday, January 26<sup>th</sup>, I contacted Matthew and advised him of the conditions of the support letter. Matthew advised he would check with his partners and call me back. Matthew called back an estimated hour to two hours later stating the development would not automatic deny applicants with a criminal history background but on a case by case basis. I advised Matthew I would contact Chairman Dutton and call him back. I spoke to Chairman Dutton who advised if

they would send the agreement in writing for our records, and we would write the letter of support. I also asked Matthew to send me a drafted letter of support as this is our normal practice.

- 4. On Thursday, January 27<sup>th</sup>, I received a call from Matthew on my cell as this became our main way of communication advising of the email he sent in regards to looking at applicants with a criminal history background on a case by case basis and the drafted letter of support. Matthew also advised of the sense of urgency due to the fact they mixed up their deadlines and needed the letter sooner than they advised per the Thursday, January 21, 2016 meeting. I informed Matthew that I was at school, but I would leave during my break to go to my office and send the letter no later than 5pm.
- 5. After the many concerns and phone calls we received in regards to this development, Chairman Dutton wanted to set up a meeting that included all involved parties. I sent Matthew or Daniel Smith an email (I'm not sure which one); about the meeting and that Chairman Dutton was requesting a representative to attend. A few days later, I reached out to Matthew to see if anyone would be attending the meeting and was advised he would be in attendance. Matthew wanted to get a better understanding on what the meeting was about. I advised Matthew that due to the many inconsistencies Chairman Dutton wanted to get all interested parties together in one room to try and solve the differences. I then asked Matthew that one thing we were hearing from the community in Fall Creek was that they were told any applicants with a criminal history background would be automatic denied. Matthew did advise that they had received concerns on that particular issue but had not changed the agreement. Matthew then advised that before the meeting he wanted to schedule a meeting in person or via phone to talk to Chairman Dutton to make sure they were on the same page and that if Chairman Dutton will stand by them then they will stick to not automatically denying applicants with a criminal history background. I advised I would get with Chairman Dutton and follow up with Matthew. Over the next couple of days I had received a call from Matthew via my cellphone in regards to meeting with Chairman Dutton prior to the April 30<sup>th</sup> meeting. I advised Matthew Chairman Dutton was in a trial but I would let him know if he would be amenable to a phone call. Per Chairman Dutton request, I never returned or set up a meeting prior to the scheduled April 30<sup>th</sup> meeting.
- 6. The day before the April 30<sup>th</sup>, scheduled meeting, a severe thunderstorm was coming to Houston. I received an email from Matthew following up on the scheduled meeting to inform Dallas was cancelling flights and he was unsure if he was going to attend the meeting. I responded that I was aware per the news and we would be cancelling the meeting if the weather was too bad. Matthew responded that he would be open to meeting over the next couple of weeks. However, the meeting was not canceled due to any bad weather.

Board Report Items

June 30, 2016 Meeting

TDHCA ID#	16118	Developn Name:	nent	The Standard on the Creek						
City:	Houston	n Region:		6						
Requester:	Donna Rickenbacker, Marque Real Estate Consultants									
Requester:	T. Deon Warner, on behalf of Application #16239, Trails at Palm Center									

Nature and Basis of Request: The requesters asked the Department to review its scoring of the application under §11.9(e)(1) Financial Feasibility of the 2016 Qualified Allocation Plan ("QAP"); specifically, that the Applicant did not submit a lender approval letter on its letterhead containing the required language necessary to be eligible for either 16 or 18 points under §11.9(e)(1) nor was such language incorporated in the lender term sheet provided. The request questioned whether this missing information should be curable through an Administrative Deficiency.

Analysis and Resolution: The request refers to language from §11.9(e)(1) of the QAP, which states: "Due to the highly competitive nature of the program, Applicants that elect points where supporting documentation is required but fail to provide <u>any</u> [emphasis added] supporting documentation will not be allowed to cure the issue through an Administrative Deficiency." The application included a letter from the lender. The rule does not require that the letter that is the subject of the request be a separate letter. Since the application included a letter, it is within the rules for staff to request a clarification. Staff requested such and the Applicant cured the deficiency to the satisfaction of the rule.

Based on this rule, staff determined that the matter should not be the subject of an Administrative Deficiency related to this process.

TDHCA ID#	16118	Developn Name:	nent	The Standard on the Creek							
City:	Houston	ı	Region:	6							
Requester:	State Representative Harold Dutton; persons living near the proposed development										

Staff received two enquiries raising issues about whether Application #16118 was ineligible under 10 TAC §10.202(1)(K) because of material misstatements or omissions in connection with the application. One of these enquires came in the form of a June 3, 2016, letter from State Representative Harold Dutton (copy attached as Exhibit A). The second enquiry came from a group of persons living near the proposed development (copy attached as Exhibit B). Since the issues from both Chairman Dutton and individuals in the Fall Creek neighborhood overlap and internally reference each other, they have been considered by staff together. For organization of this discussion, though, they will be addressed separately:

### **State Representative Dutton**

Nature and Basis of Request: The request asked the Department to review whether the points awarded to the Application based on the letter of support that he provided for the application should be withdrawn due to what Representative Dutton terms "fraud and material misrepresentations engaged in by the Applicant," and whether such misrepresentations should render the Applicant ineligible under §10.202(1)(K).

Analysis and Resolution: Chairman Dutton asserts that the letter he provided that allowed the Application to qualify for eight points under §11.9(d)(5) Community Support from State Representative, "was induced by the Applicant's material misrepresentations as to the Applicant's policy on ex-felons and the declarations that the resident of Fall Creek were in full support of this project." As indicated in Chairman Dutton's letter of June 3, 2016, there were two issues on which he predicated his support: (1) that if an applicant seeking to live in the development had a criminal history, they would not automatically be ruled ineligible but would be evaluated on a case by case basis and (2) that there was community support for the development. On the first point, treatment of criminal background in determining eligibility of a tenant, the applicant confirmed in writing to the Department that it would consider such matters on a case by case basis. Accordingly, staff has determined that there has been no misrepresentation on this issue made to the Chairman to induce his letter of support.

On the second point, it is clear that a number of people who live near the development site are currently opposed to its construction, but it is less clear that misrepresentations were made by the applicant at the time of the creation of the letter of support in late January of 2016. More to the point, as 10 TAC §11.10 places the burden of production of "sufficient, credible evidence that, if confirmed, would substantiate the deficiency request" on the party utilizing the rule – here, Chairman Dutton's office – the salient question becomes whether the notes and narrative of Chairman Dutton's Chief of Staff, the only member of his staff to have contact with the applicant is

sufficient, credible evidence that the applicant made a material misrepresentation regarding community support in order to garner the Chairman's letter of support. Staff finds that it does not as the narrative of his staff member and her notes do not support the assertion that the applicant claims to have met with the residents of Fall Creek who currently are opposed to the development and had obtained their complete support prior to the end of January 2016 when the Chairman's letter issued.

Staff has determined that the points awarded to the Application based on Chairman Dutton's letter of support should not be withdrawn from the Application, and that nothing in the request renders the Applicant ineligible under 10 TAC §10.202(1)(K). This determination is not based on a weighing of credibility of evidence; rather, it is a determination that the evidence presented along with the request does not rise to a level of the 10 TAC §11.10 standard of sufficient evidence that substantiates the request.

Based on these findings, staff determined that no further action is required as part of this process.

#### Fall Creek Homeowners Association

Nature and Basis of Request: The request asked the Department to review whether the applicant made material misrepresentations, and in accordance with 10 TAC § 10.202 (1)(K) should be found ineligible for tax credits.

Analysis and Resolution: Before the burden that is on the requestor to provide "sufficient, credible evidence that, if confirmed, would substantiate the deficiency request," staff considered the scope of 10 TAC  $\S10.202(1)(K)$  ineligibility, which is to address "intentional or negligent material misrepresentation or omission in an Application." Key in this consideration is the requirement of materiality in the alleged misrepresentation – *i.e.* would the establishment of the occurrence of the misrepresentation have the effect of refuting one of the essential elements of the application? In the obverse: if an alleged misrepresentation were presumed to have occurred on a matter that is not material to the scoring of the application, it is not material to the application. Staff's finding regarding materiality is addressed with each allegation where relevant.

Allegations included in Mr. Carpenter's request to the Department and staff's response are listed below:

Allegation: Contrary to the position of the applicant as stated in State Representative Dutton's letter of June 3, 2016, at a March 24, 2016, meeting of the Harris County Municipal Utility District 49 (the "MUD"), the applicant allegedly told the audience that the applicant "would not allow ex-felons to rent in the development" and that the applicant had the full support of the Humble Independent School District ("ISD").

Response: Two nearly identical affidavits purport that at a meeting of a Harris County MUD on March 24, 2016, a representative of the applicant (Matt Vruggink) stated that the applicant would not allow ex-felons to rent units in the development. This is contradicted by statements by Matt Vruggink in a letter, dated June 23, 2016, wherein the applicant states that the only related statements he made regarding criminal records and residents merely

reiterates a statement in the application: that background checks would be performed on prospective residents at the development. The approved meeting minutes prepared by the secretary for the MUD 49 Board of Directors, dated March 24, 2016, appear to include significant details on what was said during this meeting, yet there is no mention of a bold assertion about exclusion of ex-felons from the property. Regarding the Humble ISD, the official minutes reflect only that the applicant stated that "the developers had met extensively with Humble ISD about their proposed plan."

Staff has determined that the requestor has failed to establish the nexus between any action by the MUD on March 24, 2016, and the purview of 10 TAC §10.202(1)(K). Accordingly, staff has determined that the request lacks sufficient, credible evidence to substantiate disqualification and that no further action is required as part of this process.

Allegation: Contrary to the statements of support from the community stated in State Representative Dutton's letter of June 3, 2016, the applicant had garnered no support from the Fall Creek HOA. Further, the applicant never contacted the developer of the adjacent Fall Creek development.

Response: Matthew Carpenter submitted an affidavit as "president of the Fall Creek Homeowners Association." In this instrument, Mr. Carpenter clarifies that the development proposed by Application #16118 is adjacent to (but not part of) the territory covered by the Fall Creek HOA. The requestor does not appear to contend that notification of the developer of an adjacent development is a material facet of the application. Accordingly, this claim is beyond the purview of 10 TAC §10.202(1)(K) and 10 TAC §11.10.

Staff has determined that the Applicant was not statutorily required to contact or seek the support of the homeowner's association or the developer of Fall Creek, and that no further action is required as part of this process.

Allegation: The application included that the development will offer "access to public transportation services for residents," and "will have or has pedestrian access."

Response: In the section of the application titled: "Development Narrative," the applicant made, in part, the following statement: "The Standard at Fall Creek offers its residents pedestrian access to a wide variety of community amenities, public transportation networks, and the opportunity to attend highly ranked Humble ISD schools." The requestor claims that there is "no public transportation service offered by any agency to the property" and that "there are currently no pedestrian facilities located on or adjacent to the subject property."

The allegations by the requestor do not fully align with the statement by the applicant. The applicant statement of "pedestrian access to a wide variety of community amenities" appears to be supported by the map contained in the application showing a Wal-Mart Supercenter and a Walgreen's pharmacy well within a mile and a half of the development, and with the maps presented by the requestor in its Exhibit B showing fast food restaurants, a bank, an

auto repair facility, and a gym within a shorter distance. The statement regarding access to "public transportation networks" does not necessarily promise "public transportation service . . . to the property," as the requestor alleges.

Staff has determined that the requestor has not shown evidence of how these statements were material misrepresentations in the application, and that no further action is required as part of this process.

Allegation: The requester does not believe that the floodplain and wetlands mitigation relative to the 100 year floodplain can be accomplished within two years from the award of tax credits.

Response: The Department's rules very clearly delineate how a development in a floodplain must mitigate the threat of flooding and specifies required elevations. The applicant has confirmed in the application that it is aware of and will comply with these requirements.

Allegation: The pro-forma was not revised after an amendment to the purchase contract.

Response: In response to an Notice of Administrative Deficiency, the Applicant provided a contract amendment dated April 29, 2016, which included a new section that added a cost for "a total of 84 ESFCs (equivalent single family connections)" to be paid by the purchaser at closing at a rate of \$4,607.00 per ESFC transferred and assigned to the purchaser on the closing date. This amendment has the potential to add \$386,988.00 in cost to the Development.

Staff did not request that the Applicant revise relevant application documents at the time as review of these documents would be performed by REA upon the formal underwriting of the Application, at which point Administrative Deficiencies related to development costs may be generated by REA.

Staff determined that the matter should be the subject of an Administrative Deficiency, and a notice has been sent to the Applicant. The Applicant's response to the Administrative Deficiency will be reviewed by staff for scoring implications and provided to REA.

Allegation: Statements made by the applicant to a Harris County Commissioner may have been misleading.

Response: The record of submitted evidence contains nothing from Harris County or Harris County Commissioner Jack Cagle substantiating that false statements were made by the applicant that were relied upon by the County in its determination to provide its support for this development as part of the application. Though changes in parking spaces, square footage of a clubhouse, and other discrepancies in the details of the development plan have been pointed out, their characterization as a material misrepresentation is an allegation that would have to be made by the County, and substantiated with evidence that was not presented as part of this request.

Staff determined no further action is required as part of this process.

# 16118

# The Standard at the Creek Third Party Request for Administrative Deficiency

June 30, 2016 Meeting

#### MARQUE REAL ESTATE CONSULTANTS

710 North Post Oak Road, Suite 400 Houston, TX 77024 (713) 560-0068 - p (713) 583-8858 - f

Donna@MarqueConsultants.com

May 3, 2016

Marni Holloway Director of Multifamily Finance Texas Department of Housing and Community Affairs 221 E. 11<sup>th</sup> Street Austin, Texas 78701

Re: Application No. 16118-The Standard at Fall Creek

Dear Ms. Holloway,

Pursuant to §11.10 of the QAP Rules, please let this letter serve as our Third Party Request for Administrative Deficiency in connection with Application No. 16118-The Standard at Fall Creek (the "Application") filed in Region 6.

The Standard at Fall Creek, LP (the "Applicant") did not submit the required documentation in its Application to qualify for points under §11.9(e)(1)-Financial Feasibility of the QAP Rules and should not be awarded such points by the Department.

An application may qualify to receive a maximum of eighteen (18) points under §11.9(e)(1)-Financial Feasibility of the QAP Rules. To qualify for the points, an applicant must submit:

- (a) a 15-year *pro forma* that includes the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of the Third Party construction or permanent lender; and
- (b) in addition to the signed *proforma*, a separate "lender approval letter". If the lender approval letter evidences.
  - (i) review of the Development alone it will receive sixteen (16) points; or
  - (ii) review of the Development and the Principals, it will received eighteen (18) points.

The Financial Feasibility scoring category also states that an acceptable form of lender approval letter may be found in the Uniform Multifamily Application Templates ("UMA Templates"). The applicable template states that the lender approval letter must be submitted on the lender's letterhead and the required language can be:

- (a) contained within a separate letter; or
- (b) included in the commitment and/or term sheet of the construction and/or permanent lender.

Attached please find as <u>Attachment I</u> §11.9(e)(1)-Financial Feasibility of the QAP Rules and as <u>Attachment II</u> the Sample Language for 16 & 18 point letter(s) from the UMA Templates.

TDHCA – Appl. No. 16118 Administrative Deficiency May 3, 2016 Page -2-

The Applicant included in the Application the required 15-year *proforma* appropriately signed by Ken Overshiner, with BBVA Compass, the construction/permanent lender and a preliminary financing term sheet from BBVA Compass. However, the Applicant did not submit a separate lender approval letter on its letterhead containing the required language necessary to be eligible for either 16 or 18 points under §11.9(e)(1) nor was such language incorporated in the lender term sheet provided by BBVA Compass. Attached please find as <u>Attachment III</u> the 15-year *proforma* and as <u>Attachment IV</u> the lender term sheet provided by BBVA Compass and made part of the Application.

The Department reviewed the Application and sent an Administrative Deficiency notice to the Applicant dated 4/14/16 containing a statement by the reviewer that the "BBVA letter says nothing about the bank's review and findings about the creditworthiness of the borrowers", the BBVA letter being the lender term sheet provided by BBVA Compass and made a part of the Application. Attached please find as <u>Attachment V</u> the Administrative Deficiency of 4/14/16. In response to the reviewer's statement, the Applicant submitted the attached (<u>Attachment VI</u>) lender approval letter on BBVA Compass letterhead dated 4/14/16 ("BBVA Compass Approval Letter") specifically highlighting the bank's review of the credit worthiness of the Principals of the Development Owner. In addition to addressing the creditworthiness of the Principals, the BBVA Compass Approval Letter includes specific language on BBVA Compass's review of the Development's feasibility, which would have qualified the Application for the full 18-points under §11.9(e)(1) of the QAP Rules had the letter been dated and submitted with the Application as of the application delivery deadline of 3/1/16.

The stated language under §11.9(e)(1) of the QAP Rules supported by the applicable template made a part of the UMA Templates is clear on what an applicant must provide at application in order to qualify for points under this scoring category. The rules are also very clear on the competitive nature of the tax credit program and what an applicant can and cannot change or supplement in its application after the filing deadline or while its application is under consideration for an award. Attached please find as **Attachment VII** §11.9(a) of the QAP Rules informing applicants that elect points where supporting documentation is required but fail to provide such supporting documentation will not be allowed to cure the issue through the Administrative Deficiency process. Attached please also find as **Attachment VIII** §10.201(7)(A) of the Multifamily Rules expanding the restrictions on deliverables to the Department after the application submission deadline. Applicants are informed that they may not change or supplement any part of an application "in any manner" after the filing deadline or while the application is under consideration for an award except in response to a "direct" request from the Department to do so as a result of an Administrative Deficiency.

The Applicant did not include in the Application a lender approval letter evidencing the lender's review of (i) the Development's feasibility, or (ii) the credit worthiness of the Principals required to support the points under the Financial Feasibility scoring category set forth in §11.9(e)(1) of the QAP Rules. Furthermore, the BBVA Compass Approval Letter dated and delivered to the Department by the Applicant after the application submission deadline of 3/1/16 and without a "direct" request from the Department to do so should not qualify the Application for the 18-points selected by the Applicant under the Financial Feasibility scoring category and such points should be deducted accordingly from the Applicant's final score awarded by the Department.

TDHCA – Appl. No. 16118 Administrative Deficiency May 3, 2016 Page -3-

Enclosed please find the required Third Party Deficiency Request Fee in the amount of \$500. We appreciate your due consideration of this administrative deficiency.

Sincerely,

Donna Richenbacker Donna Rickenbacker

cc: Kim Murphy (Royal American)

Attachment I - §11.9(e)(1)-Financial Feasibility of the QAP Rules

Attachment II - Sample Language for 16 & 18 point letters from UMA Templates

Attachment III – 15-year proforma

Attachment IV – BBVA Compass lender term sheet

Attachment V - Administrative Deficiency of 4/14/16

Attachment VI – BBVA Compass Approval Letter

Attachment VII - §11.9(a) of the QAP Rules

Attachment VIII - §10.201(7)(A)

- (ii) To qualify under clause (i) of this subparagraph, the Applicant must provide a letter from a government official with specific knowledge of the project (or from an official with a private utility company, if applicable) which must include:
  - (I) the nature and scope of the project;
  - (II) the date completed or projected completion;
  - (III) source of funding for the project;
  - (IV) proximity to the Development Site; and
  - (V) the date of any applicable city, county, state, or federal approvals, if not already completed.

## (e) Criteria promoting the efficient use of limited resources and applicant accountability.

- (1) Financial Feasibility. (§2306.6710(b)(1)(A)) An Application may qualify to receive a maximum of eighteen (18) points for this item. To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive sixteen (16) points. If the letter evidences review of the Development and the Principals, it will receive eighteen (18) points.
- (2) Cost of Development per Square Foot. (§2306.6710(b)(1)(F); §42(m)(1)(C)(iii)) An Application may qualify to receive up to twelve (12) points based on either the Building Cost or the Hard Costs per square foot of the proposed Development, as originally submitted in the Application. For purposes of this paragraph, Building Costs will exclude structured parking or commercial space that is not included in Eligible Basis, and Hard Costs will include general contractor overhead, profit, and general requirements. Structured parking or commercial space costs must be supported by a cost estimate from a Third Party General Contractor or subcontractor with experience in structured parking or commercial construction, as applicable. The square footage used will be the Net Rentable Area (NRA). The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule. If the proposed Development is a Supportive Housing Development, the NRA will include common area up to 50 square feet per Unit.
  - (A) A high cost development is a Development that meets one of the following conditions:
    - (i) the Development is elevator served, meaning it is either a Elderly Development with an elevator or a Development with one or more buildings any of which have elevators serving four or more floors;

# **Financial Feasibility – Sample Language**

Pursuant to §11.9(e)(1) of the QAP an Application may qualify to receive a maximum of eighteen (18) points for evidence of financial feasibility. To qualify for points, a 15-year *pro forma* itemizing all projected income, including Unit rental rates and basis for the rental rate assumptions, operating expenses and debt service, specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The *pro forma* can be prepared by the Applicant or can be independently prepared by the Third party construction or permanent lender. The *pro forma* must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of the lender. In addition to the signed *pro forma*, a lender approval letter on lender letterhead must be submitted. If the approval letter evidences review of Development feasibility alone it will receive sixteen (16) points. If the letter evidences review of Development feasibility and the Principals of the Development Owner, it will receive eighteen (18) points.

Sample language for 16 & 18 point letters are provided below (*Note: the required language for points can be included in the commitment and/or term sheets from the construction and/or permanent lender*).

#### **Sample Language eligible for 16 Points:**

"The attached 15-year *pro forma* was prepared by the [Applicant] or [independently prepared by [name of lender] for [Development name] located in [Development City]. The *pro forma* is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on [name of lender] current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio."

#### Sample Language eligible for 18 Points:

"The attached 15-year *pro forma* was prepared by the **[Applicant]** or **[independently prepared by [name of lender]** for **[Development name]** located in **[Development City]**. The *pro forma* is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on **[name of lender]** current underwriting parameters and consistent with the loan terms indicated in the term sheet and is preliminarily considered feasible, pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

Additionally, we have performed a preliminary review of the credit worthiness of **[Development Owner]** and its Principals. At this time, **[name of lending institution]** has no reservations with the Development Owner or any of the Principals. We anticipate no additional guarantors or financial strength will be needed to facilitate a loan to this borrower, other than those requirements disclosed herein.

## 15 Year Rental Housing Operating Pro Forma

#### All Programs Must Complete the following:

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit,

INCOME		YEAR 1		YEAR 2	ij	YEAR 3	YEAR 4	YEAR 5	YEAR 10		YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME		\$985,944		\$1,005,663		\$1,025,776	\$1,046,292	\$1,067,217	\$1,178,294		\$1,300,932
Secondary Income	\$	28,800	\$	29,376	\$	29,964	\$ 30,563	\$ 31,174	\$ 34,419	\$	38,001
POTENTIAL GROSS ANNUAL INCOME		\$1,014,744		\$1,035,039		\$1,055,740	\$1,076,854	\$1,098,392	\$1,212,713		\$1,338,933
Provision for Vacancy & Collection Loss		(\$76,106)		(\$77,628)		(\$79,180)	(\$80,764)	(\$82,379)	(\$90,953)		(\$100,420)
Rental Concessions		\$0					if the real				
EFFECTIVE GROSS ANNUAL INCOME		\$938,638		\$957,411		\$976,559	\$996,090	\$1,016,012	\$1,121,760		\$1,238,513
EXPENSES											
General & Administrative Expenses		\$43,200		\$44,496		\$45,831	\$47,206	\$48,622	\$56,366		\$65,344
Management Fee	\$	46,932	\$	47,871	\$	48,828	\$ 49,805	\$ 50,801	\$ 56,088	\$	61,926
Payroll, Payroll Tax & Employee Benefits	\$	134,400	\$	138,432	\$	142,585	\$ 146,863	\$ 151,268	\$ 175,362	\$	203,292
Repairs & Maintenance	\$	66,000	\$	67,980	\$	70,019	\$ 72,120	\$ 74,284	\$ 86,115	\$	99,831
Electric & Gas Utilities	\$	27,600	\$	28,428	\$	29,281	\$ 30,159	\$ 31,064	\$ 36,012	\$	41,747
Water, Sewer & Trash Utilities	\$	48,000	\$	49,440	\$	50,923	\$ 52,451	\$ 54,024	\$ 62,629	\$	72,604
Annual Property Insurance Premiums	\$	45,000	\$	46,350	\$	47,741	\$ 49,173	\$ 50,648	\$ 58,715	\$	68,067
Property Tax	\$	115,833	\$	119,308	\$	122,887	\$ 126,574	\$ 130,371	\$ 151,136	\$	175,208
Reserve for Replacements	\$	30,000	\$	30,900	\$	31,827	\$ 32,782	\$ 33,765	\$ 39,143	\$	45,378
Other Expenses	\$	11,400	\$	11,742	\$	12,094	\$ 12,457	\$ 12,831	\$ 14,874	\$	17,244
TOTAL ANNUAL EXPENSES		\$568,365		\$584,947		\$602,016	\$619,588	\$637,678	 \$736,440		\$850,640
NET OPERATING INCOME		\$370,273		\$372,464		\$374,543	\$376,502	\$378,334	\$385,320		\$387,873
DEBT SERVICE											
First Deed of Trust Annual Loan Payment		\$297,772	Me	\$297,772		\$297,772	\$297,772	\$297,772	\$297,772		\$297,772
Second Deed of Trust Annual Loan Payment					1						
Third Deed of Trust Annual Loan Payment	-		1111								
Other Annual Required Payment										L	
Other Annual Required Payment			MI							L	
ANNUAL NET CASH FLOW		\$72,501		\$74,692		\$76,771	\$78,730	\$80,562	\$87,548	_	\$90,101
CUMULATIVE NET CASH FLOW		\$72,501		\$147,194		\$223,965	\$302,695	\$383,257	\$803,531		\$1,247,654
Debt Coverage Ratio		1.24		1.25	152	1.26	1.26	1,27	1.29	lin-	1.30
Other (Describe)									F1 17 12		
Other (Describe)											

By signing below I (we) are certifying that the above 15 Year pro forma, is consisstent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under \$11.9(e)(1) relating to Financial Feasibility)

Phone:

Email:

in to blancon

Date

Signature, Authorized Representative, Construction or

Permanent Lender



Ken L. Overshiner
Senior Vice President
Community Development Capital
Phone 713-966-2303
Ken.Overshiner@bbva.com

**BBVA Compass** 

2200 Post Oak Blvd. 20th Floor

Houston, TX 77056

February 29, 2016

The Standard at Fall Creek, LP C/O Clay Likover 6440 North Central Expressway, Suite 900 Dallas, TX 75206

Re: The Standard at Fall Creek

Houston, Texas

Dear Clay,

BBVA Compass Bank (the "Bank") is pleased to provide you with this Letter of Terms for the Construction and Permanent financing of The Standard at Fall Creek affordable housing project. The following terms and conditions were based upon a preliminary review of the Borrower's 2016 TDHCA Housing Tax Credit Application:

#### **Construction Loan:**

**Borrower:** The Standard at Fall Creek, LP

Collateral: The Subject Loan shall be secured by a first position leasehold mortgage

and an assignment of rents and leases on the 120 Unit LIHTC project to be located in Houston, Texas. Additionally, the Loan shall be secured by an Assignment of the General Partner Interest and Deferred Developer's Fee.

Amount: Up to \$13,791,070. The Loan amount shall be limited to 80% of the LIHTC

Investment Value, which is the combined value of the Tax Credits plus the stabilized value of the Real Estate based upon an Appraisal acceptable to

the Bank.

Interest Rate: 1 month Libor + 3.00%. Interest-only payments shall be due monthly. The

Bank will utilize an underwriting rate of 5.00%.

Fees: 1% Origination Fee. Additionally, the Borrower shall be responsible for the

reimbursement of other costs related to the extension of this loan including, but not limited to: appraisal fees, the Bank's legal fees, environmental and

other third party review fees.

Maturity: Twenty-four (24) Months from Closing with a six month extension at Bank's

option.

**Guarantee:** Full payment and completion guarantees and environmental indemnity by a

quarantor or quarantors satisfactory to BBVA Compass.

Tax Credit Equity: Approximately \$14,700,000. Equity pay in schedule and investor must be

acceptable to BBVA Compass.

**Repayment:** Construction loan will be repaid from equity funded at completion or after

completion, along with the permanent loan (if any).

**Loan to Value:** Up to 80% including the value of the real estate and tax credits.

#### Permanent Loan:

Provided that there are no events of default, the Borrower my elect to exercise the option to convert the Construction Loan to the Permanent Loan provided that 1) the Construction Loan has been Paid down to the Perm Loan Amount; 2) the Property has achieved a minimum occupancy of 90% for 90 days; and 3) the Property has achieved a Pro Forma Debt Service Cover Ratio of 1.15.

Amount: Up to \$4,138,830. The Loan amount shall be limited to 80% of the stabilized

value of the Real Estate based upon an Appraisal acceptable to the Bank.

Interest Rate: Fixed rate based on the 10 Year Treasury + 350 bps for a 24 month forward

rate lock. The Bank estimates utilizing an Underwriting Rate of 5.50%.

Fee: 1% Conversion Fee, required third-party report updates and Bank's legal

fees.

Maturity: Up to Eighteen (18) Years.

**Amortization:** Thirty (30) Years.

**Recourse:** The loan is specifically to be non-recourse.

### **Additional Requirements:**

- 1. Construction budget to be acceptable to bank
- 2. Evidence of reservation of tax credits from TDHCA to be acceptable to bank
- 3. Contractor shall be acceptable to bank
- 4. Funding of draws to be made upon completion of work and after approval of construction consultant satisfactory to the Bank
- 5. Disbursement of loan proceeds will be made on evidence of written approval of a third party construction consultant satisfactory to the Bank
- 6. Closing costs and other loan expenses are the responsibility of the Borrower
- 7. Appraisal to be acceptable to Bank
- 8. Environmental assessment to be acceptable to Bank
- 9. Market study to be acceptable to Bank
- 10. Mortgage title insurance policy insuring the bank's lien shall contain no objectionable liens, including matters of the survey
- 11. Construction shall be completed in accordance with the final plans and specs approved by TDHCA
- 12. Bank shall receive and approve the following items prior to the closing of the construction loan:

- a. Final plans and specs stamped by architect
- b. Copy of construction contract and final budget
- c. Copy of builders risk policy with Compass Bank named as loss payee
- d. Copy of recorded limited partnership and syndication agreements
- 13. No adverse change in the financial condition of the borrower or guarantors
- 14. All terms subject to market fluctuation

Unless extended by the Bank at its sole discretion, the preliminary terms contained in this proposal shall automatically expire December 31, 2016, and are subject to receipt, review and acceptance of all due diligence materials by BBVA Compass. BBVA Compass cannot issue a legally binding lending commitment until formal credit approval has been obtained.

BBVA Compass wishes to thank you for the opportunity to provide financing for this project. If you have any questions, please feel free to contact me at 713-966-2303.

Sincerely,

Ken L. Overshiner

Senior Vice President, Community Development Capital

From: Ben Sheppard

To: "dls@ojalaholdings.com"; "mjv@ojalaholdings.com"; "Sarah Andre"

Subject: 16118 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - please email reply to acknowledge receipt

**Date:** Thursday, April 14, 2016 11:21:00 AM

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(2) and described in §10.201(7)(A) and/or §10.201(7)(B) of the 2016 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. Preliminary Site plan must bear the engineer's statement that the plan materially adheres to all applicable zoning, site development, and building code ordinances.
- ESA recommends actions and the applicant must certify that the recommendations will be implemented.
- 3. Zoning letter from Harris County is needed.
- 4. Site Information Form Part I says site is in flood zone X. ESA says it is in AE. Please revise the application page.
- 5. Documentation of attendance zones of the schools is required.
- 6. Development Activities (Continued) page of the application, section 5 requests points under Tenant Populations with Special Needs for the 811 Program. The site is in the 100-year floodplain and ineligible for the 811 Program. Please revise the application page.
- 7. Building floorplans must state separate total areas of porches, patios, breezeways, stairs, outside storage closets, etc.
- 8. Elevations must state roof pitches.
- 9. Clubhouse dimensions are not shown.
- 10. Clubhouse floorplan must state separate areas of porches, patios, maintenance room, storage, mechanical and mail area.
- 11. Parking stated on site plan is inconsistent with parking stated on Specifications and Building/Unit Type Configuration form.
- 12. Sources and Uses states permanent loan maturity as 15 years. Letter says 18 years.
- 13. BBVA letter says nothing of the bank's review and findings about the creditworthiness of the borrowers.
- 14. List of Organizations and Principals has too many principals listed for Org. 1.
- 15. List of Organizations and Principals lists Michael N. Casias as an organization.
- 16. Previous Participation Form needs the section one box to be marked in the forms of The Standard at Fall Creek, LP; SR Fall Creek GP, LLC; and Standard Residential II, LLC.

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 CST on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(A) of the 2016 Uniform Multifamily Rules.



# MF-4/19/2016-4:57pm-bps

Ken L. Overshiner
Senior Vice President
Community Development Capital
Phone 713-966-2303
Ken.Overshiner@bbva.com
BBVA Compass
2200 Post Oak Blvd. 20th Floor
Houston, TX 77056

April 14, 2016

Texas Department of Housing and Community Affairs Multifamily Programs 221 E. 11<sup>th</sup> Street Austin, TX 78701

Re: The Standard on the Creek, Houston, TX

To Whom it May Concern:

I have received and reviewed the 15 year pro forma for The Standard on the Creek. The attached pro forma, which has been reviewed and executed by an authorized representative of BBVA Compass, reflects the total operating expenses, net operating income, and debt service for the first year of stabilized operations based on preliminary information provided by the borrower. BBVA Compass has not independently verified any such information.

The attached 15 year pro forma indicates that the development would maintain no less than a 1.15 debt coverage ratio throughout the initial fifteen years of operation following stabilization. These projections, which indicate that the Development is expected to be feasible for fifteen years, are made based upon the preliminary information provided by the borrower, and are subject to due diligence review and revision by BBVA Compass.

Additionally, BBVA Compass has performed a preliminary review of the credit worthiness of Matt Vruggink, Clay Likover, Shawn Rosenzweig and Rad Weaver. At this time, BBVA Compass has no reservations with any of the Principals or Guarantors of the borrower.

Please be advised that this letter does not represent a commitment by BBVA Compass to provide financing for the Development, nor an offer to commit. Any such commitment would be subject to receipt and satisfactory review of all then-current due diligence materials required by BBVA Compass.

If you should have any questions, please feel free to contact me at 713-966-2303.

Sincerely,

Ken L. Overshiner

Senior Vice President, Community Development Capital

- (v) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);
- (vi) Presiding officer of the Governing Body of the county in which the Development Site is located;
- (vii) All elected members of the Governing Body of the county in which the Development Site is located; and
- (viii) State Senator and State Representative of the districts whose boundaries include the proposed Development Site;

#### (C) Contents of Notification.

- (i) The notification must include, at a minimum, all of the information described in subclauses (I) (VI) of this clause.
  - (I) the Applicant's name, address, an individual contact name and phone number;
  - (II) the Development name, address, city and county;
  - (III) a statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
  - (IV) whether the Development proposes New Construction, Reconstruction, Adaptive Reuse, or Rehabilitation;
  - (V) the physical type of Development being proposed (e.g. single family homes, duplex, apartments, townhomes, high-rise etc.); and
  - (VI) the approximate total number of Units and approximate total number of low-income Units.
- (ii) The notification may not contain any false or misleading statements. Without limiting the generality of the foregoing, the notification may not create the impression that the proposed Development will serve exclusively a Target Population unless such targeting or preference is in full compliance with all applicable state and federal laws, including state and federal fair housing laws.
- **(c) Pre-application Results.** Only pre-applications which have satisfied all of the pre-application requirements, including those in §11.9(e)(3) of this chapter, will be eligible for pre-application points. The order and scores of those Developments released on the Pre-application Submission Log do not represent a Commitment on the part of the Department or the Board to allocate tax credits to any Development and the Department bears no liability for decisions made by Applicants based on the results of the Pre-application Submission Log. Inclusion of a pre-application on the Pre-application Submission Log does not ensure that an Applicant will receive points for a pre-application.

## §11.9.Competitive HTC Selection Criteria.

**(a) General Information.** This section identifies the scoring criteria used in evaluating and ranking Applications. The criteria identified in subsections (b) - (e) of this section include those items required under Texas Government Code, Chapter 2306, §42 of the Code, and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code. There is no rounding of numbers in this section for any of the calculations in order to achieve the desired requirement or limitation, unless rounding is explicitly stated as allowed for that particular calculation or criteria.

Due to the highly competitive nature of the program, Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency. However, Department staff may provide the Applicant an opportunity to explain how they believe the Application, as submitted, meets the requirements for points or otherwise satisfies the requirements. When providing a pre-application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant's competitive posture, an Applicant must disclose that in accordance with the Department's rules aspects of the Development may be subject to change, including, but not limited to, changes in the amenities ultimately selected and provided.

#### (b) Criteria promoting development of high quality housing.

- (1) Size and Quality of the Units. (§2306.6710(b)(1)(D); §42(m)(1)(C)(iii)) An Application may qualify for up to fifteen (15) points under subparagraphs (A) and (B) of this paragraph.
  - (A) Unit Sizes (8 points). The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction), for Developments receiving funding from USDA, or for Supportive Housing Developments without meeting these square footage minimums only if requested in the Self Scoring Form.
    - (i) five-hundred fifty (550) square feet for an Efficiency Unit;
    - (ii) six-hundred fifty (650) square feet for a one Bedroom Unit;
    - (iii) eight-hundred fifty (850) square feet for a two Bedroom Unit;
    - (iv) one-thousand fifty (1,050) square feet for a three Bedroom Unit; and
    - (v) one-thousand two-hundred fifty (1,250) square feet for a four Bedroom Unit.
  - (B) Unit and Development Features (7 points). Applicants that elect in an Application to provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in §10.101(b)(6)(B) of this title (relating to Site and Development Requirements and Restrictions) and as certified to in the Application. The amenities will be required to be identified in the LURA. Rehabilitation Developments will start with a base score of three (3) points and Supportive Housing Developments will start with a base score of five (5) points.
- (2) Sponsor Characteristics. (§42(m)(1)(C)(iv)) An Application may qualify to receive one (1) point if the ownership structure contains a HUB certified by the Texas Comptroller of Public Accounts by the Full Application Delivery Date, or Qualified Nonprofit Organization provided the Application is under the Nonprofit Set-Aside. The HUB or Qualified Nonprofit Organization must have some combination of ownership interest in the General Partner of the Applicant, cash flow from operations, and developer fee which taken together equal at least 80 percent and no less than 5 percent for any category. For example, a HUB or Qualified Nonprofit Organization may have 20 percent ownership interest, 30 percent of the developer fee, and 30 percent of cash flow from operations. The HUB or Qualified Nonprofit Organization must also materially participate in the Development and operation of the Development throughout the Compliance Period and must have experience directly related to the housing industry, which may include experience with property management, construction, development, financing, or compliance. A Principal of the HUB or Qualified Nonprofit Organization cannot be a Related

following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period and may also be sent in response to reviews on post-award submissions. Responses are required to be submitted electronically as a PDF or multiple PDF files. A review of the response provided by the Applicant may reveal that issues initially identified as an Administrative Deficiency are actually determined to be beyond the scope of an Administrative Deficiency process, meaning that they in fact implicated matters of a material nature not susceptible to being resolved. Department staff may in good faith provide an Applicant confirmation that an Administrative Deficiency response has been received or that such response is satisfactory. Communications from staff that the response was satisfactory do not establish any entitlement to points, eligibility status, or to any presumption of having fulfilled any requirements. Final determinations regarding the sufficiency of documentation submitted to cure an Administrative Deficiency as well as the distinction between material and non-material missing information are reserved for the Director of Multifamily Finance, Executive Director, and Board.

- (A) Administrative Deficiencies for Competitive HTC Applications. Unless an extension has been timely requested and granted, if an Administrative Deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then (5 points) shall be deducted from the selection criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not resolved by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline or while the Application is under consideration for an award, and may not add any set-asides, increase the requested credit amount, revise the Unit mix (both income levels and Bedroom mixes), or adjust their self-score except in response to a direct request from the Department to do so as a result of an Administrative Deficiency. (§2306.6708(b); §2306.6708) To the extent that the review of Administrative Deficiency documentation alters the score assigned to the Application, Applicants will be re-notified of their final adjusted score.
- (B) Administrative Deficiencies for all other Applications or sources of funds. If Administrative Deficiencies are not resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then an Administrative Deficiency Notice Late Fee of \$500 for each business day the deficiency remains unresolved will be assessed, and the Application will not be presented to the Board for consideration until all outstanding fees have been paid. Applications with unresolved deficiencies after 5:00 p.m. on the tenth day following the date of the deficiency notice may be terminated. The Applicant will be responsible for the payment of fees accrued pursuant to this paragraph regardless of any termination. Department staff may or may not assess an Administrative Deficiency Notice Late Fee for or terminate Applications for Tax-Exempt Bond or Direct Loan Developments during periods when private activity bond volume cap or Direct Loan funds are undersubscribed. Applicants should be prepared for additional time needed for completion of staff reviews as described in paragraph (2)(B) of this section.



# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott GOVERNOR BOARD MEMBERS
J. Paul Oxer, Chair
Juan S. Muñoz, PhD, Vice Chair
Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

June 27, 2016

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

Ms. Donna Rickenbacker Marque Real Estate Consultants 710 N Post Oak Road, Ste 400 Houston, Texas 77024

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16118 THE STANDARD ON THE CREEK

Dear Ms. Rickenbacker:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the Request for Administrative Deficiency you submitted regarding the application referenced above. The request asked the Department to review its scoring of the application under §11.9(e)(1) Financial Feasibility of the 2016 Qualified Allocation Plan ("QAP"); specifically that the Applicant did not submit a lender approval letter on its letterhead containing the required language necessary to be eligible for either 16 or 18 points under §11.9(e)(1) nor was such language incorporated in the lender term sheet provided by BBVA Compass. Your request questioned whether this missing information should be curable through an administrative deficiency.

Per §11.10 of the QAP, the purpose of the Third Party Request for Administrative Deficiency process is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention. The request does not bring new, material information to staff's attention; but poses a question about the way staff scored the application. Such a request is not consistent with the rule.

That said, the request refers to language from §11.9(a) of the QAP which states: "Due to the highly competitive nature of the program, Applicants that elect points where supporting documentation is required but fail to provide <u>any</u> [emphasis added] supporting documentation will not be allowed to cure the issue through an Administrative Deficiency." The application did include a letter from the lender. The rule does not require that the letter that is the subject of your request be a separate letter. Since the application included a letter, it is within the rules for staff to request a clarification.

Based on these findings, the Department has determined that the matter should not be the subject of an Administrative Deficiency. If you have questions or require further information, please contact me.

Sincerely,

Marni Holloway

Multifamily Division Director



# 16118

# The Standard at the Creek (2) Third Party Request for Administrative Deficiency

# WARNER & ASSOCIATES PLLC

A PROFESSIONAL LEGAL CORPORATION
ATTORNEYS AT LAW
550 WESTCOTT STREET
SUITE 415
HOUSTON, TX 77007

TELEPHONE (713) 807-1007

FACSIMILE (713) 422-2309

May 31, 2016

#### Via Email - marni.holloway@tdhca.state.tx.us

Marni Holloway Finance Division Texas Department of Housing and Community Affairs 221 E. 11<sup>th</sup> Street Austin, Texas 78701

Re: #16118-The Standard on the Creek

Dear Ms. Holloway,

We have been retained by the undersigned principals of HN Trails at Palm Center, LP the applicant of the Trails at Palm Center (#16239). In accordance with §11.10 of the Texas Qualified Allocation Plan (QAP), we hereby submit this challenge/administrative deficiency request in connection with the above-described application.

The Texas competitive 9% tax credit application process is point based such that those applicants with the highest scoring application are successfully awarded the limited tax credits made available to each service region. The Standard on the Creek application is proposing to develop a site located in Harris County and its application was filed in Region 6. The applicant of the Standard on the Creek checked the box on Tab 34 of its application claiming 18-points under the Financial Feasibility scoring category ( $\S11.9(e)(1)$ ). Based on our review of the application, it does not appear that the applicant submitted the necessary documentation in its application to support the points claimed. We hereby challenge the points awarded to them and request a correction to the points awarded to them.

§11.9(e)(1) of the QAP awards 16 or 18 points to an applicant if the applicant timely summits an approval letter from a Third Party lender. If the approval letter states that the proposed development is financially feasible based on the lender's review of an eligible 15-year pro forma then the application will receive 16-points. If the approval letter evidences the lender's review of both the proposed development and the Principals of the applicant, then the application will receive 18-points. This scoring category goes further by directing the applicant to the location of an acceptable form of lender approval letter in the Uniform Multifamily Application Templates.

The Financial Feasibility template (attached) describes the required language to be included in the lender approval letter in order to qualify for either 16 or 18 points. As stated in the template, TDHCA allows the applicant to include the required language in either a separate and distinct lender approval letter or in the

commitment and/or term sheet of the Third Party lender made a part of the application. The Standard on the Creek application did not include the required language in a separate lender approval letter or in the term sheet provided by BBVA Compass, the applicant's Third Party lender, as required to qualify the application for either the 16 points or the 18-points claimed by the applicant in Tab 34.

We also want to bring to staff's attention that all other applications submitted in Region 6 met the scoring criteria to qualify for the 18-points claimed in Tab 34 of their application by meeting the Financial Feasibility test in either a separate lender approval letter or in the term sheet provided by their construction and/or permanent lender. Based on our review of the application, it also appears that staff allowed the applicant to supplement its application after the submission deadline and submit a lender approval letter that references the lender's review and acceptance of the 15-year pro forma and acceptability of the Principals. Submission of documentation to support scoring criteria after the application submission deadline is explicitly not allowed under §11.9(a) of the QAP.

We ask that TDHCA apply consistency in its review of applications and in the awarding of points to an applicant and in this instance that TDHCA deduct the 18-points claimed by the applicant of the Standard on the Creek from the application's final score because the applicant failed to provide at application a lender approval letter addressing the financial feasibility of the proposed development and the acceptability of the Principals.

Pursuant to the Texas Public Information Act, we also request copies of the following information from TDHCA in connection with Application #16118:

- 1. All communication to and from TDHCA regarding the bases of this challenge; and
- 2. Any feasibility and environmental reports made a part of the application.

Enclosed please find the required challenge fee in the amount of \$500. Please feel free to contact us with any questions. We appreciate TDHCA's response to this challenge/administrative deficiency.

Sincerely.

T. Deon Warner, Attorney at Law

cc: John

John Hoffer (NHP Foundation) Marlon Mitchell (HBDi)

Attached - Financial Feasibility Template

# Financial Feasibility - Sample Language

Pursuant to §11.9(e)(1) of the QAP an Application may qualify to receive a maximum of eighteen (18) points for evidence of financial feasibility. To qualify for points, a 15-year pro forma itemizing all projected income, including Unit rental rates and basis for the rental rate assumptions, operating expenses and debt service, specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma can be prepared by the Applicant or can be independently prepared by the Third party construction or permanent lender. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of the lender. In addition to the signed pro forma, a lender approval letter on lender letterhead must be submitted. If the approval letter evidences review of Development feasibility alone it will receive sixteen (16) points. If the letter evidences review of Development feasibility and the Principals of the Development Owner, it will receive eighteen (18) points.

Sample language for 16 & 18 point letters are provided below (Note: the required language for points can be included in the commitment and/or term sheets from the construction and/or permanent lender).

#### Sample Language eligible for 16 Points:

"The attached 15-year pro forma was prepared by the [Applicant] or [independently prepared by [name of lender] for [Development name] located in [Development City]. The pro forma is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on [name of lender] current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio."

#### Sample Language eligible for 18 Points:

"The attached 15-year pro forma was prepared by the [Applicant] or [independently prepared by [name of lender] for [Development name] located in [Development City]. The pro forma is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on [name of lender] current underwriting parameters and consistent with the loan terms indicated in the term sheet and is preliminarily considered feasible, pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

Additionally, we have performed a preliminary review of the credit worthiness of [Development Owner] and its Principals. At this time, [name of lending institution] has no reservations with the Development Owner or any of the Principals. We anticipate no additional guarantors or financial strength will be needed to facilitate a loan to this borrower, other than those requirements disclosed herein.



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott GOVERNOR BOARD MEMBERS
J. Paul Oxer, Chair
Juan S. Muñoz, PhD, Vice Chair
Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

June 27, 2016

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

Mr. T. Deon Warner Attorney at Law Warner and Associates 550 Westcott St., Ste 415 Houston, Texas 77007

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16118 THE STANDARD ON THE CREEK

Dear Mr. Warner:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the Request for Administrative Deficiency you submitted regarding the application referenced above. The request asked the Department to review its scoring of the application under §11.9(e)(1) Financial Feasibility of the 2016 Qualified Allocation Plan ("QAP"); specifically that the Applicant did not submit a lender approval letter on its letterhead containing the required language necessary to be eligible for either 16 or 18 points under §11.9(e)(1) nor was such language incorporated in the lender term sheet provided by BBVA Compass. Your request questioned whether this missing information should be curable through an administrative deficiency.

Per §11.10 of the QAP, the purpose of the Third Party Request for Administrative Deficiency process is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention. The request does not bring new, material information to staff's attention; but poses a question about the way staff scored the application. Such a request is not consistent with the rule.

That said, the request refers to language from §11.9(a) of the QAP which states: "Due to the highly competitive nature of the program, Applicants that elect points where supporting documentation is required but fail to provide <u>any</u> [emphasis added] supporting documentation will not be allowed to cure the issue through an Administrative Deficiency." The application did include a letter from the lender. The rule does not require that the letter that is the subject of your request be a separate letter. Since the application included a letter, it is within the rules for staff to request a clarification.

Based on these findings, the Department has determined that the matter should not be the subject of an Administrative Deficiency. If you have questions or require further information, please contact me.

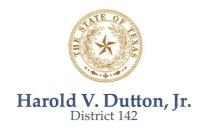
1/ 1/4

Multifamily Division Director



# The Standard at the Creek (3) Third Party Request for Administrative Deficiency

# The Standard at the Creek (3) Chairman Dutton Letters and Response



Committees:

Juvenile Justice and Family Issues, Chair Public Education Sunset Advisory Commission

May 2, 2016

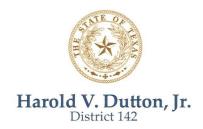
Ms. Marni Holloway Director, Multifamily Finance Division Texas Department of Housing & Community Development P.O. Box 13941 Austin, Texas 78711-3941

Re: Application No. 16118; The Standard at Fall Creek

Dear Ms. Holloway:

Please find enclosed a copy of my letter which was previously sent in support of the abovereferenced project. This letter was mailed on January 28, 2016, to the developer who has applied for funding under the 9% Competitive Housing Tax Credit. My support for this project was concluded after my staff met with the developer and after several telephone conversations to discuss my concerns about the project. For example, I was concerned about a housing policy that would exclude all ex-felons. The developer advised that rather than a blanket policy excluding all ex-felons from the housing complex, each ex-felon applicant would be reviewed on a caseby-case basis. However, in my subsequent meeting with the Fall Creek residents, I was advised that the developer stated rather emphatically to the Fall Creek residents that under no circumstances would any ex-felon be considered for residency in the complex. What I was told and what was said to the Fall Creek residents cannot both be true. Additionally, and perhaps even more critical to my support for the project, the developer advised that he had previously secured the support of the residents of the Fall Creek community. Any support for this project by the Fall Creek residents appears to have manufactured by the developer as I have not found even one Fall Creek resident in favor of the project. Moreover, the Fall Creek residents were in agreement that there has never been a meeting between the Fall Creek residents and the developer of this project despite any such statements to the contrary by the developer.

I recognize that letters of support cannot be changed or withdrawn pursuant to the Government Code §2306.6725(a)(2). However, despite my previous letter of support, *I would like to register my total opposition to this project*. I do not believe that the Legislature intended for letters of support based upon misrepresentations and untruths, particularly of this magnitude, to remain as the basis for awarding federal tax credits to developers. That would amount to forcing the State of Texas to remain a participant in a fraud even after it is discovered that such a fraud was committed. Additionally, there are allegations that this project's HUB status is more than just suspect and should be examined more closely.



Committees:

Juvenile Justice and Family Issues, Chair Public Education Sunset Advisory Commission

Finally, at a recent meeting with the Fall Creek residents, several changes to the competitive tax credit statute were identified that must be addressed in the next legislative session. Among the proposed changes are: (1) require a developer to provide notice to the affected residents where a proposed project is planned; (2) hold a public hearing with those residents; (3) certify to the Commission that these requirements have been met; (4) permit an affected homeowner's association to officially comment on a proposed project; and (5) where projects are wholly within a municipality' extraterritorial jurisdiction, discount or ignore letters from officials of that municipality.

Thank you for this opportunity to offer further comments on Application Number 16118 of the Standard at Fall Creek. If you desire to discuss this matter further or need additional information, please don't hesitate to contact me.

Best regards

HAROLD V. DUTTON, JR.

/me

Enclosure

cc:

Tim Irvine

**Executive Director-TDHCA** 

Honorable J. Paul Oxer, PE, Chair Board-TDHCA

Honorable Carol Alvarado

Fall Creek HOA

Committees:

Public Education

Juvenile Justice and Family Issues, Chair

Sunset Advisory Commission



Harold V. Dutton, Jr.

District 142 May 25, 2016

Tim Irvine, Executive Director
Texas Department of Housing & Community Affairs
P.O. Box 13941
Austin, TX 78711-3941
SENT VIA EMAIL: <a href="mailto:tim.irvine@tdhca.state.tx.us">tim.irvine@tdhca.state.tx.us</a>

Re: Application No. 16118; The Standard at Fall Creek

Dear Mr. Irvine:

On May 2<sup>nd</sup> I wrote Marni Holloway a letter opposing The Standard at Fall Creek("SFC"). Since then, other information has come to my attention identifying additional problems with SFC's application. In fact, looking back at my earlier letter of opposition, it now appears that my letter may not have been strong enough. To induce my earlier support, it is clear that SFC engaged in fraud and as you know, fraud almost always sets aside any prior inducements. Texas statute proscribes that once a support letter is submitted it cannot be withdrawn or altered. However, when fraud is the primary basis for any support, I believe that reversal is the only option. As was outlined in my May 2<sup>nd</sup> letter, I was told one thing by SFC and later I was informed that just the opposite was true. This occurred on several occasions.

As you know, financial feasibility is one of the scoring categories for projects and may provide up to 18 points to an applicant. To qualify, an applicant must submit appropriate information. It appears that SFC' financial feasibility is not as accurate as previously stated on its application and warrants an additional investigation.

Finally, I would respectfully request that my initial letter of support be withdrawn and any points awarded thereupon be eliminated from SFC's application because of their fraudulent behavior. Secondly, SFC's application should lose points on financial feasibility because they did not meet the requirements to qualify for these points.

Tim, I've always been extremely supportive of TDHCA' programs in the legislature, and I would like to think, and perhaps you will agree, that I'm one of your most consistent supporters. But, when an applicant just flat out lies to me, I take that as a very personal. I have written numerous letters of support for applicants and never once have I asked that a letter be withdrawn. However, I don't recall an applicant ever lying to me either. For that reason alone my previous letter in support of SFC should be excluded or set aside and the points taken deducted. I also believe that if the facts bear out that the SFC application failed to include the required information on financial feasibility, those points should be deducted as well.

Best regards,

HAROLD V. DUTTON, JR. /me



Harold V. Dutton, Jr.

District 142 June 3, 2016

Tim Irvine, Executive Director
Texas Department of Housing & Community Affairs
P.O. Box 13941
Austin, TX 78711-3941
SENT VIA EMAIL: tim.irvinc(a).tdhca.state.tx.us

Re: Application No. 16118; The Standard at Fall Creek

Dear Mr. Irvine:

This is a follow-up to my previous letter dated May 25, 2016 which expressed opposition to the above referenced Application. The gravamen of my opposition centered on fraud and material misrepresentations engaged in by the applicant. As I understand, my letter of support is a facet of the application pursuant to Sec. 2306.6710(b)(1)(J) of the Texas Gov't Code. As I also understand, because my letter of support is a part of the application, any material misstatements or omissions by an applicant to obtain my support would be a violation pursuant to Sec. 42 of the Texas Gov't Code, Chapter 2306. In fact, the statute makes an Applicant ineligible to the extent such a violation by an Applicant is sustained.

First, let say at the outset, I have never once spoken to the above Applicant or any representative of the Applicant. All communications regarding the above matter were conducted between my Chief of Staff, Tamoria Jones, and either Matthew Vruggink or Daniel Smith, the representatives of the Applicant. Secondly, in the initial conversation, Ms. Jones specifically asked the Mr. Vruggink, as is our custom, to explain the Applicant's policy on considering ex-felons for residency in the housing complex. After the Applicant's representative stated that ex-felons would not be considered for admission into the residences, Ms. Jones advised that Rep. Dutton does not support projects that have a blanket exclusion of ex-felons. When Ms. Jones advised that Rep. Dutton would be amenable to a case-by-case evaluation of ex-felon applicants, Mr. Vruggink stated that he would have to speak with the other principals Approximately two weeks later, Mr. Vruggink advised Ms. Jones that the Applicant was revising its policy and would henceforth evaluate ex-felons for entry into the housing complex on a case-by-case basis. Only after my staff advised of this change in the Applicant's policy on ex-felons did I agree to support the project and to submit a letter of support for the application.

After I submitted my letter of support for the project, my staff was advised that in a subsequent meeting between the Applicant and the MUD District directors in the Fall Creek subdivision, the Applicant stated their policy prohibited consideration of ex-felons. Such a policy was in direct contradiction to the Applicant's policy on ex-felons which formed the primary basis for my letter of support of the Applicant's project. I attempted to sort out this apparent conflict by inviting the Applicant to join me in a meeting with the residents of Fall Creek. On the morning of the meeting, I was advised that neither the Applicant nor its representative would be in attendance. I met with the residents who confirmed that it was their understanding that no ex-felons would be considered for residence at the project.

Finally, during my staff' meeting with Mr. Vruggink, there was assurance that the Applicant had not only met with the residents of Fall Creek but that the project had the complete support of these residents. However, at my meeting where close to 200 residents of Fall Creek attended, it was unanimous that the Applicant had never met with the residents. Again, having the Fall Creek residents

Committees: Juvenile Justice and Family Issues, Chair Public Education Sunset Advisory Commission prior approval formed the basis of my support for the Applicant' project.

It seems patently clear that my support for the Applicant' project was induced by the Applicant's material misrepresentations as to the Applicant's policy on ex-felons and the declarations that the residents of Fall Creek were in full support of this project.

If you need any additional information or have questions regarding this matter, please contact me.

Best personal regards

/me

Austin Office State Capitol Room 3N5
Post office Box 2910\*Austin, Texas 78768\*512.463.0510
Houston Office
8799 North Loop East, Suite 200\*Houston, Texas 77029\* 713.692.9192
E-Mail: harold.dutton@house.state.tx.us



# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott GOVERNOR BOARD MEMBERS

J. Paul Oxer, *Chair*Juan S. Muñoz, PhD, *Viw Chair*Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

June 8, 2016

Writer's direct phone # 512/475-1676 Email: marni.holloway@tdbca.state.tx.us

Daniel Smith The Standard at Fall Creek, LP 6440 North Central Expressway, Suite 900 Dallas, TX 75206

RE: Competitive Housing Tax Credit Application #16118, Standard at the Creek

Dear Mr. Smith

Enclosed are three letters from State Representative Harold Dutton, dated May 2, 2016; May 25, 2016; and June 3, 2016. The sum of these letters questions the eligibility of the Applicant in application #16118 (The Standard at the Creek) under 10 TAC 10.202(1)(K). Application #16015 (The Standard at Boswell Marketplace) would also be impacted by a finding of ineligibility. This rule states, in part, that an Applicant is ineligible for Department funding if the Applicant "has provided fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation or omission in an Application . . . or any other information provided to the Department for any reason. . . ."

This notice under 10 TAC 10.202 provides the Applicant an opportunity to explain how it believes the Applicant is still eligible for Department funding. If you contest the assertions of fact in Representative Dutton's letters, or wish to assert that they do not satisfy the rule that would mandate ineligibility, your response must be received by the Department not later than five (5) business days after the date of this letter. Staff will make its determination regarding eligibility and termination, and if it decides to terminate your eligibility you will have the opportunity to appeal to the Executive Director.

Sincerely,

Marni Holloway

Director, Multifamily Finance Division

MH

cc: Matt Vruggink



June 14, 2016

VIA EMAIL DELIVERY:

Marni Holloway
Director, Multifamily Finance Division
Texas Department of Housing and Community Affairs
221 East 11<sup>th</sup> Street
P.O. Box 13941
Austin, TX 78711-3941
marni.holloway@tdhca.state.tx.us

RE: COMPETITIVE HOUSING TAX CREDIT APPLICATION #16118, STANDARD ON THE CREEK

Dear Ms. Holloway:

We have received your June 8, 2016 notice regarding three letters that Representative Dutton wrote to the Department about The Standard on the Creek's Application and its eligibility under 10 TAC 10.202(1)(k). Representative Dutton claims that we fraudulently induced his letter of support by misrepresenting the existence of support by the adjacent neighborhood of Fall Creek and misrepresenting our intentions with respect to evaluating rental applications by individuals with criminal histories. We believe that the Applicant is eligible for Department funding because (1) the allegations contained in Representative Dutton's letters are completely inaccurate and wholly untrue and (2) the allegations do not satisfy the rule that would mandate ineligibility.<sup>2</sup>

For months prior to submitting our application, we worked alongside elected officials to answer any questions and address any concerns about our project. Representative Dutton was no exception. Over a three-month period, we requested, on at least 30 separate occasions, to meet in person with Representative Dutton to discuss the project. Prior to submitting his letter of support, Representative Dutton never met with us in person and never talked to us on the phone. Instead, as Representative Dutton concedes, we talked only with Representative Dutton's staff. At no time did anyone from Representative Dutton's office ask us if we had met with the Fall Creek neighborhood or had neighborhood support; and at no time did we ever represent that we did. Representative Dutton's staff raised one issue with us regarding the project — he did not want individuals with a criminal history

\_

<sup>&</sup>lt;sup>1</sup> In addition to these two primary allegations, Representative Dutton also raised a question regarding the project's HUB status and financial feasibility. First, as the Department knows, under QAP § 11.9(b)(2), the Applicant qualified for one point because the ownership structure contains a HUB certified by the Texas Comptroller of Public Accounts. TDHCA sought clarity on historical projects with the HUB involved in this project, and we responded on June 1, 2016 to TDHCA's satisfaction. Further, under QAP § 11.9(e)(1), the Applicant qualified to receive 18 points because it submitted a 15-year pro forma that conformed to the requirements of section (e)(1) and submitted a lender approval letter reviewing the Development and the Principals.

<sup>&</sup>lt;sup>2</sup> The allegations do not satisfy the rule that would mandate ineligibility because the letters contain mere accusations without any proof or support. Further, we believe that the accusations made in Representative Dutton's letter, even if true, do not satisfy the rule that would mandate ineligibility. Under 10 TAC 10.202(1)(K), an Applicant is ineligible for Department funding if the Applicant "has provided fraudulent information, knowingly falsified information, or other intentional or negligent material misrepresentation or omission **in an Application**...or any other information provided **to the Department** for any reason...." None of Representative's accusations suggest that the Applicant provided any fraudulent information in its Application or to the Department. Nonetheless, the Applicant believes that, after review of this response, the Department will agree that Representative Dutton's allegations are unsubstantiated and without merit.

to be automatically excluded from consideration. In response to his request, we agreed to review each application on a case-by-case basis. Given the gravity of the accusations lodged by Representative Dutton, we believe it is important to provide the Department with a detailed description of all of our communications with Representative Dutton's staff and the Fall Creek neighborhood.

## Communications with Representative Dutton and the Fall Creek Neighborhood

Beginning in October 2015, we started reaching out to Representative Dutton to discuss our project. For months, we requested an opportunity to meet with Representative Dutton to discuss any questions that he had about our project. Exhibit A — Examples of Emails sent by the Applicant to Representative Dutton's Office. Despite repeated requests to meet with Representative Dutton, he never met with us. Instead, on January 21, 2016, I met with Representative Dutton's Chief of Staff, Tamoria Jones, to discuss the project. The meeting lasted approximately fifteen minutes. We briefly discussed the details of the project including the location, the number of units, and the architectural design. At no time during the meeting did Ms. Jones ask if we had neighborhood support, and at no time during the meeting did I state that we had neighborhood support.

The following week, Ms. Jones called to ask about our policy regarding rental applications from prospective tenants with a criminal history because Representative Dutton did not want such individuals to be automatically disqualified. After our call, I sent her written confirmation that we would not automatically disqualify any applicant but that we would review all applications on a case-by-cases basis. Exhibit B — Email between Matt Vruggink and Tamoria Jones, dated January 26, 2016. Two days later, on January 28, Ms. Jones forwarded Representative Dutton's letter of support for our project. In her cover email, she reiterated, once again, the one and only issue that Representative Dutton's office ever raised with us — his support was conditioned on prospective tenants with criminal backgrounds not being automatically denied. Exhibit C — Email from Tamoria Jones, dated January 28, 2016.

Prior to submitting our Application, we did not meet with any members of the Fall Creek neighborhood. Not only is the project outside of the Fall Creek neighborhood, but the Fall Creek Homeowners Association is not registered with the Department. However, after submitting the Application, on March 24, 2016, we did meet with the Harris County Municipal Utility District No. 49 Board of Directors to discuss utility connections for the project. At that meeting, for the first, and only, time, we had the opportunity to speak with several members of the Fall Creek neighborhood. At that meeting a few members of the neighborhood expressed opposition to the project. Exhibit D — Minutes from the March 24, 2016 Harris County Municipal Utility District No. 49 Board of Directors Meeting. The meeting minutes reflect the content of our presentation as well as the comments made by the neighborhood members, and, as you can see, our policy regarding applicants with criminal histories was not an item of discussion. This meeting was the only time that any representative of the Applicant spoke to any member of the Fall Creek neighborhood about the project.<sup>3</sup>

After the MUD Board meeting, we immediately notified Representative Dutton about the meeting and the concerns raised by the members of the neighborhood. Exhibit F — Email from Daniel Smith to Representative Dutton, dated April 1, 2016. In the email to Representative Dutton, we offered to meet with him and the neighborhood to discuss any questions or concerns:

<sup>&</sup>lt;sup>3</sup> In April 2016, a utility attorney attended another MUD Board meeting on behalf of the Applicant to discuss capacity agreements for the connection of utilities to the property. Nothing, other than utilities, was discussed about the project. Exhibit E — Minutes from that April 28, 2016 Harris County Municipal Utility District No. 49 Board of Directors Meeting.

Dear Representative Dutton,

We want to thank you for providing support for our proposed 120 unit workforce housing development, The Standard on the Creek. We were recently contacted by the Fall Creek HOA who has expressed concerns with the proposed development and the impact it may have on the area. Although The Standard is not located within the Fall Creek neighborhood or the jurisdiction of the HOA, we are proactively working with the neighborhoods to educate them on the type of housing we intend to provide and eliminate any negative misconceptions that may be associated with workforce housing.

We realize that there are sensitivities associated with this development and we are ready and willing to assist your office with any issues or communications relating to the matter. Please do not hesitate to contact us if you have any question, comments, or concerns. We can be reached at the contact information below.

Ms. Jones informed me that he would be hosting a meeting on Saturday, April 30 with the Fall Creek neighborhood and requested that a representative attend. Exhibit G — Email from Tamoria Jones to Matt Vruggink, dated April 26, 2016. I agreed to attend the meeting and offered multiple times to conduct a call with Representative Dutton prior to the meeting. However, no call occurred. On Friday, bad weather was affecting Dallas and Houston, and Ms. Jones told me that, if the weather was too bad, the meeting would be cancelled so not to "force the visit." Exhibit H — Email between Matt Vruggink to Tamoria Jones, dated April 29, 2016. I then offered to meet with Representative Dutton and the neighborhood at any time in the following weeks. I never received any response from her or Representative Dutton.

# Representative Dutton's Allegations

In Representative Dutton's letters to the Department, he claims that we misrepresented the existence of neighborhood support and our intentions with respect to applicants with criminal history. First, as mentioned, at no time did we tell Representative Dutton or his staff that we had support from the adjacent neighborhood of Fall Creek. Had Representative Dutton or his staff asked, we would have informed them that we had not met with any members of the neighborhood and did not know if the adjacent neighborhood supported the project. Had Representative Dutton requested that we meet with members of the Fall Creek neighborhood before issuing a letter of support, we would have done so. Indeed, when other elected officials requested that we conduct meetings with potentially interested parties, we did so without hesitation. For example, prior to issuing his letter of support, the County Commissioner requested that we notify Humble ISD about our development intentions and obtain their feedback for his office — which we did. Likewise, when elected officials raised issues that were important to them, we made sure to meet their requests. For example, prior to supporting the project, the member of City Council wanted to make sure that we included Minority and Women Owned Businesses (MWBE) in the construction process — which we agreed to do. And, of course, as discussed, Representative Dutton requested that we evaluate tenants on a case-by-case basis, and we were happy to accommodate his request. But, as it stands, despite over 30 requests to meet with Representative Dutton, he never met with us. He never asked if we had neighborhood support, and he never requested that we obtain neighborhood support.

Second, we have not made any false representation regarding applicants with criminal histories. We will conduct comprehensive background checks on all applicants. Based on Representative Dutton's request, we intend to evaluate each application on a case-by-case basis and not automatically disqualify an applicant due to a criminal conviction, as we stated on January 26:

We are 100% OK with giving a 2<sup>nd</sup> chance to applying residents. More specifically, we will not automatically decline any applicant due to issues in their past, be it criminal or otherwise. Rather, we will look at all applicants on a case-by-case basis and make a determination based upon the incident and what it is that they have done since that particular incident. We are 100% for giving good residents a 2<sup>nd</sup> chance.

We have consistently informed the public that every applicant will be extensively screened to verify employment, income, and criminal history. It is our intention, just like we informed Representative Dutton, based on his demand, to evaluate and review each applicant on a case-by-case basis to determine eligibility.

Not once has Representative Dutton asked to meet with us or discuss the allegations stated in his letters. Not once has Representative Dutton reached out to us to ask if the information that he stated in his letters was accurate. There is a reason that TDHCA does not allow elected officials to rescind letters of support.<sup>4</sup> It is unfortunate that Representative Dutton thought that, nonetheless, the best course of action was to submit three letters of escalating intensity in an effort to rescind his support. Of course, we believe that if there was any evidence of fraud or misconduct by an applicant, TDHCA should take the matter very seriously. However, an accusation of fraud must be supported by some evidence — an email, meeting minutes, a presentation. It cannot be enough that a local official can simply send a letter with unsubstantiated claims and an Applicant can be disqualified from not one, but two applications. If that were the case, then politicians, when faced with political pressure, who wanted to rescind their support for a project, could simply manufacture a misrepresentation or false statement and effect the same outcome.

We have tried to give the Department a detailed description of our interactions with Representative Dutton and the residents of Fall Creek. We hope that, after reviewing our response and the attached exhibits, the Department sees that we have demonstrated a willingness to work with all local elected officials on any matter raised and have demonstrated a pattern of transparency. If the Department would like to meet with us to discuss this matter further, we are willing to do so at the Department's convenience. We greatly appreciate the opportunity to address the matters raised by Representative Dutton and look forward to moving forward with what we believe will be a great development.

Sincerely,

Matt Vruggink

**Enclosures** 

cc: Sharon Gamble, Tim Irvine

<sup>&</sup>lt;sup>4</sup> We believe that Representative Dutton was placed in the unfortunate position of continuing to support this project or face extreme opposition from a few members of the Fall Creek neighborhood. Those few individuals have sent us numerous emails, letters, and phone messages stating that they would stop at nothing to make sure that this project is "derailed."

# Exhibit A

Example Emails between Applicant and Representative Dutton's Office

From: Matthew J. Vruggink mjv@ojalaholdings.com

Subject: Contact Information

Date: October 22, 2015 at 10:29 AM
To: kadedra.ellis@house.state.tx.us
Cc: Daniel L. Smith dls@ojalaholdings.com



## Kadedra,

Thanks for the time this morning. full contact information is below.

As mentioned, looking to schedule a time to very briefly meet/discuss a workforce housing project that we are looking to develop within Representative Dutton's district. I met with Commissioner Jack Cagle yesterday who was generally supportive of the location (Southside of Beltway 8, just east of Wilson Road), but noted that he typically defers to Representative Dutton as it relates to projects within his particular district.

Thanks and look forward to discussing further.

Matt

----

## Matthew J. VRUGGINK

2838 Woodside Street | Dallas, TX 75204 P: 214.693.7955 | E: mjv@ojalaholdings.com From: Kadedra Ellis Kadedra. Ellis@house.state.tx.us

Subject: RE: Contact Information
Date: November 23, 2015 at 8:59 AM

To: Matthew J. Vruggink mjv@ojalaholdings.com

KE

My apologies for the late response. Rep. Dutton will be in court this morning and tomorrow morning. Can you send me other dates if possible? Fyi, he will be out of state from Dec 2-6.

Sent via the Samsung Galaxy Note® Edge, an AT&T 4G LTE smartphone

----- Original message -----

From: "Matthew J. Vruggink" <mjv@ojalaholdings.com>

Date: 11/23/2015 8:16 AM (GMT-06:00)

To: Kadedra Ellis < Kadedra. Ellis@house.state.tx.us>

Subject: RE: Contact Information

Sorry for harassing, Kadedra, but wanted to circle back up real quick to see if you were able to speak with Rep. Dutton and get a quick meeting on the calendar.

Thanks and hope the weekend was well!!

----

Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

Subject: RE: Contact Information

Date: November 25, 2015 at 11:10 AM

To: Matthew J. Vruggink mjv@ojalaholdings.com

Good morning. Rep. Dutton is currently assisting someone in another city and i have not been able to reach him as i had hoped. His phone is going straight to voicemail. I am still trying to get an answer. Sorry for the inconvenience Mr. Vruggink.

Sent via the Samsung Galaxy Note® Edge, an AT&T 4G LTE smartphone

----- Original message -----

From: "Matthew J. Vruggink" <mjv@ojalaholdings.com>

Date: 11/24/2015 3:52 PM (GMT-06:00)

To: Kadedra Ellis < Kadedra. Ellis@house.state.tx.us>

Cc: "Daniel L. Smith" <dls@ojalaholdings.com>

Subject: RE: Contact Information

Any luck confirming, Kadedra? Will be in Houston all day on 12/8 and would love to make that work, if possible.

Thanks and have a great Thanksgiving.

Matt

----

Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

KE

From: Kadedra Ellis Kadedra. Ellis@house.state.tx.us

Subject: FYI...

Date: December 1, 2015 at 12:05 PM

To: Matthew J. Vruggink mjv@ojalaholdings.com

Hi Mr. Vruggink,

I am trying to confirm for the 10th or 11th of this month, because his fundraiser is on the 8th and 9th in Austin, TX. He is currently in court, but I am trying to confirm with him before his flight this evening. Thanks for your patience.

Kade' Ellis

Assistant Chief Of Staff

State Rep. Harold V. Dutton Jr.

8799 N Loop E Suite 200

Houston, TX 77029

713-692-9192 (Phone)

713-692-6791 (Fax)

From: Kadedra Ellis

Sent: Monday, November 23, 2015 9:16 AM

To: Matthew J. Vruggink

Subject: RE: Contact Information

I'll confirm those dates first because i doubt he will be traveling between 8th-11th.

Sent via the Samsung Galaxy Note® Edge, an AT&T 4G LTE smartphone

----- Original message -----

From: Matthew J. Vruggink /O=MEX05/OU=EXCHANGE ADMINISTRATIVE GROUP /CN=RECIPIENTS/CN=MJV62D

Subject: RE: FYI...

Date: December 11, 2015 at 3:37 PM

To: Kadedra Ellis Kadedra.Ellis@house.state.tx.us



# Any luck getting ahold of Rep. Dutton?

Thanks and have a great weekend.

Matt

\_\_\_\_

Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

# Exhibit B

Email from Matthew Vruggink to Tamoria Jones, dated January 26, 2016 regarding policy concerning applicants with criminal history

From: Matthew J. Vruggink mjv@ojalaholdings.com Subject: RE: Rep. Dutton - Contact Information - District 142

Date: January 26, 2016 at 10:35 AM

To: Tamoria Jones Tamoria.Jones@house.state.tx.us



# Tamoria,

# Thanks for the time this morning.

As a quick follow up, we are 100% OK with giving a 2<sup>nd</sup> chance to applying residents. More specifically, we will not automatically decline any applicant due to issues in their past, be it criminal or otherwise. Rather, we will look at all applicants on a case-by-case basis and make a determination based upon the incident and what it is that they have done since that particular incident. We are 100% for giving good residents a 2<sup>nd</sup> chance.

Thanks again and let me know if this addresses Rep. Dutton's concerns.

Matt

----

Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

# Exhibit C

Email from Tamoria Jones to Matthew Vruggink dated January 28, 2016 transmitting Representative Dutton's Letter of Support

**From:** Tamoria Jones <Tamoria.Jones@house.state.tx.us>

Sent: Thursday, January 28, 2016 2:17 PM

To: Matthew J. Vruggink
Cc: Daniel L. Smith

**Subject:** RE: Rep. Dutton - Contact Information - District 142

**Attachments:** The Standard Letter of Support.pdf

#### Hi Matthew,

Here is the letter of support as requested based on the condition that people with criminal backgrounds will not be automatically denied but judged on a case by case.

Thanks,

#### **Tamoria Jones**

From: Matthew J. Vruggink [mailto:mjv@ojalaholdings.com]

Sent: Monday, January 25, 2016 7:45 PM

**To:** Tamoria Jones **Cc:** Daniel L. Smith

Subject: RE: Rep. Dutton - Contact Information - District 142

## Tamoria,

Hope all is well and hope you were able to enjoy the weekend weather there in Houston. Just wanted to circle back with you to see if you were able to get with Representative Dutton on the resolution letter that we discussed late last week.

Thanks and look forward to talking tomorrow.

Matt

----

#### Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

From: Matthew J. Vruggink

Sent: Thursday, January 21, 2016 5:50 PM

To: Tamoria Jones <Tamoria.Jones@house.state.tx.us>

Cc: Daniel L. Smith <dls@ojalaholdings.com>

Subject: RE: Rep. Dutton - Contact Information - District 142

#### Tamoria,

Thank you again for the time this afternoon. As mentioned, I met with Councilman Jerry Davis this afternoon and was able to secure a letter of support for our Standard at Fall Creek Development. Please see the letter attached. This is GREAT news for our development.



Committees:

Juvenile Justice and Family Issues, Chair Public Education Sunset Advisory Commission

Resolution of Support The Standard at Fall Creek, LP TDHCA Application No.: 16118 Houston, TX

Matt Vruggink 6440 N. Central Expressway, Suite 900 Dallas, TX 75206

Re: TDHCA Resolution of Support

Dear Matt Vruggink,

I received the Public Notification for The Standard at Fall Creek located in the Houston, TX ETJ, more specifically on the southeast corner of Fall Creek Preserve Drive and Sam Houston Parkway East in Harris County in the 142nd district, which I represent.

I am pleased to lend my support to this Development which will serve the constituents in my District.

Best personal regards,

HAROLD V DUTTON IR

# Exhibit D

Harris County Municipal Utility District No. 49, Meeting Minutes, March 24, 2016

## HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 49

Minutes of Meeting of Board of Directors March 24, 2016

The Board of Directors ("Board") of Harris County Municipal Utility District No. 49 ("District") met at 2727 Allen Parkway, Suite 1100, Houston, Texas, on Thursday, March 24, 2016, in accordance with the duly posted notice of said meeting, with a quorum of directors present, as follows:

August J. Nunez, President John Wright, Vice President Kermit D. Fisher, Secretary Tim Reynolds, Assistant Secretary

and the following absent:

Jude P. Auzenne, Assistant Secretary.

Also present were Ms. Claudia Redden, Ms. Debbie Arellano, Mr. Bob Ring, Mr. Saib Saour, Mr. William Saour, Ms. Debbie Shelton, Mr. Eric Ungar, Mr. Matt Carpenter, Mr. Brett Sileo, Mr. Matthew Vruggink, and Ms. Lori G. Aylett.

The President called the meeting to order and declared it open for such business that might regularly come before it.

- 1. Minutes of the meeting held February 25, 2016 were presented for the Board's review and approval. Corrections were suggested to the minutes, and upon motion duly made, seconded and unanimously carried, the Board approved the minutes as amended.
- 2. Debbie Arellano presented a tax assessor/collector's report, a copy of which is attached. The report reflects that 2015 taxes are 96.7% collected. All prior years are over 99% collected. Two wire transfers and 10 checks were presented for the Board's review and approval. The tax assessor mentioned that she had received a request for an installment payment agreement for rental property that is non-homestead. The Board authorized a six-month payment plan. Upon unanimous vote, the Board approved the tax assessor/collector's report as presented and authorized payment of bills with checks drawn on the tax fund.
- 3. Bob Ring presented an operator's report. The District served 2,338 water connections and 2,302 wastewater connections during the month. The District provided garbage collection services to 1,537 customers.

The operator reported on the status of the District's water production. The District pumped 8,280,000 gallons from Water Well No. 1; 1,620,500 gallons from Water Well No. 2; and received 222,000 gallons from the City of Houston. The District's water accountability was 116%.

The operator turned to the billing and collections report. The District had total current collections of \$138,747.25 and total current billing of \$146,194.67. The operator followed rate order procedures and placed 211 delinquent notices on doors, and 22 accounts were terminated for failure to pay in a timely fashion. The District had 32 new taps during the month, and 35 taps have been made year-to-date.

The sewage treatment plant operated within all permitted parameters. The operator billed \$49,437.75 for work performed during the month.

The operator then reviewed the esplanade water usage. Esplanade water usage for the month totaled 157,000 gallons.

The operator reported that construction of the altitude valve has resulted in the inability to use City of Houston water. The District's contract is take-or-pay so the District is still required to pay. The operator replaced lines at the wastewater treatment plant, and the District will reimburse the operating fund from surplus construction funds in a future month.

The operator reported on the violation notice received from the TCEQ. The violation alleged that the District did not take the required water samples. The state's contractor is actually the party that takes the samples, and that contractor contacted the wrong operator to schedule the sampling. The operator is still in negotiations with the TCEQ regarding the matter. The District may have to send a public notice regarding the "violation" and its resolution. The operator has already implemented procedures to track the dates when the state's contractor should perform required tests.

Upon unanimous vote, the Board approved the operator's report as presented.

- 4. The Board considered a Sixth Amendment to the Interim Water Supply Agreement with Harris County Municipal Utility District No. 400. The attorney noted that MUD 400 wanted an extension to their interim agreement, and the new termination date is June 30, 2016. Upon unanimous vote, the Board approved the Sixth Amendment as presented.
- Standard at Fall Creek apartment development. Matthew Vruggink introduced himself to the Board and stated that Ojala Partners is a Dallas based real estate developer with expertise in both commercial and residential developments. They have 5.5 acres of property under contract with Hannover, and the planned development is a 120-unit apartment complex on the south side of Beltway 8 east of the Fall Creek development. He presented an executive summary and photographs of the proposed development. The executive summary stated that the project has the support of the City of Houston, State Representative Harold Dutton, and Harris County Commissioner Jack Cagle. The proposed amenities would include an after-hours learning and daycare center, an executive business lounge and computer lab, a fitness facility, a cyber café, a tropical oasis pool with a grilling area and a dog park. According to the development overview, the tract is surrounded by dense commercial usage including retail, restaurants, office and multi-family. The economic benefits as stated in the development overview would be an additional \$3,820,825 in tax revenue to the "City" over a 10-year period. Director Reynolds noted that the City does not get any tax from the project as

it is not located within the City's boundaries. The information about tax revenues to the City was therefore inaccurate. Eric Ungar spoke briefly on behalf of Hannover and stated that there is an open ditch on the tract now that will need to be converted into storm sewers. Mr. Vruggink stated that the development proposal was still in the early stages, and the property is under contract. The developer is on the tail-end of their due diligence and has another 90 days to decide whether to go forward with the project. The proposed development is "rent-restricted". The development consists of workforce housing and will not be Section 8 or voucher homes. Rents will be capped. Rents for The Alexan project in the District are about \$1,000 to \$1,100, and the proposed apartments will be in the \$800 range according to Mr. Vruggink. The developer has projects on the ground in Fort Worth, Lake Charles and Baton Rouge. In response to a question from the Board, Mr. Vruggink indicated that the Springs at Fort Worth is located at 3200 East University. Ojala Partners has applied to the Texas Department of Housing and Community Affairs for designation as a tax credit project and has been successful in this process. Therefore, the developer will be provided with some federal funding. The apartment management will get income and employment verification for all residents, and the developer is audited on an annual basis. The development receives tax credits that are distributed over time. The developer sells those credits to investors to get funding to develop the project.

Director Reynolds indicated that the District had a similar inquiry two to three years ago. The District must receive tax revenues to pay debt service on the bonds issued for the facilities. The Board asked Mr. Vruggink how the property will be appraised and whether or not it will be tax exempt. Mr. Vruggink indicated that the property would be appraised on a taxable basis but would not have as much assessed valuation as the Alexan. Tax credit apartments are allowed to be valued on an income basis, which results in a lower assessed value than a market rate apartment project. Mr. Vruggink stated that his development company owns and operates the projects and uses a management company.

Director Reynolds noted that the District has no bus service and no sidewalks. He stated his personal objections to the project and stated that it did not make sense in its current configuration or location.

Matt Carpenter addressed the Board and stated that he was the President of the Fall Creek Homeowners Association and is a civil engineer. He stated that it was his understanding that the developers of Fall Creek objected to the use of the words "Fall Creek" in the apartment name. Mr. Vruggink confirmed that they had received a cease-and-desist letter from the developer of Fall Creek, and the apartments will not include the words "Fall Creek" in their name. Mr. Carpenter stated that if taxes were not being generated at a market rate, the other residents of MUD 49 would effectively be subsidizing the apartments. Mr. Carpenter inquired as to how many units were being requested and what capacity would be allocated to the project.

Saib Saour responded that no request has been made by the applicant for capacity. Mr. Carpenter replied that he was concerned that the neighboring property values could decline as a result of their proximity to this project. He noted that Fall Creek was a master planned community. Mr. Carpenter noted that the property was not close to retail, restaurants, and office space as indicated in the executive summary.

3

91049-002 304234v1 amp

In response to a question, Mr. Vruggink indicated that the District could expect to receive \$10 million in taxable value on the tax roll as a result of the construction of this project. The District's financial advisor Debbie Shelton indicated that the proposed value was lower than other apartments in the District.

Mr. Brett Sileo then addressed the Board and stated that he was a resident of Fall Creek. He advised the Board that to his knowledge public hearings must be conducted before the project is approved. Mr. Vruggink noted that they have a score of 153 points currently with TDHCA, and the application is still pending. Mr. Sileo then noted that the school system was already at 120% of capacity, and school officials have indicated that they do not have the facilities to accommodate this proposed development. There are already several apartments in the area. There is no bus service. Mr. Sileo asked the developer how long they would maintain the facilities, as receipt of the tax credits was a one-time thing. Mr. Vruggink replied that the developers had met extensively with Humble ISD about their proposed development plan. Eric Ungar stated that the school demographers had looked at this proposed development and the project and how many children will be put into the school system. Mr. Vruggink stated that he and his partners would get back to the District residents to schedule a public hearing. He stated that he would be approaching the District engineer with specific capacity questions. Director Reynolds stated that he was personally against the project. Mr. Vruggink stated that he understood the concerns of the residents and asked that he be given an opportunity to change the minds of those who might oppose the project. He thanked the Board for their consideration.

6. Saib Saour and William Saour presented the engineer's report, a copy of which is attached. The engineer requested Board approval to advertise for bids for the earth movement, Phase 5 project to serve Sunset Ridge and the water, sewer and drainage construction project to serve Sunset Ridge, Section 7.

The engineer recommended for approval Pay Estimate No. 5 and Final in the amount of \$44,259.07 to Crostex Construction for the Sunset Ridge, Sections 5 and 6 water, sewer and drainage facilities, and the Board so approved. Harris County approved the developer of Sunset Ridge West regarding Woodland Hills Drive, Phase 2. The County is looking into constructing the remaining half of Woodland Hills and extension of the roadway. The Woodland Hills extension will go through the District, neighboring MUD 400, neighboring MUD 423 and Land Tejas MUD all the way to Timber Forest. Harris County intends to issue bonds to pay for the project. The Board noted that this connection is very good news for the community.

Water, sewer and drainage construction for Sunset Ridge West, Sections 4 and 5 is approximately 90% complete. The Harris County inspection for Section 4 is scheduled for April 12, 2016 at 8:30 a.m.

In Fall Creek, Sections 40 and 42, no pay estimates were received but the contractor is addressing comments. In Fall Creek, Section 43, construction is expected to begin in the third quarter of 2016. Brown and Gay Engineers requested on behalf of the developer of Fall Creek, Section 44 that the Board authorize them to proceed with advertising for bids for that project. Upon unanimous vote, the Board authorized the advertisement to proceed.

The engineer received construction drawings for a 38-room hotel proposed for development. Comments were provided to their engineer.

The engineer reported on the activities of Project Storm and presented an invoice in the amount of \$10,368.02 for work performed the previous month. The engineer recommended that the Board approve the invoice as it was in conformance with the contract, and the Board concurred. The current Project Storm contract will automatically renew, and the contractor has not proposed any changes to the maintenance budget. Later in the year, new storm water quality features will be added to the District's maintenance, and the maintenance schedule may be amended at that time.

With regard to review of the District's detention ponds, PSI is proceeding with geotechnical investigation of the southern Eagle Creek Detention Pond and will have a report ready for the Board to review next month. The engineer also contacted the Harris County Flood Control District to discuss erosion issues on Garners Bayou adjacent to Fall Creek's northern most detention pond. The District engineer also contacted the City of Houston and requested that they begin clearing the drainage swale downstream of Sunset Ridge.

The engineer has still heard nothing from the Texas Commission on Environmental Quality on the rerate of the District's wastewater treatment plant.

The District engineer is working with developer engineer R.G. Miller on the grading plan for addition of the water site to their CLOMR. The District engineer has prepared a metes and bounds description of conveyance of the water plant site and access and water line easements. The description is still being refined.

The engineer presented Pay Application No. 1 from Gemini Contracting in the amount of \$60,320.70 for addition of the altitude valve on the surface water supply line. The engineer recommended approval of the pay application and noted the project was approximately 90% complete. The engineer continues design of the splitter box and improvements at the box plant. The engineer also solicited bids for refurbishment of the box plant, and the low bidder was Texas Source Contracting in the amount of \$68,600. The engineer requested and received Board approval to award the contract to the low bidder. The engineer noted that the contractor had provided the Form 1295 as required by law.

After a full discussion, upon unanimous vote, the Board approved the engineer's report, the pay applications, and authorizations to advertise for bids as requested by the District engineer.

- 7. There was presented the attached Resolution for Adoption of Order Establishing Policy and Rates for Water, Sewer and Waste Disposal Service. The engineer presented the analysis of the District's costs associated with the City of Houston surface water. The engineer recommended that the District's City of Houston GRP fee be raised by \$0.03 to \$2.20 per thousand. Upon unanimous vote, the Board approved the rate order revisions effective April 1, 2016.
- 8. The Board discussed the various development projects. The attorney noted that she is hoping to finalize the Memorandum of Understanding between the District, Westin and

Ryland at the next meeting. Westin and Ryland are each developing a section, but some portions of storm sewer in Ryland's section benefit Westin, and vice versa. The developers want to make sure that they allocate the costs for the shared facilities to the appropriate developer, so that the value added by that developer will support the reimbursement. Johnson, now known as Kenwood, may qualify for a full reimbursement in the next bond issue. The District engineer is working to quantify the amounts of the next bond issue and the possible reimbursement to each developer.

The Board considered extension of a utility commitment to serve Sunset Ridge Retail Center. Upon unanimous vote, the Board agreed to extend the utility commitment for 35 esfcs as requested by the Sunset Ridge developer.

- 9. Claudia Redden presented the bookkeeper's report, a copy of which is attached. Upon unanimous vote, the Board approved the bookkeeper's report as presented.
- 10. The Board considered renewal of the District insurance policies. The attorney presented a proposal from Highpoint for renewal of the existing policies. The total premium is \$18,179, an increase of less than \$200. After consideration, upon unanimous vote, the Board approved renewal of the District's property, boiler and machinery, general liability, automobile liability, law enforcement liability, pollution liability, directors and officers liability, directors position schedule bond, public employee blanket bond, worker's compensation, peace officer bond and business travel accident insurance policies based upon the proposal presented by Highpoint.

There being no further business to come before the Board, the meeting was adjourned.

# Exhibit E

Harris County Municipal Utility District No. 49, Meeting Minutes, April 28, 2016

# HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 49

Minutes of Meeting of Board of Directors April 28, 2016

The Board of Directors ("Board") of Harris County Municipal Utility District No. 49 ("District") met at 2727 Allen Parkway, Suite 1100, Houston, Texas, on Thursday, April 28, 2016, in accordance with the duly posted notice of said meeting, with a quorum of directors present, as follows:

August J. Nunez, President John Wright, Vice President Kermit D. Fisher, Secretary Jude P. Auzenne, Assistant Secretary Tim Reynolds, Assistant Secretary

and the following absent:

None.

Also present were Ms. Claudia Redden, Ms. Kristen Scott, Mr. Bob Ring, Mr. Saib Saour, Mr. William Saour, Mr. Eric Ungar, Mr. Matt Carpenter, Mr. Brett Sileo, Mr. Scott Eidman, and Ms. Lori G. Aylett.

The President called the meeting to order and declared it open for such business that might regularly come before it.

- 1. Minutes of the meeting held March 24, 2016 were presented for the Board's review and approval. Corrections were suggested to the minutes, and upon motion duly made, seconded and unanimously carried, the Board approved the minutes as amended.
- 2. The President called for citizen comments. Mr. Matt Carpenter addressed the board and stated that he was a resident of the District living in Fall Creek and is the President of their homeowners association. He reported that a town hall meeting has been scheduled to discuss the proposed tax-credit apartment development on this Saturday at 10:30 A.M. with state representative Harold Dutton. The Honorable Mr. Dutton will be on hand to receive resident input about the proposed development.
- 3. The Board discussed the request from Ojala Partners, L.P. for a consent to assignment of utility capacity from Hannover, a utility commitment and a reimbursement agreement. Lori Aylett introduced Scott Eidman of Johnson Petrov LLP, counsel for Ojala. The board had received a presentation from a representative of Ojala at their March meeting. In the interim, Ojala had made a Public Information Act request for information concerning prior utility commitments to apartments, capacity studies, and related matters. Ms. Aylett indicated to Mr. Eidman that there were more than 1,200 pages of documents responsive to his client's request, and Mr. Eidman indicated that his office could work to refine the request. The Board reviewed the requests from Ojala and asked District engineer Saib Saour to comment. Mr. Saour presented an analysis of the capacity

request, a copy of which is attached to these minutes. In particular, Mr. Saour noted that Ojala's civil engineers had requested that the District use 0.47 ESFCs per apartment unit when computing the sewer capacity needs. Mr. Saour noted that while this fraction was the current City of Houston standard, it was not the standard used by the District engineer in performing the most recent capacity analysis. The District has some particular sewer treatment needs. Mr. Saour reminded the board that Benchmark Engineering had conducted a one-year analysis of sewer influent, including BOD, ammonia nitrogen and related sewage constituents. The District has traditionally experienced lower flows per residential connection, but the flows have had higher concentrations of certain constituents. The District has used an allocation of 0.7 ESFCs per apartment unit in the capacity analysis and in the multi-party preconstruction contract with the various developers that are participating in the expansion to the District's water and sewer plants. In addition, the District has already allocated capacity via utility commitments to three existing apartment developments in the District, all using the 0.7 ESFC/unit standard. Based upon Ojala's proposed apartment development of 120 units, 84 ESFCs would need to be allocated. Mr. Saour next discussed the water capacity issues. The District applied for an exception to the elevate storage requirement and in the application assumed a full build-out of 4,500 connections. The TCEQ has adopted a policy of allocating 1 ESFC per each unit of multi-family development. If the District applies this allocation to the existing apartments and the proposed Ojala apartment development and takes into account all of the other homes proposed for development, the District will exceed the 4,500 connection limit by a few connections. Director Reynolds noted a concern that Hannover is asking to allocate 73% of its capacity allocation but is only selling 48% of Hannover's developable land. Director Reynolds was concerned that the District did not have enough capacity to allocate the requested amounts to the Ojala tract and have Hannover be able to develop the remainder of its tract. District resident Bret Sileo asked if Ojala was aware that Garner's Bayou came out of its banks during the most recent flooding. He also asked if Ojala was aware of the need for cultural resources inspections. Mr. Eidman stated that he did not know whether Ojala was aware of these matters. The Board members expressed a desire to see a more detailed land plan from Hannover so that the Board can determine how that developer plans to develop the remainder of the tract. The Board reminded Eric Ungar that Hannover had purchased 100 ESFCs of capacity pursuant to the multi-party developer agreement and had retained another 15 ESFCs from the previous plant expansions. The board was uncertain as to whether this would be sufficient to develop the entire tract, given the capacity request from Ojala. The board also expressed concerns about the flood plain issues, and Mr. Ungar reported that it was his belief that the tract under contract to Ojala was out of the flood plain. Director Reynolds stated that he had seen a preliminary plan presented by Ojala that showed the storm sewer being routed in a way that would direct drainage flows onto the District's water plant site. Director Nunez stated that he would need more information on potential amounts that could be reimbursed to this developer and a better idea of the value to be created by the proposed project. The district should also have a better understanding of what happens to the Ojala development after the tax credit payments cease in 10 years. After a full discussion, upon unanimous vote, the Board tabled consideration of Ojala's requests pending receipt of more information about the development. The board authorized the attorney to direct correspondence to Ojala's counsel and Hannover regarding the needed information.

4. Kristen Scott presented a tax assessor/collector's report, a copy of which is attached. The report reflects that 2015 taxes are 97.4% collected. All prior years are over 99% collected. 11 checks were presented for the Board's review and approval. Upon unanimous vote, the

Board approved the tax assessor/collector's report as presented and authorized payment of bills with checks drawn on the tax fund.

5. Bob Ring presented an operator's report. The District served 2,370 water connections and 2,334 wastewater connections during the month. The District provided garbage collection services to 1,551 customers.

The operator reported on the status of the District's water production. The District pumped 5,611,000 gallons from Water Well No. 1; 1,102,800 gallons from Water Well No. 2; and received 9,388,000 gallons from the City of Houston. The District's water accountability was 94.8%.

The operator turned to the billing and collections report. The District had total current collections of \$166,467.91 and total current billing of \$164,247.85. The operator followed rate order procedures and placed 209 delinquent notices on doors, and 20 accounts were terminated for failure to pay in a timely fashion. The District had 19 new taps during the month, and 54 taps have been made year-to-date.

The sewage treatment plant operated within all permitted parameters. The operator billed \$40,380.74 for work performed during the month.

The operator then reviewed the esplanade water usage. Esplanade water usage for the month totaled 273,000 gallons.

The operator reported that the District was very fortunate during the "Tax Day Storm" as it did not incur any lightening strikes or flooding. The operator is planning to do a valve and hydrant survey.

Director Fisher reported that he had a slow leak that cause damage to his home, and believes he would not have had a problem if the District were using Smart Meters. He asked that the Board reconsider the Smart Meter program. Director Reynolds noted that some sort of Smart Meter was probably an inevitable development in the water district industry. The attorney noted that she was currently reviewing the Accurate Meter/Badger contract, and there were still significant issues with the proposed agreement to be worked out. The Board will let the attorneys work through the issues in the contract for a few months before reconsideration.

Director Reynolds reported that he had been invited to a meeting with the chair of the Harris Galveston Subsidence District and invited interested board members and consultants to attend with him. Mssrs. Saib and William Saour expressed interest.

Upon unanimous vote, the Board approved the operator's report as presented.

6. Saib Saour and William Saour presented the engineer's report, a copy of which is attached. The engineer requested Board approval to advertise for bids for the Sunset Ridge, Section 7 and Moonlight Mist Drive extension project. The engineer reviewed the bids received for the Earth Movement, Phase 5 project to serve Sunset Ridge. The engineer recommended award of the project to the low bidder, Double Oak Construction with a price bid of \$2,181,055.13.

The Star Stop and Jack in the Box is under construction. The engineer also issued an approval letter for the gas station and convenience store at 10655 N. Sam Houston Parkway East.

The engineer recommended for approval Pay Estimate No.4 in the amount of \$144,419.78 to Crostex Construction for the Sunset Ridge, Sections 4 and 5 water, sewer and drainage facilities, and the Board so approved. Water, sewer and drainage construction for Sunset Ridge West, Sections 4 and 5 is complete. The Harris County inspection for Section 4 paving was held April 12, 2016 at 8:30 a.m. and yielded no comments. Section 5 is substantially complete.

In Fall Creek, Sections 40 and 42, no pay estimates were received but the contractor is addressing comments. In Fall Creek, Section 43, construction is expected to begin in the third quarter of 2016. RG Miller requested board approval to prepare plans and specification and advertise for bidding for expansion of the northern Fall Creek detention basin. Upon unanimous vote, the Board authorized the plan preparation and advertisement to proceed.

In Fall Creek East Section 1, the contractor may have to take a few District customers out of service to make final connection of the section to the District's line. The operator will work with the engineer and contractor to minimize disruption.

The engineer received construction drawings for a 38-room hotel proposed for development. Comments were provided to their engineer, and they have responded by revising the plans. The engineer is reviewing the revised plans.

The engineer reported on the activities of Project Storm and presented an invoice in the amount of \$6,761.05 for work performed the previous month. The engineer recommended that the Board approve the invoice as it was in conformance with the contract, and the Board concurred.

With regard to review of the District's detention ponds, PSI is proceeding with geotechnical investigation of the southern Eagle Creek Detention Pond and will have a report ready for the Board to review next month. The District engineer also contacted the City of Houston and requested that they begin clearing the drainage swale downstream of Sunset Ridge. The engineer also plans to speak with the Commissioner's office about Flood Control issues.

The engineer has still heard nothing from the Texas Commission on Environmental Quality on the rerate of the District's wastewater treatment plant.

The District engineer is working with developer engineer R.G. Miller on the grading plan for addition of the water site to their CLOMR. The District engineer has prepared a metes and bounds description of conveyance of the water plant site and access and water line easements. The description is still being refined.

The altitude valve project is approximately 90% complete. The engineer continues design of the splitter box and improvements at the box plant. The engineer held a preconstruction meeting with Texas Source Contracting on the refurbishment of the box plant.

After a full discussion, upon unanimous vote, the Board approved the engineer's report, the pay applications, and authorizations to advertise for bids as requested by the District engineer.

7. Claudia Redden presented the bookkeeper's report, a copy of which is attached. The bookkeeper also presented a draft budget for the fiscal year ending June 30, 2017. The Board reviewed the draft budget in some detail. Upon unanimous vote, the Board approved the bookkeeper's report as presented.

There being no further business to come before the Board, the meeting was adjourned.

Dumital Ashir Secretary

# Exhibit F

Email from Applicant to Representative Dutton regarding opposition from members of the Fall Creek neighborhood

Subject: The Standard on the Creek\_Development

Date: April 1, 2016 at 1:44 PM

To: harold.dutton@house.texas.gov

Cc: Matthew J. Vruggink mjv@ojalaholdings.com, Tamoria Jones Tamoria.Jones@house.state.tx.us

Dear Representative Dutton,

We want to thank you for providing support for our proposed 120 unit workforce housing development, The Standard on the Creek. We were recently contacted by the Fall Creek HOA who has expressed concerns with the proposed development and the impact it may have on the area. Although The Standard is not located within the Fall Creek neighborhood or the jurisdiction of the HOA, we are proactively working with the neighborhoods to educate them on the type of housing we intend to provide and eliminate any negative misconceptions that may be associated with workforce housing.

We realize that there are sensitivities associated with this development and we are ready and willing to assist your office with any issues or communications relating to the matter. Please do not hesitate to contact us if you have any question, comments, or concerns. We can be reached at the contact information below.

Thanks,

Daniel L. Smith

Ojala Partners, LP

6440 N Central Expy #900

Dallas, TX 75206

Office: 214-865-7926

Cell: 832-444-9382

Fax: 214-865-7929

DLS@OjalaHoldings.com

DL

# Exhibit G

Email from Tamoria Jones to Matthew Vruggink regarding meeting with the constituents of Fall Creek

From: Tamoria Jones Tamoria.Jones@house.texas.gov Subject: RE: The Standard on the Creek\_Development

Date: April 20, 2016 at 3:18 PM

To: Matthew J. Vruggink mjv@ojalaholdings.com

Thanks Matthew.

Rep. Dutton is holding a meeting with the constituents of Fall Creek on Saturday, April 30th at 10:30am. Rep. Dutton would like to request your attendance or representatives to attend the meeting. Please advise of the names or if anyone is able to attend.

Best regards,

Tamoria Jones

TJ

# Exhibit H

Email from Matthew Vruggink to Tamoria Jones regarding meeting with the constituents of Fall Creek

From: Matthew J. Vruggink

**Sent:** Friday, April 29, 2016 2:53 PM

To: 'Tamoria Jones'

Subject: RE: The Standard on the Creek\_Development

OK. I am happy to meet anytime in the next couple of weeks. Just give me a week or so notice so that I can clear my schedule. They are already cancelling flights tonight, so it looks like there is no chance of me making it early tomorrow morning.

----

Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

----Original Message-----

From: Tamoria Jones [mailto:Tamoria.Jones@house.texas.gov]

Sent: Friday, April 29, 2016 2:51 PM

To: Matthew J. Vruggink <mjv@ojalaholdings.com> Subject: Re: The Standard on the Creek\_Development

I just saw that on the news. If the weather is too bad, we are rescheduling. Don't force the visit of weather is too bad

Tamoria Jones Chief of Staff Rep. Harold V. Dutton, Jr. 8799 North Loop East, Ste. 305 Houston, TX 77029 713.692.9192 (phone) 713.692.6791 (fax) 281.605.0893 (cell) tamoria.jones@house.state.tx.us

> On Apr 29, 2016, at 1:58 PM, Matthew J. Vruggink <mjv@ojalaholdings.com> wrote:

Just wanted to circle back on this, Tamoria. I am also worried about my flight in the morning. There is supposed to be severe storms in both Dallas and Houston tonight and in the morning...

Matt.



#### TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott GOVERNOR BOARD MEMBERS
J. Paul Oxer, Chair
Juan S. Muñoz, PhD, Vice Chair
Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

June 27, 2016

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

The Hon. Harold Dutton Texas House of Representatives Austin, Texas

RE: DETERMINATIONS REGARDING APPLICATION #16118, THE STANDARD AT THE CREEK

#### Dear Chairman Dutton:

The Texas Department of Housing and Community Affairs ("the Department") has reviewed your inquiries raising issues about whether Application #16118 was ineligible under 10 TAC \$10.202(1)(K) because of material misstatements or omissions in connection with the provision of a letter of support by your office. We considered your request in accordance with 10 TAC \$11.10, Third Party Request for Administrative Deficiency. This procedure is being invoked by staff to ensure consistency of treatment and because the text of the rule provides that the purpose of the rule "is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention."

Staff has determined that the issues posed by your letter of support are within the scope of the rule. A letter evidencing community support in the form of a letter from the State Representative for the development site is a statutory scoring item under Tex. Gov't Code §2306.6710(b)(1)(J), and if the statements of the Applicant on which the your office relied in giving the letter were false, then it would satisfy the plain wording of 10 TAC §10.202(1)(K) ineligibility as an "intentional or negligent material misrepresentation or omission in an Application."

As indicated in your letter of June 3, 2016, there were two issues on which you predicated your support: (1) that if an applicant seeking to live in the development had a criminal history, they would not automatically be ruled ineligible but would be evaluated on a case by case basis and (2) that there was community support for the development. You have made it clear that communication with the applicant and its representatives was handled through your Chairman's Chief of Staff, Tamoria Jones.

On the first point, treatment of criminal background in determining eligibility of a tenant, the applicant did, as noted in Exhibit C, confirm that it would consider such matters on a case by case basis, and in Exhibit E it has reaffirmed this position. Accordingly, there has been no misrepresentation on this issue made to induce the letter of support.



On the second point, Ms. Jones has noted in a narrative submitted to the Department that (prior to the letter of support issuing from your office) that she "asked [the applicant] if he had spoken to the residents in the area and if they had received any concerns. I was advised by [the applicant that] they had not received any concerns and to his knowledge they had the support. He then proceeded to advised [siv] of other elected officials who had already either written or agreed to write support letters.". A scanned copy of Ms. Jones' notes of the conversation with Mr. Vruggink on the subject of community support reveals only the words "no current opposition/full support of project."

Although it has become clear that a number of people who live near the development site are now opposed to its construction, there has been no evidence specifically establishing misrepresentations by the applicant at the time of the creation of the letter of support in late January of 2016. More to the point, as 10 TAC §11.10 places the burden of production of "sufficient, credible evidence that, if confirmed, would substantiate the deficiency request" on the party utilizing the rule, the salient question becomes whether the notes and narrative of the only member of your staff to have contact with the applicant is sufficient, credible evidence that the applicant made a material misrepresentation regarding community support in order to garner the Chairman's letter of support. Staff finds that it does not.

Although your letter of June 3, 2016, states that during your staff's meeting with the applicant, "there was assurance that the Applicant had not only met with the residents of Fall Creek, but that the project had the complete support of these residents," the narrative of Ms. Jones and her notes do not support (or refute) a conclusion that the applicant represented that he had met with the residents of the neighboring Fall Creek homeowners association (many of whom are currently opposed to the development) and that the applicant had obtained their complete support prior to the time the letter issued. Indeed, Ms. Jones' narrative would be consistent with the applicant's assertions in that there had been no received concerns and letters of support from other elected officials confirmed the presence of support. This is further substantiated by the response by the applicant who plainly asserts that prior to submitting their application, the applicant did not meet with any members of the Fall Creek neighborhood since the project site is outside of the Fall Creek neighborhood boundaries and the Fall Creek Homeowners Association is not registered with TDHCA and, therefore, could not impact the scoring of the application as established in statute.

Lastly, e-mail communication between the applicant and Ms. Jones indicates that the letter of support from Chairman Dutton's office is predicated on a singular issue:

From: Tamoria Jones < Tamoria. Jones @house.state.tx.us>

Sent: Thursday, January 28, 2016 2:17 PM

To: Matthew J. Vruggink Cc: Daniel L. Smith

Subject: RE: Rep. Dutton - Contact Information - District 142

Attachments: The Standard Letter of Support.pdf

Hi Matthew,

Here is the letter of support as requested based on the condition that people with criminal backgrounds will not be automatically denied but judged on a case by case.

Thanks, Tamoria Jones

It should be noted that the determination by staff that your request does not render the applicant ineligible under 10 TAC §10.202(1)(K) is not based on a weighing of credibility of evidence. Rather, it is a

Determinations Regarding Application #16118, The Standard at the Creek June 27, 2016 Page 3  $\,$ 

determination that the evidence presented along with the request does not rise to a level of the 10 TAC §11.10 standard of sufficient evidence that substantiates the request.

As described, herein, staff is unable to conclude, based on the evidence it has reviewed, that the request supports finding the applicant for Application #16118 ineligible under 10 TAC §10.202(1)(K). For your information, I have included a copy of the Department's response to issues raised in a request from the Fall Creek Homeowner's Association.

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

Sincerely.

Marni Holloway

Multifamily Division Director

# The Standard at the Creek (3) Fall Creek Homeowner's Association Letter and Response

Texas Department of Housing and Community Affairs P.O. Box 13941 Austin, Texas 78711-3941

Attention: Mr. Timothy K. Irvine, Executive Director

Re: Application 16118

The Standard at Fall Creek
9% Competitive Housing Tax Credit Application

Dear Mr. Irvine:

The Board of Directors of Fall Creek Homeowners Association is writing this letter in regards to TDHCA Application 16118, the Standard at Fall Creek. We believe the applicant made material misrepresentations, and in accordance with 10 TAC § 10.202 (1)(K) should be found ineligible for tax credits from the TDHCA for this project.

Texas House of Representatives member Harold V. Dutton, Jr. provided a letter to the TDHCA on May 2, 2016 describing his desire to withdraw his support of the above referenced application. He described in detail in this letter the reasons for wanting to withdraw his support. On May 25, 2016, Representative Dutton sent a second letter to the TDHCA reiterating that his initial support to the applicant was based on the Applicant's misrepresentations. Additionally, on June 3, 2016, Representative Dutton sent an additional letter to the TDHCA further explaining his desire to withdraw his support. We agree with Representative Dutton, that his letter of support is a part of Application 16118, and therefore the material misrepresentations that were provided to him in order to gain his support render the applicant ineligible to qualify for tax credits granted through the current TDHCA application process.

In Representative Dutton's letter on June 3, he described his two concerns with the application. His first concern was that the Applicant would not allow ex-felons to live in the development. According to Representative Dutton, the Applicant was reluctant to have a policy that would allow for rental to convicted felons, but then in order to gain Representative Dutton's support, the Applicant committed to Representative Dutton that it would allow ex-felons to rent on a case-by-case basis. However, we can attest that the Applicant told representatives of the HOA, Harris County Municipal Utility District No. 49, and members of the public at a public meeting for HCMUD 49 on March 24, 2016, that the Applicant would not allow ex-felons to rent in the development. (See the attached Affidavits of Matthew Carpenter and Brett Sileo). While we

cannot speculate as to the motives the Applicant had in making that statement, it squarely differs from what Mr. Dutton relates the Applicant conveyed to him.

As Representative Dutton notes in his June 3 letter to the TDHCA, the Applicant told Representative Dutton that it had reached out to the community, and that the community was in full support of the project. Representative Dutton states that he relied on this representation in part to decide to write his initial letter supporting the Applicant. However, the Applicant has not ever attempted to contact the Fall Creek HOA. (See attached Affidavit of Matthew Carpenter). The Fall Creek HOA also is squarely in opposition to the Applicant's proposed project. (See attached Affidavit of Matthew Carpenter).

If the Applicant represented to Representative Dutton that it had met with and/or garnered the support of the Fall Creek HOA or neighborhood residents, that was an outright misrepresentation. On April 30, 2016, Representative Dutton hosted a Town Hall meeting at Fall Creek Elementary School attended by over 200 area residents. I attended the Town Hall meeting. United States Representative Gene Green also attended. Although a representative from the Applicant was invited to attend, no one representing the Applicant attended the meeting, including any attorneys who represent the Applicant. With over 200 residents attending the meeting, no one spoke in favor of the Applicant's proposed development at the Town Hall meeting. (See attached affidavits of Matthew Carpenter and Brett Sileo).

Please also note that the Developer of Fall Creek also was never contacted by the Applicant, even though the Applicant was relying on the intellectual property of Fall Creek by initially naming this project The Standard at Fall Creek. It is clear that the Developer of Fall Creek is not in support of the project and did not know about the project, because the Developer sent a cease and desist letter to the Applicant demanding that the Applicant cease using the Fall Creek name that is protected intellectual property. As the TDHCA may note, the Applicant has changed the name of the project from The Standard at Fall Creek to The Standard on the Creek.

At the HCMUD 49 meeting on March 24, 2016, the Applicant distributed information regarding the proposed project and answered questions from the public and the Board of Directors. In this meeting, the Applicant's representative Matt Vruggnik stated that the Applicant had already met with and secured the full support of Humble ISD for their application. (See attached affidavits of Matt Carpenter and Brett Sileo). However, Dr. Guy Sconzo, superintendent of Humble ISD, submitted a letter to the TDHCA stating that Humble ISD does not support this Applicant and that Humble ISD does not have the current infrastructure in the area to support the Applicant's proposed project. We believe that this is a violation of 10 TAC § 10.202 (1)(N), as we believe that he made this false statement in order to gain support of the project from members of HCMUD 49.

The Applicant included in the application that the development will offer access to public transportation services for residents. However, this is not correct, as the development is not located within the service area of the Harris County Metropolitan Transit Authority. Attached is a map of the current METRO service area (<a href="http://www.ridemetroapp.org/systemmap/">http://www.ridemetroapp.org/systemmap/</a>). There is no public transportation service offered by any agency to the property, and the nearest

public transportation service is a park and ride lot over 4 miles away. (See attached affidavits of Matt Carpenter and Brett Sileo).

The Applicant included in the application that the development will have or has pedestrian access. We have provided current aerial photographs that show that there are currently no pedestrian facilities located on or adjacent to the subject property. Additionally, based on a review of the application, we found no proposed pedestrian facilities that would connect to the closest pedestrian facilities in the area. (See attached affidavits of Matt Carpenter and Brett Sileo).

The Applicant initially marked on the application that the site was not in the 100 year flood plain, although the actual flood plain maps included with the application (and the Environmental Site Assessment) did disclose that the site project site is located within the 100year floodplain and will require a Letter of Map Revision based on fill (LOMR-F). However, the construction budget and financial pro-forma do not include the costs associated with floodplain mitigation. Additionally, based on the Environmental Site Assessment we obtained through an open records request with the TDHCA, we believe that the site may require wetlands mitigation. The site has been inundated with water several times in several times in several months. (See Affidavit of Matt Carpenter and Brett Sileo). However, the construction budget and financial pro-forma do not include the costs associated with floodplain mitigation. Additionally, based on the Environmental Site Assessment we obtained through an open records request with the TDHCA, we believe that the site may require wetlands mitigation. The site has been inundated with water several times in several times in several months. (See attached affidavits of Matt Carpenter and Brett Sileo). The construction budget and financial pro-forma also do not include costs associated with wetlands mitigation. We do not believe that the floodplain and wetlands mitigation can be accomplished within two years from the award of tax credits. At the April 2016 HCMUD 49 board meeting, a representative of the current landowner of the project site, with the tacit acquiescence of the attorney representing the Applicant who attended the meeting, represented that the project was not located within the 100-year floodplain and the site did not have any wetlands. (See attached affidavits of Matt Carpenter and Brett Sileo). However, based on the application to the TDHCA, the site is located within the 100-year floodplain and will need to be mitigated. These representations were made to the MUD 49 board in the context of the Applicant's request for a commitment to obtain water and sewer utility services from MUD 49. (See attached affidavits of Matt Carpenter and Brett Sileo).

The Applicant provided the TDHCA will a second amendment to the purchase contract in response to a deficiency. The second amendment requires a payment to the seller for water and sanitary sewer capacity; however the Applicant did not revise the financial pro-forma in the application.

Finally, the Applicant included a resolution of support from Harris County. Based on open records requests from Harris County, we determined that the Applicant disseminated

information regarding the proposed development to Harris County Commissioner Jack Cagle that included a number of misstatements that we believe were used to gain support of the project from Harris County. In addition to this information, the Applicant sent electronic correspondence to Harris County stating that they were continuing to work with the Community to gain support of the project. However, as noted above, the Applicant has never met with the community to discuss the project. (See Affidavit of Matt Carpenter and Brett Sileo). Additionally, we have included a copy of the informational packet that was provided to Harris County that depicts all of the misrepresentations we believe have been made by the Applicant to Harris County. We believe that this is a violation of 10 TAC § 10.202 (1)(N), as we believe that the Applicant made these false representations in order to gain and maintain support from Harris County.

Based on the above information, we respectfully request that you utilize the authority under to 10 TAC § 10.202 (1)(K) to remove the application from eligibility for competitive tax credits. We are more than happy to attend a meeting with TDHCA staff and/or the Board of Directors to answer any additional questions that you may have. Thank you for your time and consideration

Very Truly Yours,

Matthew Carpenter

President, Board of Directors

Muchen Cheput

Fall Creek Home Owners Association

#### TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RE: APPLICATION 16118, THE STANDARD AT FALL CREEK 9% COMPETITIVE HOUSING TAX CREDITS

STATE OF TEXAS §

§

COUNTY OF HARRIS §

#### AFFIDAVIT OF BRETT SILEO

BEFORE ME, the undersigned authority, on this day, personally appeared the affiant Brett Sileo, known to me to be the person whose name is subscribed hereto, who, after being by me first duly sworn according to law and placed upon oath, deposed and said the following:

- 1. "I am over eighteen (18) years of age. I have never been convicted of a crime involving a felony or moral turpitude, and I am fully competent in all respects to make this Affidavit.
- 2. I am a resident of the Fall Creek neighborhood in unincorporated Harris County. As a resident of Fall Creek, my home falls under the jurisdiction of the Fall Creek Homeowners Association. The proposed site for development under Application 16118 of the 9% Competitive Housing Tax Credit program is adjacent to the territory covered by the Fall Creek HOA.
- 3. As a concerned resident of Fall Creek, I am making this affidavit I believe that the Applicant for the Standard at Fall Creek, Application 16118, made material misrepresentations, and in accordance with 10 TAC § 10.202 (1)(K) should be found ineligible for tax credits from the TDHCA for this project.

- 4. Texas House of Representatives member Harold V. Dutton, Jr. provided a letter to the TDHCA on May 2, 2016 describing his desire to withdraw his support of the above referenced application. He described in detail in this letter the reasons for wanting to withdraw his support. On May 25, 2016, Representative Dutton sent a second letter to the TDHCA re-iterating that his initial support to the applicant was based on the Applicant's misrepresentations. Additionally, on June 3, 2016, Representative Dutton sent an additional letter to the TDHCA further explaining his desire to withdraw his support. I agree with Representative Dutton, that his letter of support is a part of Application 16118, and therefore the material misrepresentations that were provided to him in order to gain his support render the applicant ineligible to qualify for tax credits granted through the current TDHCA application process.
- 5. In Representative Dutton's letter on June 3, he described his two concerns with the application. His first concern was that the Applicant would not allow ex-felons to live in the development. According to Representative Dutton, the Applicant was reluctant to have a policy that would allow for rental to convicted felons, but then in order to gain Representative Dutton's support, the Applicant committed to Representative Dutton that it would allow ex-felons to rent on a case-by-case basis. I was present at the first meeting of Harris County MUD 49 that a representative from the Applicant attended on March 24, 2016. Matt Vruggnik, a representative and part owner of the Applicant, told representatives of the HOA, Harris County Municipal Utility District No. 49, and members of the public at the HCMUD 49 meeting on March 24, 2016, that the Applicant would not allow ex-felons to rent in the development. While I cannot speculate as to the motives Mr. Vruggnik had in making that statement, it squarely differs from what Mr. Dutton relates the Applicant conveyed to him.

- 6. As Representative Dutton notes in his June 3 letter to the TDHCA, the Applicant told Representative Dutton that they had reached out to the community, and that the community was in full support of the project. Representative Dutton states that he relied on this representation in part to decide to write his initial letter supporting the Applicant. If the Applicant represented to Representative Dutton that it had met with and/or garnered the support of the Fall Creek HOA or neighborhood residents, that was an outright misrepresentation. On April 30, 2016, Representative Dutton hosted a Town Hall meeting at Fall Creek Elementary School attended by over 200 area residents. I attended the Town Hall meeting. United States Representative Gene Green also attended. Although a representative from the Applicant was invited to attend, no one representing the Applicant attended the meeting, including any attorneys who represent the With over 200 residents attending the meeting, no one spoke in favor of the Applicant. Applicant's proposed development at the Town Hall meeting. I can also attest that none of the over 200 residents attending the Town Hall meeting expressed that they had been contacted by the Applicant to discuss support for the Application 16118.
- 7. Please also note that the Developer of Fall Creek also was never contacted by the Applicant, even though the Applicant was relying on the intellectual property of Fall Creek by initially naming this project The Standard at Fall Creek. It is clear that the Developer of Fall Creek is not in support of the project and did not know about the project, because the Developer sent a cease and desist letter to the Applicant demanding that the Applicant cease using the Fall Creek name that is protected intellectual property. As the TDHCA may note from the March 31, 2016 letter submitted by the Applicant's consultant Sarah Andre, the Applicant changed the name of the project from The Standard at Fall Creek to The Standard on the Creek at the request of the Fall Creek developer's attorney.

- 8. At the HCMUD 49 meeting on March 24, 2016, that I attended, the Applicant distributed information regarding the proposed project and answered questions from the public and the Board of Directors. In this meeting, the Applicant's representative, Matt Vruggnik, stated that the Applicant had already met with and secured the full support of Humble ISD for their application. However, Dr. Guy Sconzo, superintendent of Humble ISD, submitted a letter to the TDHCA stating that Humble ISD does not support this Applicant and that Humble ISD does not have the current infrastructure in the area to support the Applicant's proposed project. I believe that this is a violation of 10 TAC § 10.202 (1)(N), and I believe that he made this false statement in order to gain support of the project from members of HCMUD 49 and members of the public.
- 9. The Applicant included in the application that the development will offer access to public transportation services for residents. However, this is not correct, as the development is not located within the service area of the Harris County Metropolitan Transit Authority. Please refer to the map of the current METRO service area (<a href="http://www.ridemetroapp.org/systemmap/">http://www.ridemetroapp.org/systemmap/</a>). There is no public transportation service offered by any agency to the property, and the nearest public transportation service is a park and ride lot over 4 miles away.
- 10. The Applicant included in the application that the development will have or has pedestrian access. Residents have provided to the TDHCA current aerial photographs that show that there are currently no pedestrian facilities located on or adjacent to the subject property. Additionally, based on a review of the application, I found no proposed pedestrian facilities that would connect to the closest pedestrian facilities in the area.
- 11. The Applicant initially marked on the application that the site was not in the 100 year flood plain, although the actual flood plain maps included with the application (and the Environmental Site Assessment) did disclose that project site is located within the 100-year

floodplain and will require a Letter of Map Revision based on fill (LOMR-F). However, the construction budget and financial pro-forma do not include the costs associated with floodplain mitigation. Additionally, based on the Environmental Site Assessment I obtained through an open records request with the TDHCA, I believe that the site may require wetlands mitigation. The site has been inundated with water several times in several times in several months. The construction budget and financial pro-forma also do not include costs associated with wetlands mitigation. We do not believe that the floodplain and wetlands mitigation can be accomplished within two years from the award of tax credits. At the April 2016 HCMUD 49 meeting that I attended, a representative of the current landowner of the project site, with the tacit acquiescence of the attorney representing the Applicant who attended the meeting, represented that the project was not located within the 100-year floodplain and the site did not have any wetlands. However, based on the application to the TDHCA, the site is located within the 100-year floodplain and will need to be mitigated. These representations were made to the MUD 49 board in the context of the Applicant's request for a commitment to obtain water and sewer utility services from MUD 49.

- 12. The Applicant provided the TDHCA with a second amendment to the purchase contract in response to a deficiency. The second amendment requires a substantial payment to the seller for water and sanitary sewer capacity; however the Applicant did not revise the financial pro-forma in the application.
- 13. Finally, the Applicant included a resolution of support from Harris County. Based on open records requests from Harris County, it appears to me that the Applicant disseminated information regarding the proposed development to Harris County Commissioner Jack Cagle that included a number of misstatements that appear to have been used to gain support of the project from Harris County. In addition to this information, the Applicant sent electronic correspondence

to Harris County stating that they were continuing to work with the Community to gain support of the project. The Fall Creek HOA has included a copy of the informational packet that was provided to Harris County that depicts all of the misrepresentations that the Fall Creek HOA has identified as part of the submission to the TDHCA to which this affidavit is attached. It appears to me that this is a violation of 10 TAC § 10.202 (1)(N), as it appears to me that the Applicant made these false representations in order to gain and maintain support from Harris County.

14. Based on the above information, I respectfully request that you utilize the authority under 10 TAC § 10.202 (1)(K) to remove the application from eligibility for competitive tax credits. I am more than happy to attend a meeting with TDHCA staff and/or the Board of Directors to answer any additional questions that you may have. Thank you for your time and consideration

FURTHER AFFIANT SAYETH NOT.

Brett Sileo

SUBSCRIBED AND SWORN to before me, the undersigned authority, on this  $15^{th}$  Day of June, 2016.

My Commission Expires:

March 28, 2020

SHARON VALDESPINO ID #11918393 My Commission Expires March 28, 2020

#### TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RE: APPLICATION 16118, THE STANDARD AT FALL CREEK 9% COMPETITIVE HOUSING TAX CREDITS

STATE OF TEXAS §

8

COUNTY OF HARRIS §

#### AFFIDAVIT OF MATTHEW CARPENTER

BEFORE ME, the undersigned authority, on this day, personally appeared the affiant Matthew Carpenter, known to me to be the person whose name is subscribed hereto, who, after being by me first duly sworn according to law and placed upon oath, deposed and said the following:

- 1. "I am over eighteen (18) years of age. I have never been convicted of a crime involving a felony or moral turpitude, and I am fully competent in all respects to make this Affidavit.
- 2. I am the president of the Fall Creek Homeowners Association. I was elected by the homeowners within the Fall Creek neighborhood in unincorporated Harris County, Texas to serve on the Fall Creek HOA board and represent the interests of all homeowners in our neighborhood. The proposed site for development under Application 16118 of the 9% Competitive Housing Tax Credit program is adjacent to the territory covered by the Fall Creek HOA.

- 3. On behalf of the Fall Creek Homeowners Association, I am making this affidavit because the Fall Creek Homeowners Association and I believe that the Applicant for the Standard at Fall Creek, Application 16118, made material misrepresentations, and in accordance with 10 TAC § 10.202 (1)(K) should be found ineligible for tax credits from the TDHCA for this project.
- 4. Texas House of Representatives member Harold V. Dutton, Jr. provided a letter to the TDHCA on May 2, 2016 describing his desire to withdraw his support of the above referenced application. He described in detail in this letter the reasons for wanting to withdraw his support. On May 25, 2016, Representative Dutton sent a second letter to the TDHCA reiterating that his initial support to the applicant was based on the Applicant's misrepresentations. Additionally, on June 3, 2016, Representative Dutton sent an additional letter to the TDHCA further explaining his desire to withdraw his support. We agree with Representative Dutton, that his letter of support is a part of Application 16118, and therefore the material misrepresentations that were provided to him in order to gain his support render the applicant ineligible to qualify for tax credits granted through the current TDHCA application process.
- 5. In Representative Dutton's letter on June 3, he described his two concerns with the application. His first concern was that the Applicant would not allow ex-felons to live in the development. According to Representative Dutton, the Applicant was reluctant to have a policy that would allow for rental to convicted felons, but then in order to gain Representative Dutton's support, the Applicant committed to Representative Dutton that it would allow ex-felons to rent on a case-by-case basis. I was present at the first meeting of Harris County MUD 49 that a representative from the Applicant attended on March 24, 2016. Matt Vruggnik, a representative and part owner of the Applicant, told representatives of the HOA, Harris County Municipal

Utility District No. 49, and members of the public at the HCMUD 49 meeting at March 24, 2016, that the Applicant would not allow ex-felons to rent in the development. While I cannot speculate as to the motives Mr. Vruggnik had in making that statement, it squarely differs from what Mr. Dutton relates the Applicant conveyed to him.

- 6. As Representative Dutton notes in his June 3 letter to the TDHCA, the Applicant told Representative Dutton that they had reached out to the community, and that the community was in full support of the project. Representative Dutton states that he relied on this representation in part to decide to write his initial letter supporting the Applicant. As the president of the Fall Creek Homeowners Association, I attest that the Applicant has not ever attempted to contact the Fall Creek HOA. The Fall Creek HOA also is squarely in opposition to the Applicant's proposed project. If the Applicant represented to Representative Dutton that it had met with and/or garnered the support of the Fall Creek HOA or neighborhood residents, that was an outright misrepresentation. On April 30, 2016, Representative Dutton hosted a Town Hall meeting at Fall Creek Elementary School attended by over 200 area residents. I attended the Town Hall meeting. United States Representative Gene Green also attended. Although a representative from the Applicant was invited to attend, no one representing the Applicant attended the meeting, including any attorneys who represent the Applicant. With over 200 residents attending the meeting, no one spoke in favor of the Applicant's proposed development at the Town Hall meeting.
- 7. Please also note that the Developer of Fall Creek also was never contacted by the Applicant, even though the Applicant was relying on the intellectual property of Fall Creek by initially naming this project The Standard at Fall Creek. It is clear that the Developer of Fall Creek is not in support of the project and did not know about the project, because the Developer

sent a cease and desist letter to the Applicant demanding that the Applicant cease using the Fall Creek name that is protected intellectual property. As the TDHCA may note from the March 31, 2016 letter submitted by the Applicant's consultant Sarah Andre, the Applicant changed the name of the project from The Standard at Fall Creek to The Standard on the Creek at the request of the Fall Creek developer's attorney.

- 8. At the HCMUD 49 meeting on March 24, 2016, that I attended, the Applicant distributed information regarding the proposed project and answered questions from the public and the Board of Directors. In this meeting, the Applicant's representative, Matt Vruggnik, stated that the Applicant had already met with and secured the full support of Humble ISD for their application. However, Dr. Guy Sconzo, superintendent of Humble ISD, submitted a letter to the TDHCA stating that Humble ISD does not support this Applicant and that Humble ISD does not have the current infrastructure in the area to support the Applicant's proposed project. We believe that this is a violation of 10 TAC § 10.202 (1)(N), as we believe that he made this false statement in order to gain support of the project from members of HCMUD 49 and members of the public.
- 9. The Applicant included in the application that the development will offer access to public transportation services for residents. However, this is not correct, as the development is not located within the service area of the Harris County Metropolitan Transit Authority. Please refer to the map of the current METRO service area (<a href="http://www.ridemetroapp.org/systemmap/">http://www.ridemetroapp.org/systemmap/</a>). There is no public transportation service offered by any agency to the property, and the nearest public transportation service is a park and ride lot over 4 miles away.

- 10. The Applicant included in the application that the development will have or has pedestrian access. Based on the review of current aerial photographs, there are currently no pedestrian facilities located on or adjacent to the subject property. Additionally, based on a review of the application, we found no proposed pedestrian facilities that would connect to the closest pedestrian facilities in the area.
- 11. The Applicant initially marked on the application that the site was not in the 100 year flood plain, although the actual flood plain maps included with the application (and the Environmental Site Assessment) did disclose that project site is located within the 100-year floodplain and will require a Letter of Map Revision based on fill (LOMR-F). However, the construction budget and financial pro-forma do not include the costs associated with floodplain mitigation. Additionally, based on the Environmental Site Assessment we obtained through an open records request with the TDHCA, we believe that the site may require wetlands mitigation. The site has been inundated with water several times in several times in several months. The construction budget and financial pro-forma also do not include costs associated with wetlands mitigation. We do not believe that the floodplain and wetlands mitigation can be accomplished within two years from the award of tax credits. At the April 2016 HCMUD 49 meeting that I attended, a representative of the current landowner of the project site, with the tacit acquiescence of the attorney representing the Applicant who attended the meeting, represented that the project was not located within the 100-year floodplain and the site did not have any wetlands. However, based on the application to the TDHCA, the site is located within the 100-year floodplain and will need to be mitigated. These representations were made to the MUD 49 board in the context of the Applicant's request for a commitment to obtain water and sewer utility services from MUD 49.

12. The Applicant provided the TDHCA with a second amendment to the purchase

contract in response to a deficiency. The second amendment requires a substantial payment to

the seller for water and sanitary sewer capacity; however the Applicant did not revise the

financial pro-forma in the application.

13. Finally, the Applicant included a resolution of support from Harris County. Based

on open records requests from Harris County, we determined that the Applicant disseminated

information regarding the proposed development to Harris County Commissioner Jack Cagle

that included a number of misstatements that we believe were used to gain support of the project

from Harris County. In addition to this information, the Applicant sent electronic

correspondence to Harris County stating that they were continuing to work with the Community

to gain support of the project. We have included a copy of the informational packet that was

provided to Harris County as well as to Harris County Municipal Utility District No. 49 that

depicts all of the misrepresentations. We believe that this is a violation of 10 TAC § 10.202

(1)(N), as we believe that the Applicant made these false representations in order to gain and

maintain support from Harris County.

14. Based on the above information, we respectfully request that you utilize the

authority under to 10 TAC § 10.202 (1)(K) to remove the application from eligibility for

competitive tax credits. We are more than happy to attend a meeting with TDHCA staff and/or

the Board of Directors to answer any additional questions that you may have. Thank you for your

time and consideration

FURTHER AFFIANT SAYETH NOT.

Matthew Carpenter

SUBSCRIBED AND SWORN to before me, the undersigned authority, on this 15<sup>th</sup> Day of June, 2016.

Notary Public

My Commission Expires:

FONDA LOUISE HOLDEN
Notary Public, State of Texas
My Commission Expires
May 26, 2017

From:

Daniel L. Smith <

Sent:

Friday, April 01, 2016 1:46 PM

To:

Commissioner Cagle

Cc:

Guenther, Cheryl; MSeeger@hcp4.net; Matthew J. Vruggink

Subject:

The Standard on the Creek Development

#### Dear Commissioner Cagle,

We want to thank you for providing support for our proposed 120 unit workforce housing development, The Standard on the Creek. We were recently contacted by the Fall Creek HOA who has expressed concerns with the proposed development and the impact it may have on the area. Although The Standard is not located within the Fall Creek neighborhood or the jurisdiction of the HOA, we are proactively working with the neighborhoods to educate them on the type of housing we intend to provide and eliminate any negative misconceptions that may be associated with workforce housing.

We realize that there are sensitivities associated with this development and we are ready and willing to assist your office with any issues or communications relating to the matter. Please do not hesitate to contact us if you have any question, comments, or concerns. We can be reached at the contact information below.

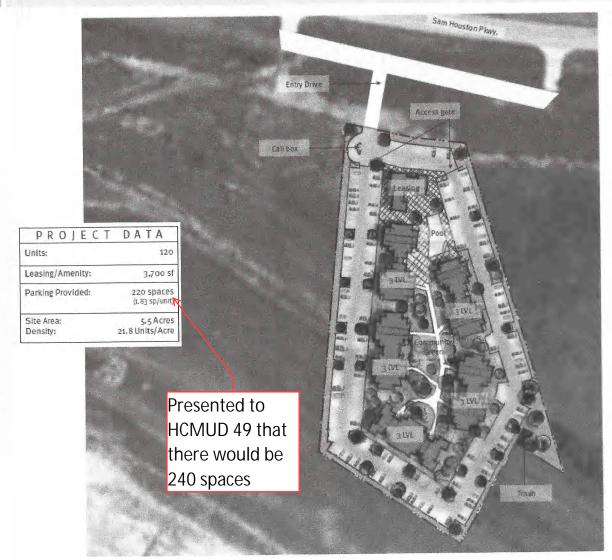
Thanks,

Daniel L. Smith
Ojala Partners, LP
6440 N Central Expy #900
Dallas, TX 75206

Office: 214-865-7926 Cell:

Fax: 214-865-7929

### Site Plan









Project Name:

Location:

SE corner of Fall Creek Preserve and Sam Houston Tollway

Political Support:

The Development currently has support from:

Jerry Davis - City Council - District B

Harold Dutton - State Rep - District 142

Previous page

Ists 120 units

This is NOT subsidized housing of any type

Developer receives NO tax breaks from the city county

Residents pay 100% of their rent (no subsidy, no voucher)

Was told by the Applicant at the March 24 HCMUD 49 Mtg, that while there are no special appraisals, that the property will be valued based on rental income, not Class A apartment. So technically, there will be a break in taxes because the value will be lower than a Class A apartment development.

**Economic Benefit:** 

Development will generate \$3,388,302 in tax revenue over a 10 year period

**Amenities:** 

- After-hours learning / daycare center
- Fully gated with restricted access
- Modern clubhouse / cyber cafe
- Executive business lounge and computer lab
- Fitness facility, resort-style pool and grilling area, dog park

## Ojala Development Track Record

Ojala Holdings, the developer, has a long track record of successful residential and commercial development, including but not limited to the following developments:

Development	Туре	Location	Total Cost
Tree Tops at Post Oak	Multifamily	Houston, TX	\$15 Million
Stone Creek Apartments	Multifamily	Houston, TX	\$22 Million
5700 Washington	Mixed-Use	Houston, TX	\$12 Million
The Standard at Fall Creek	Multifamily	Houston, TX (Proposed)	\$20 Million
The Standard at Summer Park	Multifamily	Rosenberg, TX (Proposed)	\$20 Million
Northshore Towne Place Suites	Hospitality	Portland, TX	\$17 Million
Spring Glen Apartments	Multifamily	Fort Worth, TX	\$10 Million
Spring Hill Apartments	Multifamily	Fort Worth, TX	\$10 Million
Watervue Apartments	Multifamily	Lake Charles, LA	\$25 Million
The District Apartments	Multifamily	Baton Rouge, LA	\$35 Million
1407 W. 5 <sup>th</sup> Street	Mixed-Use	Austin, TX	\$30 Million
2701 S. Congress	Mixed-Use	Austin, TX	\$16 Million
5531 E. University	Mixed-Use	Dallas, TX	\$15 Million
5701 Burnet Rd.	Mixed-Use	Austin, TX	\$13 Million
		Total	\$260 Million

OjalaHoldings

## The proposed project will target working class residents.

NE Houston Population (2013) 227,229 Residents Houston Median Income (2010) \$35,572

**Qualifying Incomes** 

\$24,000 - \$55,000 per year

Population that Qualifies

~60% of NE Houston

Humble ISD starting teacher salaries for 2015 is \$\\_\$52,300 per year. Would not qualify without a \$\\_\text{number of dependents}\$

**Jobs that Qualify to Rent:** 

- School Teachers
- Firefighters
- Police Officers
- Librarians

Retail Employees

- Municipal Employees
- Construction Trades

Applicant told
Dutton that
ex-felons would
be approved on
a case-by-case
basis. Why
perform criminal
background
checks?

**Tenant Screening Process:** 

- Employment confirmation
- Income verification
- Criminal background check

OjalaHoldings

# <u>As-Improved</u> (Proposed Development)

					Property Tax Paymen
Property Tax Assessment (Land + Improvements) (1)	X	Millage (Tax) Rate	=	Annual	10 Years
\$10,000,000		3.39%		\$338,830	\$3,388,302

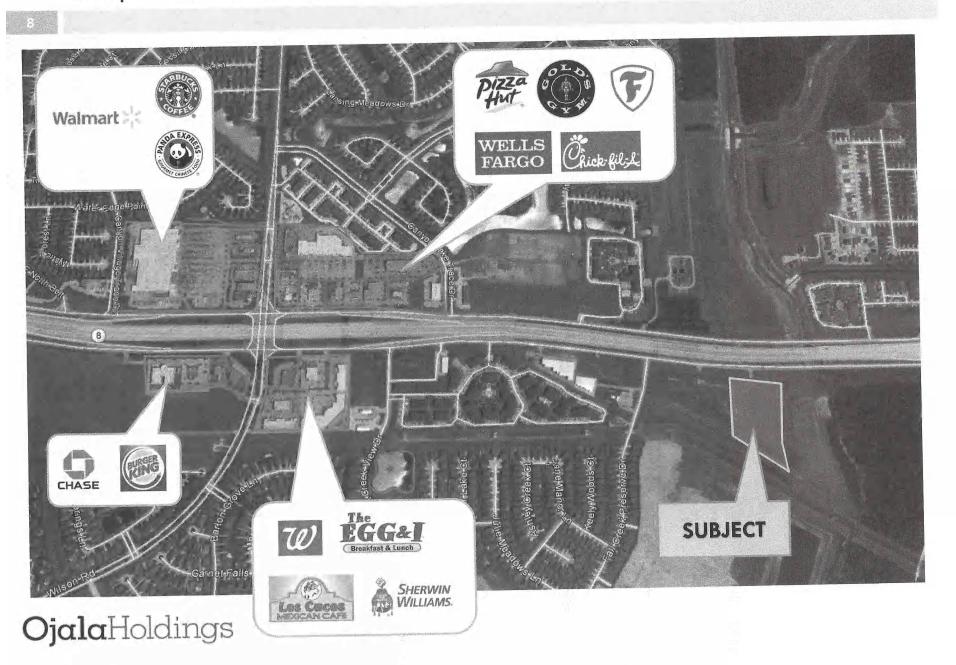
TAXING ENTITY DETAIL	DISTRICT	DEVELOPMENT VALUE	TAX RATE PER \$100	10 YEAR PAYMENT
HUMBLE ISD	18	10,000,000	1.52	1,520,000
	40	10,000,000	0.42	419,230
HARRIS COUNTY	41	10,000,000	0.03	27,330
HARRIS CO FLOOD CNTRL	42	10,000,000	0.01	13,420
PORT OF HOUSTON AUTHY	43	10,000,000	0.17	170,000
HARRIS CO HOSP DIST HARRIS CO EDUC DEPT	44	10,000,000	0.01	5,422
NONESTAY COLLEGE SYS	45	~~1000000Q		925,000
HC MUD 49 HA EMERC'S RV DIST 10	349	10,000,000		100,000
HC EMERG SRV DIST 1	671	10,000,000		100,000
TIC EMILIO SKY DIST T		TOTAL	3.39	3,388,302

OjalaHoldings

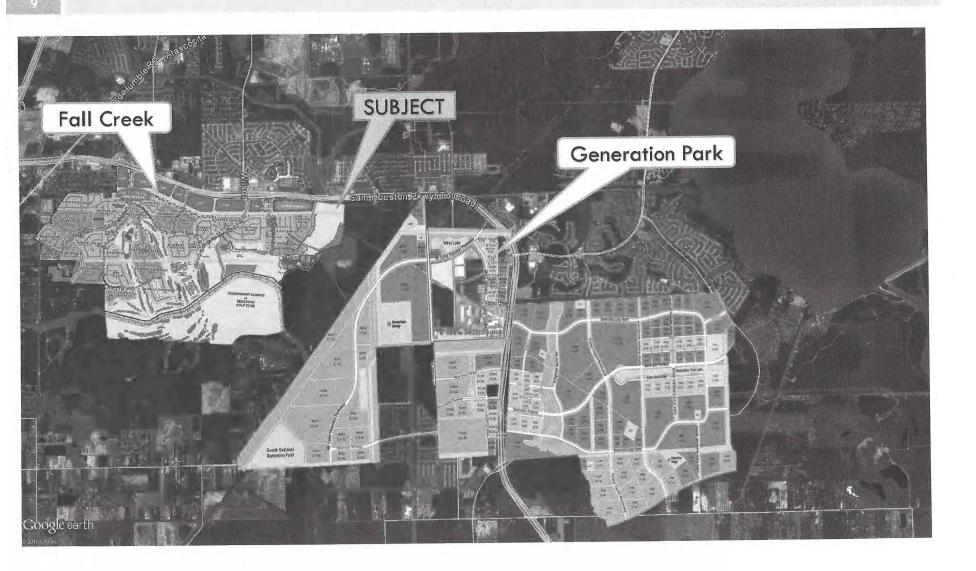
Presented to HCMUD 49 that the project brings \$3,820,825 to the City or MUD

<sup>1</sup> Source: http://quickfacts.census.gov/qfd/states/48/4863284.html

## Map – Surrounding Uses



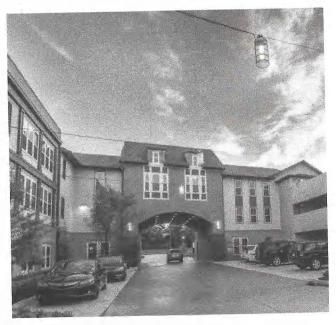
# Map – Adjacent Developments



OjalaHoldings

# Ojala Holdings - Representative Projects & Design (Exterior)









OjalaHoldings

# Ojala Holdings - Representative Projects & Design (Interior)









OjalaHoldings

# Representative Projects & Design









OjalaHoldings

### Select Recent Developments

Property:

Watervue Apartments

Class A Rental Housing

Size:

264 Units

Location:

Lake Charles, LA

Investment Date:

May, 2014

Transaction
Background:

Watervue represented the opportunity to develop a workforce housing community in a market starved for new affordable rental housing as a result of the significant growth in the energy construction

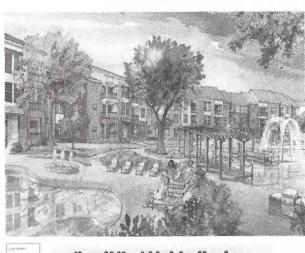
industry.

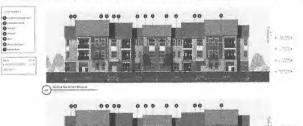
The development consists of a 264 unit apartments, offering a quiet, tree filled/lake view environment with rents priced an affordable alternative to much of the competitive set as well as nearby Houston

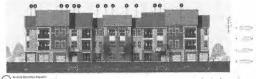
MSA from where many workers commute.

Strategy:

The business plan was to the acquire the land and build a community of the highest quality. Great care was taken to preserve the abundance of mature trees on the property to create a secluded and quiet living environment for residents that puts a premium on the total living experience.











# Select Recent Developments

Property:

The District Apartments

Class A Rental Housing

Size:

312 Units

Location:

Baton Rouge, LA

**Investment Date:** 

June, 2013

Transaction
Background:

The District represented the opportunity to develop workforce housing in a market starved for new affordable rental housing as a result of (i) significant growth in the energy construction industry, and (ii) the

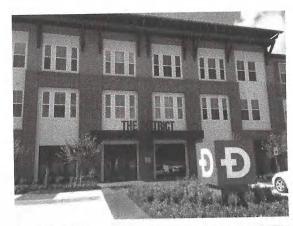
after effects of the 2008-2010 recession.

The development consists of a 312 apartment units, offering a quiet, safe environment with rents offering an affordable alternative to

some of the new properties in the submarket.

Strategy:

The business plan was to the acquire the land and build a community of the highest quality to hold as a long-term asset. Great care was taken to ensure that the resident living experience would be unmatched in terms of personal living space, common amenity areas and safety.

















The Standard at Fall Creek

OjalaHoldings

Municipal Utility District #49

# Executive Summary - Development Overview

Project Name:	The Standard at Fall Creek						
Location:	SEC of Fall Creek Preserve and Sam Houston Tollway						
Site Size:	~5.5 Acres						
Proposed Use:	Multifamily - 120 Units of Class A Housing						
Political Support:	■ City of Houston						
	<ul> <li>State Representative Harold V. Dutton</li> </ul>						
	<ul> <li>Harris County Commissioner Jack Cagle</li> </ul>						
Amenities:	<ul> <li>After-hours learning /</li> <li>daycare center</li> <li>Trapical again pool</li> </ul>						
	<ul> <li>Tropical oasis pool</li> <li>Executive business lounge</li> <li>with grilling area</li> </ul>						
	and computer lab Dog park						
	Fitness facility						
Economic Benefits:	The proposed development generates an additional \$3,820,825 in tax revenue to the city over a 10 year						
	period						
Adjacent Uses:	Surrounded by dense commercial uses - retail, restaurants, office, and multi-family						



The City is not a taxing entity, and this calculation is based on the total tax rate for the property, not just the MUD.

Surrounded by, Beltway 8 to the north, Garners Bayou to the east, future single family and high voltage power lines to the south, and vacant undeveloped land to the west I. Architectural Design





IHP

OjalaHoldings

Conceptual Elevation NTS

12.2015 2015087 vm.
Copyright C. HP 2015
Not for Regulatory Approval, Permit or Constitution: John Schräde<sup>2</sup>Regulatory As hinden, of Skate of Toxas, Registration No. 17 829







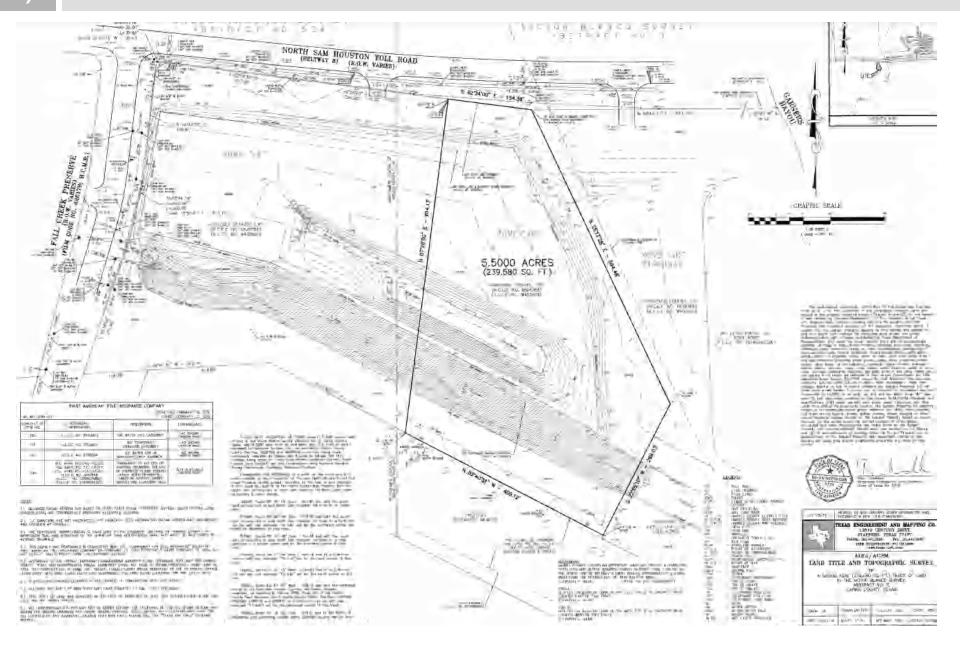


### Clubhouse Building Plan

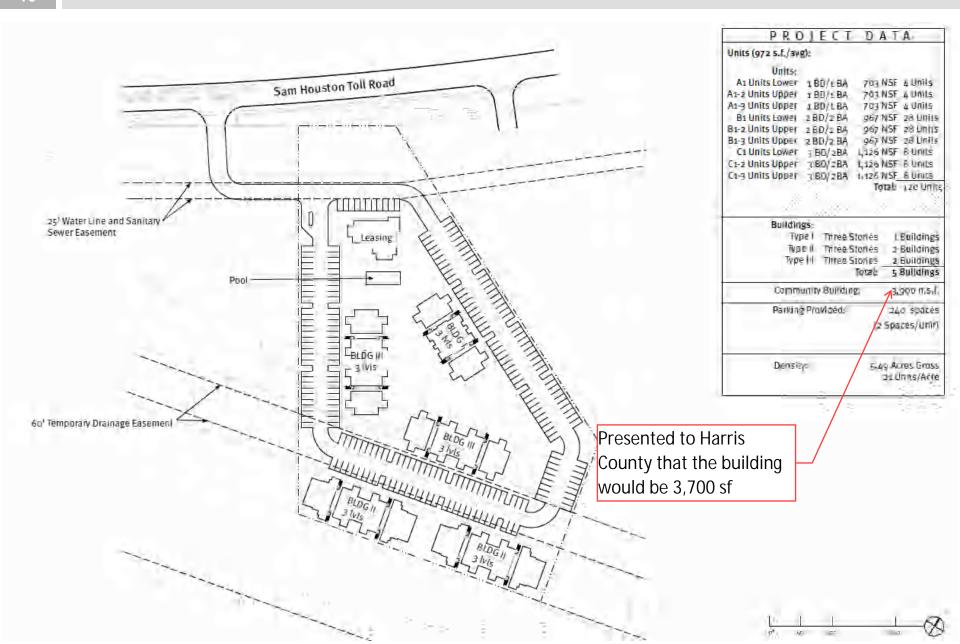




### II. Site Plan



### Preliminary Site Plan



### **Unit Mix Tabulation**

PRELIMINARY PROJ Site Acreage Project Density	5.49	Gross Acre Units Per A									
Project Efficiency	21.00	Office Fer A	cre								
JNIT DATA:											
Jnit		A1	A1-2	A1-3	Bt	B1-2	B1-3	CI	C1-2	C1-3	Unit
Description		1B/1B	18/18	1B/1B	28/29	2B/2B	26/2B	3B/2B	3B/2B	3B/2B	Totals/A
otal Number		4	4	4	75	28	28	8	- 5	8.	
let Square Footage	- 24	759	703	701	967	967	967	1/126	1.026	1 126	
iross Square Foolag	e	773	773	772	1,055	1,063	1.063	1,238	1,238	1,233	1
ercent of Total		19%	3.3%	3,3%	23.3%	23,3%	23.3%	6.7%	6.7%	E7%	
ercentage of Mix			10%			70%			20%		1
Init Net Totals		2,812	2812	2812	27/176	27 076	27,076	9,005	9.00%	9 008	146)
Init Gross Totals		3,092	3 092	1,092	29,764	29,751	29,704	9,904	9 904	9 964	128
UILDING DATA:		A1	A2	A3	Bi	B2	B3	C1	C2	C3	Total U
Bldg. Type											
	l'stifloor	4	0	Ü	4	n	10	0	U	0	
X	2'nd floor	D	4	U	0	4	ń	D	0	0	
	3rd floor	0	Ó	2	ō	ď	4	Þ	0	0	
	1'st floor	Ŭ	-0-	U	ē	ŭ-	- II-	8	Ü	р	
11	2'nd floor	D	D	П	O.	8	n	D.	-8	0	
	3rd floor	D	ū	ū	a	a	-8	0	D	Ð	
	1'st floor	D	D	D	16	-0.	Ď	D	b	ū	
m	2'hd floor	D	D	ū	ū	16	Q	D	Ē.	0	
	3rd floor	þ	۵	п	0	ū	16	10	,G	ū	
		A1	A2	A2	Bí	B2	B2	ÇI	G2 <sup>-</sup>	C2	
TOTAL		4	-4	4	28	28	28	ā	a	8	120
TOTAL UNITS PER		-			60		20	- 0		0	
GROUP			12			84			24		120

### MUD 49 - Wet Utility Service

- 1. Water An existing 16 inch water line is located within the 25 foot water/sanitary sewer easement approximately 105 feet inside the north property line. Capacity has been reserved by Skymark Development and according to the City of Houston "Impact Fee Service Unit Equivalent Table" The Standard at Fall Creek will require a service unit equivalent of 0.4762 per unit or 57.144 service units to provide 14,285 gallons of water per day.
- 2. Sanitary Sewer There are no existing sanitary sewer lines located within the tract. William Saour with Benchmark Engineering has indicated that sanitary service may be connected to an existing lift station on the west side of Fall Creek Preserve Drive. This will require 800 ft. of new sanitary line and 20 foot easement will be required to run the sanitary west to the lift station.
- 3. **Drainage** The existing ditch on the back of the property will need to be filled and the temporary 60 foot drainage easement will need to be abandon. When the ditch is being filled, a box culvert will need to be installed and a 25 foot drainage easement will need to be provided, to ensure that the drainage flows to the mitigation pond. The box culvert will be sized to accommodate all the the future flow of our property as well as other developments from the west. Refer to site work cost estimates for cost of box culvert.

Refer to the Preliminary Drainage Map and the Preliminary Site Plan. Detention and mitigation have been provided based by the drawings sent by R.G. Miller.

III. Utility & Site Work Cost Estimates

A.	В.	C.	D.	Ε.	F.	G.
Activity	Labor or Unit Price	Materials or # of Units	Total Construction Costs	Acquisition Costs	Engineering / Architectural Costs	Total Activity Costs
Rough Grading (Cut)	\$13/ cu. yd.	7,400 cu. yd	\$ 96,200.00			5 86318
Rough Grading (Fill)	\$17/ cu, yd.	38,941 cu. yd	\$ 661,997.00			5 81,491
Box Culvert	\$1000/ft	525 ft.	\$ 525,000.00			5 575,000
Storm line	\$63/ft	945 ft	\$ 59,535.00			5 59,586
Storm inlets	\$2,500/inlet	11 inlets	\$ 27,500.00			5 71,500
Pavement & Sidewalk	\$45/sq. yd.	9250 sq. yd.	\$ 415,250.00			5 116,290
Sanitary line	\$50/ft	700 ft	5 35,000.00			95,000
Waterline	\$45/ft	1,020 ft	\$ 45,900.00			\$ 43,900
Water Miscellaneous (meter, BFP, etc.)	5 129,000.00		\$ 129,000.00			5 1,19,000
						-
Total						\$ 1,598,382

Signature of Registered Engineer

Carlos J. Barillas
Printed Name
2/28/2016
Date

Seal



# Sanitary Sewer Cost Estimate

A.	В.	C.	D.	E.	F,	G.
Activity	Labor or Unit Price	Materials or # of Units	Total Construction Costs	Acquisition Costs	Engineering / Architectural Costs	Total Activity Costs
Sanitary sewer Extension	\$95/ft	800 ft	\$76,000		Y .	\$76,000
Sanitary Man hole	\$10,000/ MH	3	\$30,000			\$30,000
Offsite Paving	\$50/ sq. yd	595 sq. yd.	\$29,750.00			\$29,750
Boring	\$200/ ft.	100 ft	\$20,000.00		17	\$20,000
					1	
		1	-			
			-	-		
Lines 35-37 Hidden						4
Total						\$ 155,750

Signature of Registered Engineer responsible for Budget Justification

Carlos J. Barillas

Seal

Printed Name 2/28/2016

Date



IV. Sponsor Track Record & Experience

### **Development Track Record**

Ojala Holdings has a long track record of successful residential and commercial development, including, but not limited to, the following:

Development	Туре	Location	<b>Total Cost</b>	Presented to
The Standard at Fall Creek	Multifamily	Houston, TX (Proposed)	\$20 Million	Harris County at
The Standard at Boswell Marketplace	Multifamily	Fort Worth, TX (Proposed)	\$20 Million	\$13MM
1407 W. 5 <sup>th</sup> Street	Mixed-Use	Austin, TX	\$30 Million	Presented to
-2701/8. Søngkess	MIXed-Dee	YAUSIIII, TX	\$16 Million	Harris County a
5701 Burnet Rd.	Mixed-Use	Austin, TX	\$12 Million	\$22 MM
Thee Tops And Plust Strate No.	- Monthandro	<b>CHOPSING TAXABOTA</b>	chambre to	HAM
Stone Creek Apartments	Multifamily	Beaumont, TX	\$25 Million	
\$200\Wedhipdon	- pelyberity	A A A ALTANOPHA	\$12 Nillion	Presented to Harris Count
Northshore Towne Place Suites	Hospitality	Portland, TX	\$13 Million	\$17MM
	<b>*******</b>	******	\$\$\$\$\$\\{\tau_{\tau}\}	
Spring Glen Apartments	Multifamily	Fort Worth, TX	\$8.5 Million	Both presente
Spring Hill Apartments	Multifamily	Fort Worth, TX	\$8.5 Million	to Harris Coun as \$10MM
Watervue Apartments	Multifamily	Lake Charles, LA	\$25 Million	as \$ TOIVIIVI
The District Apartments	Multifamily	Baton Rouge, LA	\$35 Million	
		Total	\$270 Millior	



# Ojala Holdings - Representative Projects & Design (Exterior)









OjalaHoldings

# Ojala Holdings - Representative Projects & Design (Interior)









# Ojala Holdings - Representative Projects & Design (Interior)







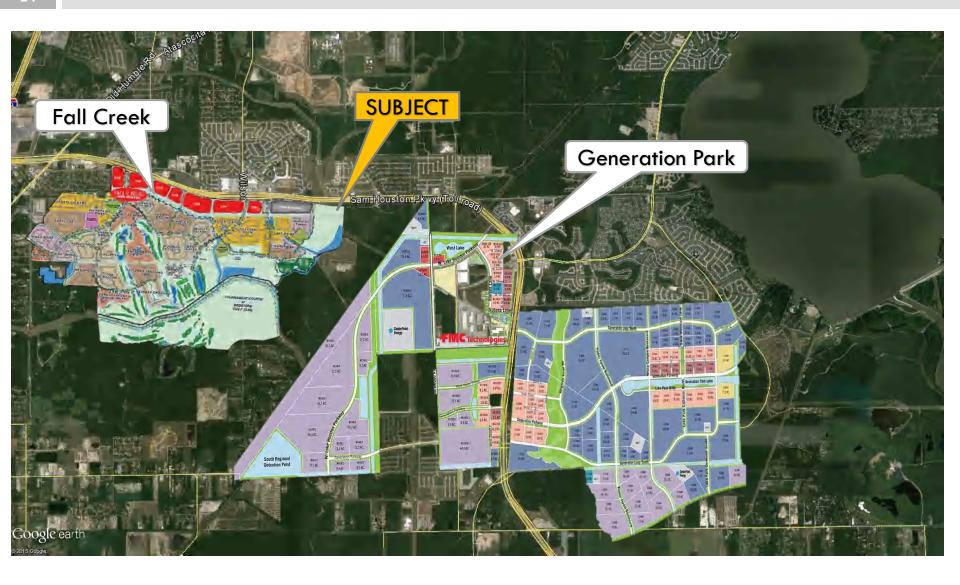
OjalaHoldings

V. Supplemental Information

# Map – Surrounding Commercial Uses



# Map - Adjacent Developments



# OjalaHoldings

From: Sharon Gamble

To: <u>mjv@ojalaholdings.com</u>; <u>"Daniel L. Smith"</u>

Cc: "Sallie Burchett"; "Bast, Cynthia L. (clbast@lockelord.com)"; Tim Irvine

Bcc: Tom Gouris; Beau Eccles; Marni Holloway

Subject: Information Received Regarding 16118, The Standard on the Creek

Date: Thursday, June 16, 2016 10:17:00 AM
Attachments: Transmittal TDHCA Challenge.pdf

Importance: High

#### Good morning, All:

Please find attached information received regarding the application indicated above. Please review the attached and provide a response to the Department within seven (7) calendar days of this notice.

Please contact us if you have questions.

Regards,

Sharon D. Gamble MSW, PMP Competitive Housing Tax Credit Program Administrator Texas Department of Housing and Community Affairs (512) 936-7834

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

#### About TDHCA

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

June 23, 2016

#### VIA EMAIL DELIVERY:

Sharon D. Gamble
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
221 East 11<sup>th</sup> Street
P.O. Box 13941
Austin, TX 78711-3941
sharon.gamble@tdhca.state.tx.us

RE: COMPETITIVE HOUSING TAX CREDIT APPLICATION #16118, STANDARD ON THE CREEK

Dear Ms. Gamble:

We have received your June 16, 2016 notice regarding a letter prepared by the Board of Directors of Fall Creek Homeowners Association (the "HOA") written to the Department about The Standard on the Creek's Application and its eligibility under 10 TAC 10.202(1)(k),(n). In the letter, the HOA (1) restates allegations made by Representative Dutton, (2) alleges that the Applicant misrepresented that it had obtained the support of Humble ISD, (3) expresses site-specific concerns regarding the development, and (4) raises questions regarding perceived inconsistencies in our development plan. We sincerely appreciate the Department providing us with an opportunity to respond to the HOA's letter because we adamantly deny the allegations. The HOA's assertions are patently false. We have not made any false statements regarding our development, and we should not be disqualified under 10 TAC § 10.202(1)(k),(n).

As an initial matter, and as we explained in our June 8, 2016 letter to the TDHCA, prior to submitting our application, we did not meet with any members of the Fall Creek neighborhood. Our proposed development is located outside of the Fall Creek neighborhood, and the HOA is not registered with TDHCA. We first met with members of the neighborhood when we attended the Harris County Municipal Utility District No. 49 Board of Directors meeting to discuss utility connections for the project. At that meeting, and since that meeting, we have received many comments from residents of the Fall Creek neighborhood expressing their opposition to having an affordable housing project in their neighborhood (which it is not).

For example, on March 31, 2016, we received a voicemail from Scott Elliot, a resident of the Fall Creek neighborhood. *See* Exhibit B at ¶ 5; *see also* Exhibit C.<sup>1</sup> In his voicemail, Mr. Elliot informed us that the neighborhood was "mounting" a protest against the project and that "last time that somebody tried to do this to the community," "they won":

"Hey Clay. My name is Scott Elliott. I just wanted to give you a call. The Fall Creek Community down here in Houston just...in Humble, where they play the

<sup>&</sup>lt;sup>1</sup> We have included an electronic copy of the voicemail in our email submission. However, for the Department's convenience, we have also transcribed the voicemail, which is attached at Exhibit C.

Shell Houston Open – the only PGA tournament that comes through here...we're mounting basically a protest against your low-income housing effort that you're trying to do. I just wanted you to be aware. I mean the community here is pissed, and we're about a 2500-home community so, again, you can imagine that, yeah, we're going to be contacting all of our people and looking at what legal action and things like that we can take. I just wanted you to be aware. You can reach me if you want to talk to me at xxx-xxxx, xxx-xxxx.

Anyway, I just wanted you to be aware because, again, it's going to be a big fight; I can guarantee you. **And, last time that somebody tried to do this to the community, we won.** So, just so ya'll are aware. (laughter) We have a ton of lawyers that live here, lots of, you know, executives at companies and things, so we've got resources to do this, so, anyways, talk to you later. Thanks. Bye."

See Exhibit C.<sup>2</sup> As another example, the following day, we received an electronic message via LinkedIn, from Troy Hunt. See Exhibit D. In his e-mail, Mr. Hunt informed us that we were "about to confront a lot of opposition" to our proposed project because the project was going to have "drastic effects on our community." Mr. Hunt requested that we stop our project for the "sake of [their] community and [their] children." He also informed us that they would "fight long and hard to ensure this project is derailed."

Members of the neighborhood, including Brett Sileo, an individual who provided an affidavit in support of the HOA's letter, were quoted by an ABC News affiliate in Harris County stating that Fall Creek did not think that a "subsidized housing project is right for the neighborhood" and that "[s]ome worry about property values going down and are considering selling their homes." *See* Exhibit E.

In other forums, members of the neighborhood have also expressed their concerns about how the development will "decrease the quality" of the school, discourage new business development in the area, and have a negative impact on housing values. See Exhibit F.<sup>3</sup> Residents also recognized that, if they wanted to stop this project, "the overriding reasons against the complex can not [sic] be 'not in my backyard." See Exhibit G.

It is, of course, no surprise to us, given the statements made by these residents, that the HOA has submitted a letter to the TDHCA in an effort to carry our the stated intent of "derailing" this project. We understand that not every person supports affordable housing projects and that a lot of misguided perceptions exist about the impacts that affordable housing projects have on surrounding neighborhoods. However, the allegations stated in the HOA's letter are patently untrue, and I can only guess are fueled by an emotionally charged reaction to affordable housing. Nevertheless, I will address each one in turn.

<sup>3</sup> So as to not inundate the Department, we have included just a few examples of the relevant posts. We are happy to provide additional posts should the Department request.

6440 N. Central Expy., #900 | Dallas, TX 75206 | O: 214.865.6900 | F: 214.865.7929

<sup>&</sup>lt;sup>2</sup> We have included an electronic copy of the voicemail. However, for the Department's convenience, we have also transcribed the voicemail.

#### Allegations made by Representative Dutton

First, the HOA restates the two allegations made by Representative Dutton in his letter to TDHCA—(1) that we misrepresented the existence of neighborhood support, and (2) that we misrepresented our intentions regarding applicants with criminal history. Because we have already responded to Representative Dutton's allegations on June 8, 2016, we will not repeat our response in its entirety here. However, I want to reiterate that we have not made any misrepresentations regarding the existence of neighborhood support or our policy regarding applicants with criminal histories. *See* Exhibit A—Affidavit of Matthew Vruggink.

During the process of gathering letters of support from various elected officials, nobody including Representative Dutton, asked us to meet with the Fall Creek neighborhood, and we did not represent to anyone, including Representative Dutton or his staff, that we had met with the neighborhood. Accordingly, we did not represent to anyone, including Representative Dutton or his staff, that we had neighborhood support. See Exhibit A—Affidavit of Matthew Vruggink.

We likewise have not made any misrepresentations about our policy regarding applicants with criminal histories. We will conduct background checks on all applicants. While we initially intended not to accept any residents with criminal histories, Representative Dutton asked that we not automatically exclude those applicants and, instead, make a decision on a case-by-case basis. We discussed Representative Dutton's request internally, and we agreed that we would not adopt a blanket policy to automatically exclude applicants with a criminal history. See Exhibit A— Affidavit of Matthew Vruggink; Exhibit B—Affidavit of Clay Likover. We agreed that we would evaluate each application and make a determination based on each case. We have consistently informed members of the public including members of the Fall Creek neighborhood that we would conduct background checks to ensure a quality living environment for the prospective residents of The Standard on the Creek and the surrounding community. We can only surmise that Mr. Carpenter and Mr. Sileo took our statements to mean that we would never allow persons with criminal histories to rent at the development. Indeed, Mr. Carpenter's and Mr. Sileo's recollection of the conversation is not supported by their own reviewed and approved Meeting Minutes prepared by the secretary for the MUD 49 Board of Directors. See Exhibit H—Meeting Minutes from MUD 49 Board Meeting, dated March 24, 2016.

Additionally, as the TDHCA is aware, on April 4, 2016, the U.S. Department of Housing and Urban Development issued a Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transaction. We intend to strictly follow the HUD Guidance in adopting a policy that considers the nature, severity, and recency of any criminal conduct. Thus, in line with the recent HUD Guidance and with Representative Dutton's request, our intention is to do exactly what we committed to do: we will carefully vet each applicant to determine eligibility with a goal of providing a safe living environment for the residents and the community while ensuring that quality applicants who deserve a second chance are properly evaluated—and not *automatically* excluded.

<sup>&</sup>lt;sup>4</sup> We incorporate our June 8, 2016 Response Letter herein.

#### Allegations regarding Humble ISD Support

Second, the HOA asserts a new claim that, at the MUD 49 Board Meeting, I stated that we "had already met with and secured the full support of Humble ISD" for our application. This is, once again, not true. At the meeting, Mr. Sileo stated that the school system was already over capacity and that certain officials had indicated that they did not have the facilities to accommodate this development. In response, I stated that I had *met* extensively with Humble ISD, which I had.

As I stated in our June 8, 2016 letter, prior to issuing his letter of support, the County Commissioner requested that we notify Humble ISD about our development intentions. As early as January 26, 2016, I reached out to Humble ISD about our project and was informed that I should meet with the Assistant Superintendent of Support Services. *See* Exhibit I. I met with him to discuss our project in detail, and I sent several follow-up emails with more detailed information that he had requested. *See* Exhibit J. He presented our proposed development to the Building and Planning Committee and informed me that the committee viewed the project as "neutral to okay" without noting any opposition. *See* Exhibit K. I forwarded all of that information to the County Commissioner for his review as requested. *See* Exhibits I-K. At the MUD 49 Board Meeting, I did not state that I had gained support from Humble ISD; instead, I stated that I had met with them to discuss the development in great detail. And once again, the reviewed and approved Meeting Minutes prepared by the secretary for the MUD 49 Board of Directors confirm that I did not make any representation about obtaining the support of Humble ISD but only represented that I had meet with Humble ISD to address any capacity concerns:

"Mr. Vruggink replied that the developers had met extensively with Humble ISD about their proposed development plan." *See* Exhibit H.

#### Site-specific concerns

Third, the HOA raises a few site-specific concerns, which are wholly inaccurate, and the correct information is contained in our Application and the corresponding supplementation. For example, the HOA raises the concern about the site's location in a 100-year flood plain and the potential need for wetlands mitigation. First, on the original application, we did disclose that the site was within the 100-year flood plain. We checked "No" on "Development is outside the 100-year flood plain." However, we did mistakenly designate that the flood zone as Zone X. Because those responses were inconsistent, the Department gave us an opportunity to correct the information. We submitted a response to an administrative deficiency clarifying that the site is located in Zone AE, which, to our knowledge, satisfied to the Department's inquiry. Second, we were alerted to the need for wetland mitigation from the Phase 1 that was performed on the property during our recent due diligence phase. We have already budgeted the estimated costs for addressing the flood plain mitigation as well as addressing the wetland issue. As another example, the HOA states that we have not provided a revised pro-forma to reflect a payment to the seller for water and sanitary sewer capacity. As the Department knows, as with any

development, there are certain costs that cannot be anticipated at the beginning of a project and certain costs that change as the project moves forward. TDHCA has not asked us to submit an updated or revised pro forma but we are happy to do so, if TDHCA would like us to do so. In short, the HOA's site-specific concerns have been fully addressed in our Application or in supplemental responses as well as in our development plans.

#### Perceived inconsistencies in development plans

Finally, the HOA alleges that we have made a number of misrepresentations to obtain the support of the Harris County Commissioner. While the County Commissioner has not raised any issues with us, each of the items noted by the HOA either reflects a simple change in the development plan it has evolved, or is taken out of context. For example, the HOA points out in an early presentation that we anticipated 220 parking spots while in a later presentation we stated that there would be 240 parking spots. The HOA states that at one point we listed 130 units and at another point we listed 120 units. The HOA points out that at one time we stated there would be a 3,700 square foot clubhouse and that we later changed that to a 3,300 square foot clubhouse. It probably goes without saying but, as the Department knows and as with any project, we had an evolving development plan. We downsized the number of units from pre-application to application, and we had to adjust the site plan due to other unrelated issues with utilities, which, in turn, impacted other items like the number of parking spaces and the size of the clubhouse. Of course, none of items noted by the HOA reflect a material discrepancy and certainly having changes to a site plan does not support a finding of fraud. The HOA even suggests that we made misstatements regarding our track record; however, in each instance numbers in later presentations were simply revised to include final, all-in development costs.

In this letter, and in our letter dated June 8, 2016 letter, we have tried to give the Department a clear understanding of all of the communications that we have had with elected officials and with the residents of Fall Creek. We have not made any misrepresentations, and we have not committed fraud. We can only speculate, based on the Fall Creek residents' communications to us and their posts on social media, as to why they would accuse us of committing fraud. We are disappointed that we are even put in this position after we went to great lengths to provide open and honest dialogues with each person that we interacted with about this project. However, we hope that the Department will see the HOA's allegations for what they truly are. As previously offered, if the Department would like to meet with us to discuss this matter further, we are happy to do so at any time.

Matt Vruggink

Enclosures

Sincerely

cc: Sharon Gamble, Tim Irvine

## Exhibit A

Affidavit of Matthew Vruggink

#### AFFIDAVIT OF MATTHEW VRUGGINK

STATE OF TEXAS §

COUNTY OF DALLAS §

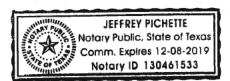
BEFORE ME, the undersigned authority, on this day personally appeared Matthew Vruggink, known to me and being by me duly sworn, according to law, upon his oath, stated the following:

- My name is Matthew Vruggink. I am over the age of twenty-one (21) years and am fully competent to testify herein. I have personal knowledge of the facts set forth in this affidavit and all facts are true and correct.
- 2. I am a partner in The Standard on the Creek, LP through my ownership of other entities.
- 3. Prior to submitting our Application, we did not meet with any members of the Fall Creek neighborhood.
- 4. During the process of gathering letters of support from various elected officials, no one, including Representative Dutton, asked us to meet with the Fall Creek neighborhood, and we did not represent to anyone, including Representative Dutton or his staff, that we had met with the neighborhood.
- 5. We did not represent to anyone, including Representative Dutton or his staff, that we had support from the Fall Creek neighborhood.
- 6. After receiving Representative Dutton's request to not automatically exclude applicants who have a criminal history but instead make any determinations on a case-by-case basis, I discussed the request with Clay Likover. We agreed that we will continue with our plan to conduct comprehensive background checks and income verifications for each applicant. We further agreed that we would not adopt a blanket policy to automatically exclude applicants with criminal histories but that we would evaluate each application and make a determination based on each case.
- 7. It is our intention to provide a quality living environment for the prospective residents of The Standard on the Creek and the neighboring community while evaluating each application on a case-by-case basis to make sure that all good residents are considered.
- 8. I did not represent to the Harris County Municipal Utility District No. 49 Board of Directors that we had support from Humble ISD for the development. Instead, I stated that I had met with representatives of Humble ISD to discuss our project in detail.
- 9. Attached as Exhibit E is a true and correct copy of a news article from an ABC News affiliate in Harris County that I obtained from <a href="http://abc13.com/news/fall-creek-community-at-odds-over-proposed-low-income-housing/1270006/">http://abc13.com/news/fall-creek-community-at-odds-over-proposed-low-income-housing/1270006/</a>.

- 10. Attached as Exhibit F is a true and correct copy of posts that our office downloaded from the http://www.myfallcreek.com/forum/.
- 11. Attached as Exhibit G is a true and correct copy of posts that our office downloaded from the http://www.myfallcreek.com/forum/.
- 12. Attached as Exhibits I-K are true and correct copies of correspondence with Humble ISD, which were forwarded to the County Commissioners' Office.

Matthew Yruggink

SWORN TO AND SUBSCRIBED BEFORE ME by the said Matthew Vruggink this 23 day of June, 2016 to certify which witness my hand and seal of office.



Notary Public, State of Texas

## Exhibit B

Affidavit of Clayton D. Likover

#### AFFIDAVIT OF CLAYTON D. LIKOVER

STATE OF COLORADO §
COUNTY OF PITKIN §

BEFORE ME, the undersigned authority, on this day personally appeared Clayton D. Likover, known to me and being by me duly sworn, according to law, upon his oath, stated the following:

- 1. My name is Clayton D. Likover. I am over the age of twenty-one (21) years and am fully competent to testify herein. I have personal knowledge of the facts set forth in this affidavit and all facts are true and correct.
  - 2. I am the President of the General Partner of The Standard on the Creek, LP.
- 3. After receiving Representative Dutton's request to not automatically exclude applicants who have a criminal history but instead make any determinations on a case-by-case basis, I discussed the request with Matt Vruggink. We agreed that we will continue with our plan to conduct comprehensive background checks and income verifications for each applicant. We further agreed that we would not adopt a blanket policy to automatically exclude applicants with criminal histories but that we would evaluate each application and make a determination based on each case.
- 4. It is our intention to provide a quality living environment for the prospective residents of The Standard on the Creek and the neighboring community while evaluating each application on a case-by-case basis to make sure that all good residents are considered.
- 5. On March 31, 2016, I received a voicemail from Scott Elliot regarding The Standard on the Creek's proposed development.
- 6. In his voicemail, Mr. Elliot informed me that the neighborhood was "mounting" a "protest" against the project and that "last time that somebody tried to do this to the community," "they won."
- 7. I have provided the entire voicemail message to Ann Hall for transcription. I have read the transcript, which is attached as Exhibit C to the response, and the transcript accurately reflects the content of the voicemail message.
- 8. The following day, on April 1, 2016, I received an electronic mail message from Troy Hunt via LinkedIn, which is attached as Exhibit D to the response.
- 9. In his electronic message, Mr. Hunt informed me that we were "about to confront a lot of opposition" to our proposed project because the project was going to have "drastic effects on our community."

10. Mr. Hunt requested that we stop our project for the "sake of [their] community and
[their] children." He also informed me that they would "fight long and hard to ensure this project
is derailed."
Clayton D. Likover
SWORN TO AND SUBSCRIBED BEFORE ME by the said Clayton D. Likover this 2   day
of June, 2016 to certify which witness my hand and seal of office.
Aparama 1 G Nama a 1
Allgell E. Shall
Notary Public, State of Colorado
ABIGAIL E. THAREL
NOTARY PUBLIC STATE OF COLORADO
NOTARY ID 20144038420
MY COMMISSION EXPIRES 10/01/2018

# Exhibit C Affidavit of Ann Hall

#### **AFFIDAVIT**

Before me, the undersigned authority, on this day personally appeared Ann Hall, who is personally known to me, and, her oath being duly sworn, deposed and said:

I am a legal assistant with the law firm of Reese Gordon Marketos LLP. On June 21, 2016, I was presented with the audio of voice mail message and asked to transcribe it. The verbatim content of the voice mail message (other than redaction of the telephone number) is as follows:

Hey Clay. My name is Scott Elliott. I just wanted to give you a call. The Fall Creek Community down here in Houston just...in Humble, where they play the Shell Houston Open – the only PGA tournament that comes through here...we're mounting basically a protest against your lowincome housing effort that you're trying to do. I just wanted you to be aware. I mean the community here is pissed, and we're about a 2500home community so, again, you can imagine that, yeah, we're going to be contacting all of our people and looking at what legal action and things like that we can take. I just wanted you to be aware. You can reach me if you want to talk to me at xxx-xxx-xxx, xxx-xxxx. Anyway, I just wanted you to be aware because, again, it's going to be a big fight; I can guarantee you. And, last time that somebody tried to do this to the community, we won. So, just so ya'll are aware. (laughter) We have a ton of lawyers that live here, lots of, you know, executives at companies and things, so we've got resources to do this, so, anyways, talk to you later. Thanks. Bye.

Further, affiant sayeth naught.

Ann Hall

SUBSCRIBED AND SWORN TO before me on the <u>a3rd</u> day of June, 2016, to certify witness my hand and official seal.

LISA R. HARDIN
Notáry Public, State of Texas
Comm. Expires 10-06-2018
Notary ID 8659267

Notary Public, State of Texas

## Exhibit D

Email from Fall Creek Resident

From: Troy Hunt hit rep y@ inkedin com

Subject: Hey

Date: Apri 1 2016 at 11:40 AM

To: C ay D Likover cd @oja aho dings com

TH

#### Hi Clay,

I just wanted to let you know that you are about to confront a lot of opposition to your proposed The Standard at Fall Creek Low Income Apartment Proposal Project #16118, in Fall Creek in Humble, TX. This project is go to have drastic effects on our community. I would appeal to your sympathy first and ask you to desist from this project for the sake of our community and our children.

However, if that is not enough, I will also appeal to your practical side. The residents of Fall Creek have come together in a very large way over the last 24 hours are writing and calling any and all government officials in any way connected to this endeavor. We will be sure to have a very large representation at the hearing next Tuesday in Houston to voice our opposition. Additionally, there is a very large percentage of attorneys in our community (myself included) and we will make sure to use every legal means we have to stop this from going forward. We will fight long and hard to ensure this project is derailed. The community and HOA are unified in defeating this.

Regards,

Troy D. Hunt, Esquire

Reply

Not interested

View Troy's LinkedIn profile

You are rece v ng InMa not ficat on ema s. Unsubscr be

This email was intended for C ay Likover (President at Oja a Holdings, LLC). Learn why we included this.

If you need ass stance or have quest ons, p ease contact L nkedIn Customer Serv ce.

© 2016, L nkedIn Corporat on. 2029 St er n Ct. Mounta n V ew, CA 94043, USA

# Exhibit E News Article











#### **NEWS**

### FALL CREEK COMMUNITY AT ODDS OVER PROPOSED LOW-INCOME HOUSING















Residents at odds over proposed ow income housing. (KTRK)









By Tracy Clemons

Wednesday, March 30, 2016

HARRIS COUNTY (KTRK) -- The fight is on to stop a low-income apartment complex from going up in unincorporated northeast Harris County.

A Fort Worth developer wants to build the 120 unit complex just outside the Fall Creek community, at the corner of North Sam Houston Parkway and Fall Creek Preserve Lane. But people who live there are not happy.

The developer says all but 10 of the apartments would be for tenants who make 60-percent of the median area income or less.

On one hand, several people I ve spoken with say they get the need for more affordable housing. But on the other hand, they say this is not the place for it.

"We here in Fall Creek don t think this subsidized housing project is right for the neighborhood," says long-time resident Brett Sileo.

He is one of many people who live here who worry that Fall Creek Elementary would see more overcrowding. Some worry about

property values going down and are considering selling their homes. Sileo believes the location at the corner of Beltway and Fall Creek Preserve Lane could be put to better use.

"The neighborhood would be foregoing the possibility of some other development that would bring higher value to the neighborhood," he said.

We ve spoken with several residents who also fear that crime would go up. The developer, Ojala Holdings, says "The Standard on the Creek will employ a thorough screening process that verifies both employment and criminal history of all prospective residents, ensuring a quality living environment."

We asked a spokesperson why this particular location. The response: "We like this area because of the shortage of quality housing as well as the access to a diverse employment base."

"When you think of the checker at your favorite grocery store, your bus driver, maybe your favorite waitress. These are the people that are falling into those categories," said Timika Simmons with the Harris County Housing Authority.

This is not a HCHA property, but Simmons says the big picture is that there s a need for more like it in the Greater Houston area. The concern over a rise in crime, she says, is a common misconception.

"I will not say that it does not happen in some places. It does, and we re not ignorant to that," she added.

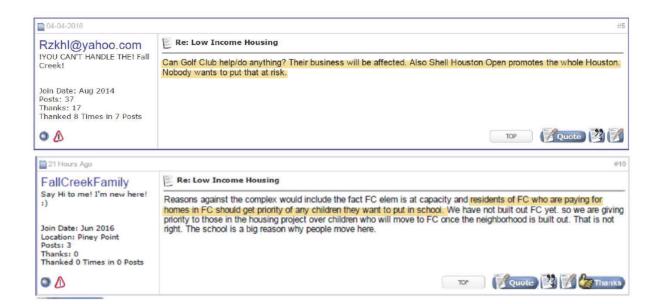
Residents have started writing to local and state elected officials to put a stop to this complex. But they understand the need won t go away.

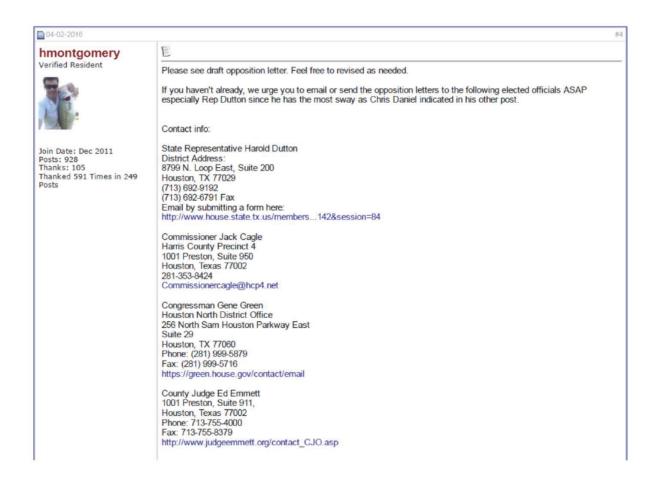




The developer says there s no timetable on construction at this point.

# Exhibit F Fall Creek Forum Posts





School Superintendent Guy Sconzo 20200 Eastway Village Drive Humble, Texas 77338 guy.sconzo@humble.k12.tx.us

State Senator Sylvia R. Garcia PO Box 8530 Houston, TX 77249-8530 svlvia@svlviaforsenate.com

City Mayor Sylvester Turner City of Houston P.O. Box 1562 Houston, TX 77251 713.837.0311 mayor@houstontx.gov

Harold V. Dutton Jr. State Representative 8799 North Loop East, Suite 200

Re: The Standard at Fall Creek Low Income Apartment Proposal Project #16118

Dear Representative Dutton:

I am sending this letter to ask for you to rescind your support to the proposed The Standard at Fall Creek Low Income Apartment Proposal Project #16118 being considered for the SE Comer of Fall Creek Preserve Dr. & Sam Houston Parkway East, Humble, TX 77396.

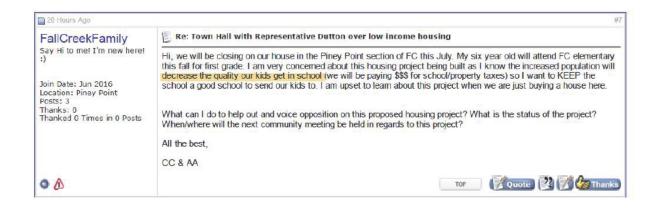
As you may be aware, the applicant Clay D. Likover, is proposing the construction of 120 low income apartment units with a tax credit request of one million five hundred thousand dollars (\$1.5M). My reasons for opposing his application are as follows:

- 1. The applicant listed has not made reasonable attempts to reach out to the communities, business and other stakeholders affected by the development. To date, I am not aware of the applicant coming into my community to educate, inform or advertise anyone of his intentions.
- 2. Existing stakeholders from community have not been consulted in site selection. Reasons for selecting the proposed area and benefits for businesses and residents in the vicinity of the project have not been advertised to my knowledge. The developers should contact the stakeholders not during the application process for a project, but at least a year prior to submitting an application.
- The proposed increase in housing density with the 120 units would impose an undue burden on emergency response and public infrastructure services which already have been operating with limited resources. Specifically the local:
- a. Volunteer fire services (constrained budget and headcount);
   b. Law enforcement and Sheriff's patrol (constrained budget and headcount);
- c. Public transportation network (there are limited to no bus routes servicing the proposed location); and
- 4. The proposed development will reduce the space available for the business community to expand in the location. The apartments are to be sited in the immediate vicinity of a growing business area. The resulting competition for space will discourage new business development in the area and encourage existing businesses to relocate to where expansion is possible. The direct implication of this is lower future employment and by extension tax revenues for our community.
- The new apartment development will hinder future home ownership. Less land will be available for building single family homes in the region and will discourage families interested in owning homes in the area.
- 6. The proposed development will have an adverse impact on housing values.
- 7. Low income apartments decress local median household income and increase tumover in owner occupied housing units within 1 km of these projects. As with #4, this will negatively impact the tax base for the locale.1

o. Given the protonged rocal, state and reperal budget uniting shortlans, in believe the requested tax credits (\$1.5m as listed above), could be better utilized if applied to encourage local business development and single family home ownership initiatives.

As a resident of the Fall Creek community in Humble, I am very concerned about the sustainable development of our community and utilization of resources. Clearly The Standard at Fall Creek Low Income Apartment Proposal Project #16118, and future similar developments are not in the best long term interest of the residents, business owners, and other local stakeholders.

I urge you to use the resources at your disposal (including sending a formal letter of opposition to the Texas Department of Housing and Community Affairs) to oppose the proposed development. Please send a formal letter of opposition to the Texas Department of Housing and Community Affairs (the "TDHCA"). Your decision will definitely affect the health and future of this community. I thank you for your time and anticipate your response.



# Exhibit G Fall Creek Forum Posts

Giovanni
I heart mulch.

Join Date: Sep 2014
Location: Fall Creek
Posts: 162
Thanks: 58
Thanked 82 Times in 39 Posts

ER: Low Income Housing

How is the Golf Club of Houston affected? Seems like a reach to me. The overriding reasons against the complex can not be "not in my backyard".

The points to make with any written opposition should be, poor location (on BW8), not walkable to local stores (of which there are none close by); no public transit and other such items.

# Exhibit H MUD 49 Meeting Minutes

#### HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 49

Minutes of Meeting of Board of Directors March 24, 2016

The Board of Directors ("Board") of Harris County Municipal Utility District No. 49 ("District") met at 2727 Allen Parkway, Suite 1100, Houston, Texas, on Thursday, March 24, 2016, in accordance with the duly posted notice of said meeting, with a quorum of directors present, as follows:

August J. Nunez, President John Wright, Vice President Kermit D. Fisher, Secretary Tim Reynolds, Assistant Secretary

and the following absent:

Jude P. Auzenne, Assistant Secretary.

Also present were Ms. Claudia Redden, Ms. Debbie Arellano, Mr. Bob Ring, Mr. Saib Saour, Mr. William Saour, Ms. Debbie Shelton, Mr. Eric Ungar, Mr. Matt Carpenter, Mr. Brett Sileo, Mr. Matthew Vruggink, and Ms. Lori G. Aylett.

The President called the meeting to order and declared it open for such business that might regularly come before it.

- 1. Minutes of the meeting held February 25, 2016 were presented for the Board's review and approval. Corrections were suggested to the minutes, and upon motion duly made, seconded and unanimously carried, the Board approved the minutes as amended.
- 2. Debbie Arellano presented a tax assessor/collector's report, a copy of which is attached. The report reflects that 2015 taxes are 96.7% collected. All prior years are over 99% collected. Two wire transfers and 10 checks were presented for the Board's review and approval. The tax assessor mentioned that she had received a request for an installment payment agreement for rental property that is non-homestead. The Board authorized a six-month payment plan. Upon unanimous vote, the Board approved the tax assessor/collector's report as presented and authorized payment of bills with checks drawn on the tax fund.
- 3. Bob Ring presented an operator's report. The District served 2,338 water connections and 2,302 wastewater connections during the month. The District provided garbage collection services to 1,537 customers.

The operator reported on the status of the District's water production. The District pumped 8,280,000 gallons from Water Well No. 1; 1,620,500 gallons from Water Well No. 2; and received 222,000 gallons from the City of Houston. The District's water accountability was 116%.

The operator turned to the billing and collections report. The District had total current collections of \$138,747.25 and total current billing of \$146,194.67. The operator followed rate order procedures and placed 211 delinquent notices on doors, and 22 accounts were terminated for failure to pay in a timely fashion. The District had 32 new taps during the month, and 35 taps have been made year-to-date.

The sewage treatment plant operated within all permitted parameters. The operator billed \$49,437.75 for work performed during the month.

The operator then reviewed the esplanade water usage. Esplanade water usage for the month totaled 157,000 gallons.

The operator reported that construction of the altitude valve has resulted in the inability to use City of Houston water. The District's contract is take-or-pay so the District is still required to pay. The operator replaced lines at the wastewater treatment plant, and the District will reimburse the operating fund from surplus construction funds in a future month.

The operator reported on the violation notice received from the TCEQ. The violation alleged that the District did not take the required water samples. The state's contractor is actually the party that takes the samples, and that contractor contacted the wrong operator to schedule the sampling. The operator is still in negotiations with the TCEQ regarding the matter. The District may have to send a public notice regarding the "violation" and its resolution. The operator has already implemented procedures to track the dates when the state's contractor should perform required tests.

Upon unanimous vote, the Board approved the operator's report as presented.

- 4. The Board considered a Sixth Amendment to the Interim Water Supply Agreement with Harris County Municipal Utility District No. 400. The attorney noted that MUD 400 wanted an extension to their interim agreement, and the new termination date is June 30, 2016. Upon unanimous vote, the Board approved the Sixth Amendment as presented.
- Standard at Fall Creek apartment development. Matthew Vruggink introduced himself to the Board and stated that Ojala Partners is a Dallas based real estate developer with expertise in both commercial and residential developments. They have 5.5 acres of property under contract with Hannover, and the planned development is a 120-unit apartment complex on the south side of Beltway 8 east of the Fall Creek development. He presented an executive summary and photographs of the proposed development. The executive summary stated that the project has the support of the City of Houston, State Representative Harold Dutton, and Harris County Commissioner Jack Cagle. The proposed amenities would include an after-hours learning and daycare center, an executive business lounge and computer lab, a fitness facility, a cyber café, a tropical oasis pool with a grilling area and a dog park. According to the development overview, the tract is surrounded by dense commercial usage including retail, restaurants, office and multi-family. The economic benefits as stated in the development overview would be an additional \$3,820,825 in tax revenue to the "City" over a 10-year period. Director Reynolds noted that the City does not get any tax from the project as

it is not located within the City's boundaries. The information about tax revenues to the City was therefore inaccurate. Eric Ungar spoke briefly on behalf of Hannover and stated that there is an open ditch on the tract now that will need to be converted into storm sewers. Mr. Vruggink stated that the development proposal was still in the early stages, and the property is under contract. The developer is on the tail-end of their due diligence and has another 90 days to decide whether to go forward with the project. The proposed development is "rent-restricted". The development consists of workforce housing and will not be Section 8 or voucher homes. Rents will be capped. Rents for The Alexan project in the District are about \$1,000 to \$1,100, and the proposed apartments will be in the \$800 range according to Mr. Vruggink. The developer has projects on the ground in Fort Worth, Lake Charles and Baton Rouge. In response to a question from the Board, Mr. Vruggink indicated that the Springs at Fort Worth is located at 3200 East University. Ojala Partners has applied to the Texas Department of Housing and Community Affairs for designation as a tax credit project and has been successful in this process. Therefore, the developer will be provided with some federal funding. The apartment management will get income and employment verification for all residents, and the developer is audited on an annual basis. The development receives tax credits that are distributed over time. The developer sells those credits to investors to get funding to develop the project.

Director Reynolds indicated that the District had a similar inquiry two to three years ago. The District must receive tax revenues to pay debt service on the bonds issued for the facilities. The Board asked Mr. Vruggink how the property will be appraised and whether or not it will be tax exempt. Mr. Vruggink indicated that the property would be appraised on a taxable basis but would not have as much assessed valuation as the Alexan. Tax credit apartments are allowed to be valued on an income basis, which results in a lower assessed value than a market rate apartment project. Mr. Vruggink stated that his development company owns and operates the projects and uses a management company.

Director Reynolds noted that the District has no bus service and no sidewalks. He stated his personal objections to the project and stated that it did not make sense in its current configuration or location.

Matt Carpenter addressed the Board and stated that he was the President of the Fall Creek Homeowners Association and is a civil engineer. He stated that it was his understanding that the developers of Fall Creek objected to the use of the words "Fall Creek" in the apartment name. Mr. Vruggink confirmed that they had received a cease-and-desist letter from the developer of Fall Creek, and the apartments will not include the words "Fall Creek" in their name. Mr. Carpenter stated that if taxes were not being generated at a market rate, the other residents of MUD 49 would effectively be subsidizing the apartments. Mr. Carpenter inquired as to how many units were being requested and what capacity would be allocated to the project.

Saib Saour responded that no request has been made by the applicant for capacity. Mr. Carpenter replied that he was concerned that the neighboring property values could decline as a result of their proximity to this project. He noted that Fall Creek was a master planned community. Mr. Carpenter noted that the property was not close to retail, restaurants, and office space as indicated in the executive summary.

In response to a question, Mr. Vruggink indicated that the District could expect to receive \$10 million in taxable value on the tax roll as a result of the construction of this project. The District's financial advisor Debbie Shelton indicated that the proposed value was lower than other apartments in the District.

Mr. Brett Sileo then addressed the Board and stated that he was a resident of Fall Creek. He advised the Board that to his knowledge public hearings must be conducted before the project is approved. Mr. Vruggink noted that they have a score of 153 points currently with TDHCA, and the application is still pending. Mr. Sileo then noted that the school system was already at 120% of capacity, and school officials have indicated that they do not have the facilities to accommodate this proposed development. There are already several apartments in the area. There is no bus service. Mr. Sileo asked the developer how long they would maintain the facilities, as receipt of the tax credits was a one-time thing. Mr. Vruggink replied that the developers had met extensively with Humble ISD about their proposed development plan. Eric Ungar stated that the school demographers had looked at this proposed development and the project and how many children will be put into the school system. Mr. Vruggink stated that he and his partners would get back to the District residents to schedule a public hearing. He stated that he would be approaching the District engineer with specific capacity questions. Director Reynolds stated that he was personally against the project. Mr. Vruggink stated that he understood the concerns of the residents and asked that he be given an opportunity to change the minds of those who might oppose the project. He thanked the Board for their consideration.

6. Saib Saour and William Saour presented the engineer's report, a copy of which is attached. The engineer requested Board approval to advertise for bids for the earth movement, Phase 5 project to serve Sunset Ridge and the water, sewer and drainage construction project to serve Sunset Ridge, Section 7.

The engineer recommended for approval Pay Estimate No. 5 and Final in the amount of \$44,259.07 to Crostex Construction for the Sunset Ridge, Sections 5 and 6 water, sewer and drainage facilities, and the Board so approved. Harris County approved the developer of Sunset Ridge West regarding Woodland Hills Drive, Phase 2. The County is looking into constructing the remaining half of Woodland Hills and extension of the roadway. The Woodland Hills extension will go through the District, neighboring MUD 400, neighboring MUD 423 and Land Tejas MUD all the way to Timber Forest. Harris County intends to issue bonds to pay for the project. The Board noted that this connection is very good news for the community.

Water, sewer and drainage construction for Sunset Ridge West, Sections 4 and 5 is approximately 90% complete. The Harris County inspection for Section 4 is scheduled for April 12, 2016 at 8:30 a.m.

In Fall Creek, Sections 40 and 42, no pay estimates were received but the contractor is addressing comments. In Fall Creek, Section 43, construction is expected to begin in the third quarter of 2016. Brown and Gay Engineers requested on behalf of the developer of Fall Creek, Section 44 that the Board authorize them to proceed with advertising for bids for that project. Upon unanimous vote, the Board authorized the advertisement to proceed.

The engineer received construction drawings for a 38-room hotel proposed for development. Comments were provided to their engineer.

The engineer reported on the activities of Project Storm and presented an invoice in the amount of \$10,368.02 for work performed the previous month. The engineer recommended that the Board approve the invoice as it was in conformance with the contract, and the Board concurred. The current Project Storm contract will automatically renew, and the contractor has not proposed any changes to the maintenance budget. Later in the year, new storm water quality features will be added to the District's maintenance, and the maintenance schedule may be amended at that time.

With regard to review of the District's detention ponds, PSI is proceeding with geotechnical investigation of the southern Eagle Creek Detention Pond and will have a report ready for the Board to review next month. The engineer also contacted the Harris County Flood Control District to discuss erosion issues on Garners Bayou adjacent to Fall Creek's northern most detention pond. The District engineer also contacted the City of Houston and requested that they begin clearing the drainage swale downstream of Sunset Ridge.

The engineer has still heard nothing from the Texas Commission on Environmental Quality on the rerate of the District's wastewater treatment plant.

The District engineer is working with developer engineer R.G. Miller on the grading plan for addition of the water site to their CLOMR. The District engineer has prepared a metes and bounds description of conveyance of the water plant site and access and water line easements. The description is still being refined.

The engineer presented Pay Application No. 1 from Gemini Contracting in the amount of \$60,320.70 for addition of the altitude valve on the surface water supply line. The engineer recommended approval of the pay application and noted the project was approximately 90% complete. The engineer continues design of the splitter box and improvements at the box plant. The engineer also solicited bids for refurbishment of the box plant, and the low bidder was Texas Source Contracting in the amount of \$68,600. The engineer requested and received Board approval to award the contract to the low bidder. The engineer noted that the contractor had provided the Form 1295 as required by law.

After a full discussion, upon unanimous vote, the Board approved the engineer's report, the pay applications, and authorizations to advertise for bids as requested by the District engineer.

- 7. There was presented the attached Resolution for Adoption of Order Establishing Policy and Rates for Water, Sewer and Waste Disposal Service. The engineer presented the analysis of the District's costs associated with the City of Houston surface water. The engineer recommended that the District's City of Houston GRP fee be raised by \$0.03 to \$2.20 per thousand. Upon unanimous vote, the Board approved the rate order revisions effective April 1, 2016.
- 8. The Board discussed the various development projects. The attorney noted that she is hoping to finalize the Memorandum of Understanding between the District, Westin and

Ryland at the next meeting. Westin and Ryland are each developing a section, but some portions of storm sewer in Ryland's section benefit Westin, and vice versa. The developers want to make sure that they allocate the costs for the shared facilities to the appropriate developer, so that the value added by that developer will support the reimbursement. Johnson, now known as Kenwood, may qualify for a full reimbursement in the next bond issue. The District engineer is working to quantify the amounts of the next bond issue and the possible reimbursement to each developer.

The Board considered extension of a utility commitment to serve Sunset Ridge Retail Center. Upon unanimous vote, the Board agreed to extend the utility commitment for 35 esfcs as requested by the Sunset Ridge developer.

- 9. Claudia Redden presented the bookkeeper's report, a copy of which is attached. Upon unanimous vote, the Board approved the bookkeeper's report as presented.
- 10. The Board considered renewal of the District insurance policies. The attorney presented a proposal from Highpoint for renewal of the existing policies. The total premium is \$18,179, an increase of less than \$200. After consideration, upon unanimous vote, the Board approved renewal of the District's property, boiler and machinery, general liability, automobile liability, law enforcement liability, pollution liability, directors and officers liability, directors position schedule bond, public employee blanket bond, worker's compensation, peace officer bond and business travel accident insurance policies based upon the proposal presented by Highpoint.

There being no further business to come before the Board, the meeting was adjourned.

D. Fisher

## Exhibit I

Correspondence Regarding Humble ISD

From: Matthew J. Vruggink mjv@oja aho dings com Subject: Emai 1 of 3 Humb e ISD Standard at Fa Creek

Date: February 16 2016 at 3:30 PM

To: Turke David (CSD) David Turke @csd hctx net

Cc: Danie L Smith d s@oja aho dings com



#### Email 1 of 3.

Introductory email sent to the Humble ISD after speaking with Peggy Young, executive assistant within the Humble ISD.

\_\_\_\_

#### Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

From: Peggy Young [mailto:Peggy.Young@humble.k12.tx.us]

Sent: Tuesday, January 26, 2016 10:16 AM

**To:** Matthew J. Vruggink <mjv@ojalaholdings.com> **Cc:** Roger Brown <Roger.Brown@humble.k12.tx.us>

Subject: Humble ISD - New Development

Matthew, It was a pleasure to speak with you this morning. As we discussed, I believe the right person for you to speak with is our Assistant Superintendent of Support Services, Dr. Roger Brown. If you will, please send Dr. Brown an email including the information you are want to discuss in regards to the new apartment development you are planning to build on the south side of our District, east of Fall Creek development. As I mentioned, Dr. Brown is out of the office and will return on Thursday. His contact information is: roger.brown@humble.k12.tx.us 281-641-8768

Best regards, Peggy

### Peggy L. Young

Executive Assistant Superintendent of Schools Humble Independent School District *The Best Large School District in Texas* (o) 281-641-8008 (f) 281-641-1050

This message and any attachment are intended only for addressee(s) and may contain information that is considered sensitive or confidential. If you have received this message in error, please notify the sender immediately and delete the misdirected e-mail. Furthermore, any release or further disclosure of information related to a student without proper legal authority or written consent is prohibited by law.

### Exhibit J

Correspondence Regarding Humble ISD

From: Matthew J. Vruggink mjv@oja aho dings com Subject: Emai 2 of 3 Humb e ISD Standard at Fa Creek

Date: February 16 2016 at 3:30 PM

To: Turke David (CSD) David Turke @csd hctx net

Cc: Danie L Smith d s@oja aho dings com



Additional information distributed to Dr. Brown, Assistant Superintendent at the Humble ISD. Full development materials attached (you have similar materials in your possession). We met in person earlier this month on February the 3<sup>rd</sup>.

----

#### Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

From: Daniel L. Smith

Sent: Friday, January 29, 2016 3:55 PM To: roger.brown@humble.k12.tx.us

Cc: Matthew J. Vruggink <mjv@ojalaholdings.com>

Subject: Humble ISD - Follow Up \_Multifamily Development

Dr. Brown,

Thank you for your time this afternoon. Per our conversation, I wanted to follow up with some general information on our proposed development including location, economic benefits, tenant profile, and the types of amenities in which we typically offer our residents. The Standard at Fall Creek will be a relatively small development with no more than 130 units, which should result in a minimal impact to enrollment increases. All of the Humble ISD schools in which students will be zoned to are located within a 2..0 mile radius and are located along existing bus routes.

We believe that this project will be beneficial to the area, and as such, we have attained letters of support from Jerry Davis, City of Houston Vice Mayor Pro-Tem, as well as the state representative in this jurisdiction, Representative Harold V. Dutton Jr.

Do you have any availability to meet next week on Tuesday (2/2) afternoon, Wednesday (2/3) before 2 pm or after 3:30 pm, or Thursday (2/4) morning?

Thanks,

Daniel L. Smith Development Associate Ojala Partners, LP 6440 N Central Expy #900 Dallas, TX 75206

Office: 214-865-7926 Cell: 832-444-9382 Fax: 214-865-7929

DLS@OjalaHoldings.com



From: Matthew J. ent: Thursday, January 28, 2016 9:35 PM

**To:** Daniel L. Smith <<u>dls@ojalaholdings.com</u>> **Subject:** Fwd: Humble ISD - New Development

Begin forwarded message:

From: Peggy Young < <u>Peggy. Young@humble.k12.tx.us</u>>

Date: January 26, 2016 at 10:16:05 AM CST

To: < mjv@ojalaholdings.com>

Cc: Roger Brown < Roger.Brown@humble.k12.tx.us>

Subject: Humble ISD - New Development

Matthew, It was a pleasure to speak with you this morning. As we discussed, I believe the right person for you to speak with is our Assistant Superintendent of Support Services, Dr. Roger Brown. If you will, please send Dr. Brown an email including the information you are want to discuss in regards to the new apartment development you are planning to build on the south side of our District, east of Fall Creek development. As I mentioned, Dr. Brown is out of the office and will return on Thursday. His contact information is: <a href="mailto:roger.brown@humble.k12.tx.us">roger.brown@humble.k12.tx.us</a> 281-641-8768

Best regards, Peggy

### Peggy L. Young

Executive Assistant
Superintendent of Schools
Humble Independent School District
The Best Large School District in Texas
(a) 281-641-8008 (f) 281-641-1050

This message and any attachment are intended only for addressee(s) and may contain information that is considered sensitive or confidential. If you have received this message in error, please notify the sender immediately and delete the misdirected e-mail. Furthermore, any release or further disclosure of information related to a student without proper legal authority or written consent is prohibited by law.



The Standard at Fa Creek Pow...E ISD PDF



Support Letters City of Houston S... Dutton pdf

### Exhibit K

Correspondence Regarding Humble ISD

From: Matthew J. Vruggink mjv@oja aho dings com Subject: Emai 3 of 3 Humb e ISD Standard at Fa Creek

Date: February 16 2016 at 3:30 PM

To: Turke David (CSD) David Turke @csd hctx net

Cc: Danie L Smith d s@oja aho dings com



#### Email 3 of 3.

Email correspondence with Dr. Brown, following his presentation to the Economic and Development committee. Per below, you can see that it was received OK and with no opposition.

----

#### Matthew J. VRUGGINK

P: 214.693.7955 | E: mjv@ojalaholdings.com

From: Roger Brown [mailto:Roger.Brown@humble.k12.tx.us]

Sent: Thursday, February 04, 2016 1:44 PM

**To:** Matthew J. Vruggink <mjv@ojalaholdings.com>

Subject: Re: Contact Information

I would say neutral to okay.

Roger

>>> "Matthew J. Vruggink" <<u>mjv@ojalaholdings.com</u>> 2/4/2016 1:37 PM >>> Great. How was it received?

-----

Matthew J VRUGGINK 214.693.7955

On Feb 4, 2016, at 9:54 AM, Roger Brown < Roger.Brown@humble.k12.tx.us > wrote:

Good Morning,

Just wanted to let you know the Building and Planning Committee was informed of your upcoming project.

Thank you for all the information.

Roger

>>> "Matthew J. Vruggink" <mjv@ojalaholdings.com> 2/3/2016 10:54 AM >>> Dr. Brown,

Sorry for harassing, but one last email for the day. The following is the link to the most recent development that we completed in Baton Rouge, LA. It is called the District at Perkins Road.

http://www.thedistrictbr.com/

Our development in Humble will be IDENTICAL in terms of construction quality and architectural integrity.

Thanks again for your time. Look forward to following back up with you.

V 1 ~ TT

----

Matthew J. VRUGGINK

P: 214.693.7955 I E: mjv@ojalaholdings.com

-----Original Message-----From: Matthew J. Vruggink

Sent: Wednesday, February 03, 2016 9:42 AM

To: roger.brown@humble.k12.tx.us

Cc: Daniel L. Smith < dls@ojalaholdings.com >

Subject: Contact Information

Dr. Brown,

Thanks again for your time this morning. Full contact information below. Don't hesitate to reach out with any additional questions or comments.

Matthew

----

Matthew J VRUGGINK Ojala Holdings, LP Mjv@ojalaholdings.com 214.693.7955

This message and any attachment are intended only for addressee(s) and may contain information that is considered sensitive or confidential. If you have received this message in error, please notify the sender immediately and delete the misdirected e-mail. Furthermore, any release or further disclosure of information related to a student without proper legal authority or written consent is prohibited by law.

This message and any attachment are intended only for addressee(s) and may contain information that is considered sensitive or confidential. If you have received this message in error, please notify the sender immediately and delete the misdirected e-mail. Furthermore, any release or further disclosure of information related to a student without proper legal authority or written consent is prohibited by law.



#### TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott GOVERNOR BOARD MEMBERS
J. Paul Oxer, Chair
Juan S. Muñoz, PhD, Vice Chair
Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

June 27, 2016

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

Mr. Matthew Carpenter
President, Board of Directors
Fall Creek Homeowner's Association

RE: DETERMINATIONS REGARDING APPLICATION #16118, THE STANDARD AT THE CREEK

Dear Mr. Carpenter:

The Texas Department of Housing and Community Affairs ("the Department") has reviewed your inquiries raising issues about whether Application #16118 was ineligible under 10 TAC §10.202(1)(K) because of material misstatements or omissions by the Applicant. We considered your request in accordance with 10 TAC §11.10, Third Party Request for Administrative Deficiency. This procedure is being invoked by staff to ensure consistency of treatment and because the text of the rule provides that the purpose of the rule "is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention." For your information and reference, we have included a copy of the Department's response to issues raised in a request from State Representative Harold Dutton.

As part of your request, you submitted an affidavit as "president of the Fall Creek Homeowners Association." In this instrument, you clarify that the development proposed by Application #16118 is adjacent to (but not part of) the territory covered by the Fall Creek HOA, and confirms that the Fall Creek HOA was not contacted by the applicant. Your request to the Department alleges a number of factual matters that you contend should disqualify the applicant under 10 TAC §10.202(1)(K):

- 1) Contrary to the position of the applicant as stated in State Representative Dutton's letter of June 3, 2016, at a March 24, 2016, meeting of the Harris County Municipal Utility District 49 (the "MUD"), the applicant allegedly told the audience that the applicant "would not allow ex-felons to rent in the development."
- 2) Contrary to the statements of support from the community stated in State Representative Dutton's letter of June 3, 2016, the applicant had garnered no support from the Fall Creek HOA.<sup>1</sup>



<sup>&</sup>lt;sup>1</sup> This issue is addressed and disposed of in the attached letter sent to State Representative Dutton.

- 3) The applicant never contacted the developer of the adjacent Fall Creek development.
- 4) At the March 24, 2016, Harris County MUD meeting, the applicant stated they had the "full support of Humble ISD..."
- 5) The application included that the development will offer "access to public transportation services for residents," and "will have or has pedestrian access."
- 6) Site flooding concerns relative to the 100 year floodplain.
- 7) The pro-forma was not revised after an amendment to the purchase contract.
- 8) Statements made by the applicant to a Harris County Commissioner may have been misleading.<sup>2</sup>

But before the burden that is on the requestor to provide "sufficient, credible evidence that, if confirmed, would substantiate the deficiency request," we must consider the scope of 10 TAC  $\S10.202(1)(K)$  ineligibility, which is to address "intentional or negligent material misrepresentation or omission in an Application." Key in this consideration is the requirement of materiality in the alleged misrepresentation – *i.e.* would the establishment of the occurrence of the misrepresentation have the effect of refuting or invalidating one or more of the essential elements of the application? In the obverse, if an alleged misrepresentation were presumed to have occurred on a matter that is not material to the scoring of the application or establishing that it was a fully compliant application (allowing for corrections handled under the administrative deficiency process), it is not material to the application.

Regarding the allegations in the first point, above, two nearly identical affidavits represent that at a meeting of a Harris County MUD on March 24, 2016, a representative of the applicant (Matt Vruggink) stated that the applicant would not allow ex-felons to rent units in the development. This is contradicted by statements by Matt Vruggink in a letter, dated June 23, 2016, wherein the applicant states that the only related statements he made regarding criminal records and residents merely reiterates a statement in the application: that background checks would be performed on prospective residents at the development. Indeed, the approved meeting minutes prepared by the secretary for the MUD 49 Board of Directors, dated March 24, 2016, appear to include significant details on what was said during this meeting, yet there is no mention of a bold assertion about exclusion of ex-felons from the property. (See Exhibit C, pp.17-22). Ostensibly, if representations or testimony made to the MUD were material to any decisions being made, they would be reflected in the minutes. Moreover, the requestor has failed to establish the nexus between any action by the MUD on March 24, 2016, and the purview of 10 TAC §10.202(1)(K). In short, how were the MUD proceedings pulled into the application itself. Accordingly, staff is unable to conclude that the requestor has adduced sufficient, credible evidence to substantiate his request for disqualification and further observes that the nature and timing of the allegation that the applicant allegedly made an inconsistent assertion in a public meeting weeks after the application was submitted does not impact the scoring of the application or how it meets threshold criteria.

The same can be said about the fourth claim: that at the March 24, 2016, Harris County MUD meeting, the applicant stated they had the "full support of Humble ISD . . ." The official minutes reflect only that the applicant stated that "the developers had met extensively with Humble ISD about their

<sup>&</sup>lt;sup>2</sup> As to the fourth and eighth points, the requestor also alleges a violation of 10 TAC §10.202(1)(N), relating to the participation in the dissemination of misinformation to oppose an affordable housing application. As it is the requestor's position that is clearly in opposition to an affordable housing application, this rule is not applicable.

DETERMINATIONS REGARDING APPLICATION #16118, THE STANDARD AT THE CREEK June 27, 2016 Page 3  $\,$ 

proposed plan." (Exhibit C at p.20). The requestor has failed to establish how any action by the MUD on March 24, 2016, invokes 10 TAC §10.202(1)(K), and the request lacks sufficient, credible evidence to substantiate his request for disqualification. The Humble ISD's position on the matter may certainly be taken into account by others as they develop positions that do impact scoring, but the position of the ISD itself is not a scoring or threshold matter.

As to the third claim, that the applicant never contacted the developer of Fall Creek, the requestor does not appear to contend that notification of the developer of an adjacent development is a material facet of the application. Accordingly, this claim is beyond the purview of 10 TAC §10.202(1)(K) and 10 TAC §11.10 as notification to a neighborhood organization whose boundaries do not encompass the proposed development is not a requirement.

The fifth claim involves the veracity of a statement made in the application. In the section of the application titled: "Development Narrative," the applicant made, in part, the following statement: "The Standard at Fall Creek offers its residents pedestrian access to a wide variety of community amenities, public transportation networks, and the opportunity to attend highly ranked Humble ISD schools." The requestor claims that there is "no public transportation service offered by any agency to the property" and that "there are currently no pedestrian facilities located on or adjacent to the subject property."

At the outset, the allegations by the requestor do not fully align with the statement by the applicant. The applicant statement of "pedestrian access to a wide variety of community amenities" appears to be supported by the map contained in the application showing a WalMart Supercenter and a Walgreen's pharmacy well within a mile and a half of the proposed development, and with the maps presented by the requestor in its Exhibit B showing fast food restaurants, a bank, an auto repair facility, and a gym within a shorter distance. The statement regarding access to "public transportation networks" does not necessarily promise "public transportation service . . . to the property," as the requestor alleges. Indeed, as the requestor admits, a park and ride facility is located within four miles of the subject property, a distance not atypical for a user of that service.

But beyond the parsing of whether "pedestrian access" modifies the remainder of the sentence in the Developer's Narrative of the property is the overarching issue of materiality. The requestor has not shown evidence of how this statement was a material misrepresentation in the application. Accordingly, this claim, too, lacks basis in 10 TAC §10.202(1)(K) and 10 TAC §11.10.

The requestor's sixth claim raises site flooding concerns relative to the 100-year floodplain. The Department's rules very clearly delineate how a development in a floodplain must mitigate the threat of flooding and specifies required elevations. The Applicant has provided assurance in the application that the development will meet the requirements of this rule through the Applicant's signed 2016 Development Owner Certification located in Tab 2 of the Application. Further, the Site Design and Development Report submitted with the Application address the fact that the Development Site is within the floodplain and steps for mitigation proposed by the Applicant, and the Environmental Site Assessment submitted with the Application identifies the Development Site as within the floodplain and recommended further information the Application may pursue to ensure appropriate mitigation. In response to an Administrative Deficiency regarding this recommendation, the Applicant provided to following certification: "The Phase I Environmental Site Assessment conducted by BBG did not identify any recognized environmental conditions and no further environmental assessment activities are recommended for the project site at this time. However, the study recommends a Site Specific survey to address the flood hazard zone and a formal wetlands determination be conducted to determine whether or not this area would be considered a jurisdictional wetland. Funds have been budgeted as part of the environmental costs to address these

concerns. Any recommendations received from the noise study, such as additional noise proofing, will be incorporated into the construction of the development and paid out of the construction contingency." As the applicant has satisfied the Department as to requirements of the relevant rules, and the requestor has provided no "new, material information about [the] Application to staff's attention," then this issue is outside of the scope of 10 TAC §11.10.

The seventh claim challenges that the applicant did not revise its pro-forma after an amendment to the purchase contract. Indeed, the contract amendment dated April 29, 2016, included the New Section 8.3(g) which added a cost for "a total of 84 ESFCs (equivalent single family connections)" to be paid by the purchaser at closing at a rate of \$4,607.00 per ESFC transferred and assigned to the purchaser on the closing date. This amendment has the potential to add \$386,988.00 in cost to the Development. This request did bring new information to the Department about this application, and a Notice of Administrative Deficiency has been issued to the Applicant requesting that the Applicant revise and submit all Application documents affected by the change in the contract terms. It should be noted that cost added to acquisition would not in itself affect any scoring item, and the Development Cost Schedule review will be performed by REA upon the formal underwriting of the Application, including any response to Administrative Deficiencies.

As to the eighth claim, that misrepresentations were make to Harris County Commissioner Jack Cagle "to gain support of the project from Harris County," the record of submitted evidence contains nothing from Harris County or Commissioner Cagle substantiating that false statements were made by the applicant that were relied upon by the County in its determination to provide its support for this development as part of the application. Though changes in parking spaces, square footage of a clubhouse, and other discrepancies in the details of the development plan have been pointed out, their characterization as a material misrepresentation is an allegation that would have to be made by the County, and substantiated with evidence that was not presented as part of this request.

As described, herein, staff is unable to conclude, based on the evidence it has reviewed, that the request supports finding the applicant for Application #16118 ineligible under 10 TAC §10.202(1)(K).

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

Marni Holloway

Sincerely

Multifamily Division Director

# 16380 Sierra Vista

Applicant Response



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 11, 2016

Texas Department of Housing and Community Affairs 221 East 11th Street Austin, TX 78711-3941

Attention: Marni Holloway

Re: Sierra Vista Apartments **TDHCA No. 16380** 

Ladies and Gentlemen:

We represent MDS Housing Owassa, Ltd. (the "Applicant"), which has applied for low-income housing tax credits for Sierra Vista Apartments (the "Development"). This letter is provided in response to a request from TDHCA's Board for a report as to the use of the Administrative Deficiency process with regard to points under Section 11.9(c)(6)(C) of the Qualified Allocation Plan (the "QAP") with respect to location in an underserved area. We wish to confirm that TDHCA staff applied its rules appropriately and no further action should be taken on this matter. Further, the Executive Director granted the Applicant's appeal and, pursuant to the Multifamily Housing Rules (the "Rules"), a properly granted appeal cannot be overturned.

#### **Basic Summary**

The Applicant has consistently maintained that the Development is located in the Lopezville Census Designated Place, as identified by the United Census Bureau in the 2010 decennial census. The Development site was also annexed into the City of Edinburg in 2013. These facts were clearly disclosed by the Applicant in its application. Notwithstanding the annexation, the Development site is entitled to two (2) points under Section 11.9(c)(6)(C) of the Qualified Allocation Plan (the "QAP") for location in an **Underserved Area:** 

An Application may qualify to receive up to two (2) points if the Development Site is located in one of the areas described in subparagraphs (A) – (E) of this paragraph, and the Application contains evidence substantiating qualification for the points.

(C) A **Place**, or if outside the boundaries of any Place, a county that has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation serving the same Target Population which remains an active tax credit development; (emphasis added)

The key element of this provision is the word "Place." The Rules define a "Place" as "an area defined as such by the United States Census Bureau." The definition of "Place" is inclusive of both incorporated and unincorporated designations, depending on the context. Further, the word "Place" is used in only two circumstances in the Rules and QAP: (1) to establish the definition of Rural and Urban Areas and (2) for purposes of establishing underserved areas under Section 11.9(c)(6)(C) of the QAP.

The Applicant presented ample evidence, in its application and in subsequent correspondence with TDHCA, that the Development site is, and remains, in the Lopezville Census Designated Place, according to the United States Census Bureau. Further, the Rules require that, when considering census information, TDHCA must use the most current data available as of October 1, 2015 and more current data is disregarded. See Section 10.2(d) of the Rules:

(d) Census Data. Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded. For Rural Area and Urban Area designations, the Department shall use in establishing the designations, the U.S. Census Bureau's Topographically Integrated Geographic Encoding and Referencing ("TIGER") shape files applicable for the population dataset used in making such designations.

This language is also found in Section 11.1(e) of the QAP. It should also be noted that, for purposes of Rural and Urban Area designations, which is the only other purpose for which the word "Place" is used in the Rules and QAP, the rule mandates that the applicable TIGER shape files be utilized.

After TDHCA staff initially rejected the points for being in an underserved area, the Applicant properly appealed to the Executive Director. In granting the Applicant's appeal, the Executive Director correctly applied the plain language of the Rules, determining that the Development's location in the Lopezville Census Designated Place qualifies for points under the QAP.

#### **United States Census Bureau and CDPs**

A beneficial understanding of a Census Designated Place and how it is determined comes from the Geographic Areas Reference Manual (the "Manual"), published by the United States Census Bureau in connection with the 1990 census. The Manual describes in great detail the basic geographic entities the Census Bureau uses and how they have evolved. The Census Bureau defines all geographic entities as either (1) legal and administrative entities or (2) statistical entities. Statistical entities are developed in response to the needs of data users. A Census Designated Place is a statistical entity.

Chapter 4 of the Manual provides:

- "The Census Bureau has developed a program whereby local census statistical areas committees, tribal officials, and State-designated agencies identify and delineate boundaries for potential CDPs according to the criteria developed by the Census Bureau."
- "The Census Bureau recognizes CDPs using population counts from the decennial census."
- "The Census Bureau establishes potential CDPs before the census; these potential CDPs reflect the proposed CDPs and CDP boundaries submitted by program participants."
- "If a potential CDP meets the required minimum population size it qualifies as a CDP and the Census Bureau includes it in its data tabulations and publications."
- "CDP program participants must identify the boundaries of their proposed CDPs each time the Census Bureau implements the program. Data users may notice differences in the universe and areal extent of CDPs from one decennial census to the next for several reasons."

The Manual makes it quite clear that the Census Bureau establishes census designated places as statistical entities for data users in conjunction with each decennial census. Chapter 2 of the Manual states: "The Census Bureau recognizes statistical entities at all levels in its decennial census geographic hierarchy." Intervening occurrences, such as the annexation of a portion of the CDP, do not change the Census Bureau's designation of the CDP until the next decennial census. This is consistent with testimony provided by the Applicant at the June 30 Board meeting. The Applicant contacted the regional office of the United States Census Bureau in Colorado to discuss this matter and was referred to the national headquarters in Maryland. Email correspondence from that exchange is attached as Exhibit A.

#### **The Competitors' Position**

Two of the Applicant's competitors submitted a Third Party Request for Administrative Deficiency pursuant to Section 11.10 of the QAP, requesting that TDHCA deny the Applicant's points for a Development site in an underserved area because the Lopezville CDP has been annexed into the City of Edinburg. When the competitors' Requests were unsuccessful, Coats Rose submitted a follow up letter on their behalf. The Coats Rose letter does not offer any new, material information that should cause TDHCA to revisit the decision made by its Executive Director in granting the Applicant's appeal for the award of the two (2) points. Nonetheless, we will respond to their arguments:

 The competitors argue that a location no longer fits within the United States Census Bureau's definition of a Census Designated Place once it is annexed into a municipality.

*Response*: Guidance from the United States Census Bureau is clear. The definition of a Census Designated Place is applied as of each decennial census. Thus, the Development site remains in the Lopezville CDP, an area that has not previously received a tax credit award.

Discussion: The competitors acknowledge that awarding points under Section 11.9(c)(6)(C) of the QAP turns upon the Place in which the Development site is located and that a Place is "an area defined as such by the United States Census Bureau." The United States Census Bureau does not appear to have a promulgated law or rule that defines CDPs. Rather, there is only published guidance, such as the Manual, and several different definitions of a CDP can be found on the Census Bureau's website. The Manual is quite clear that CDPs are established, in conjunction with local officials, as of each decennial census. The Census Bureau does regularly submit a Boundary Annexation Survey to incorporated places, to determine whether changes in boundaries have occurred and update its data. In fact, the City of Edinburg filed a Boundary Annexation Survey, evidencing the annexation of the Lopezville CDP, in February 2015, which was its first opportunity to do so. See Exhibit B, correspondence from the Edinburg City Manager. Even though the Boundary Annexation Survey has been filed, the Development site remained in the Lopezville CDP as of October 1, 2015, the date required to be utilized under TDHCA's Rules, and it remains in the Lopezville CDP today. Even the Census Bureau employee cited by the competitors provides the same conclusion: "CDPs are created or refined once every ten years." Also, "The very latest official record of place boundaries and any [on] affect CDPs can be viewed using the TIGERweb mapping tool."

The competitors argue that TDHCA has established precedent whereby the location of a
Development site is always determined as of March 1. Since the Development site was annexed
into the City of Edinburg on March 1, 2016, it should not be awarded points for being in the
Lopezville CDP.

*Response:* The competitors' argument ignores the fact that the prior determinations they cite were made in different circumstances, with a different body of rules. Those rules did not contain Section 10.2(d), which expressly requires that TDHCA utilize census data as of October 1, 2015, and disregard more current data, for making its determinations.

• The competitors argue that Section 10.2(d) should not apply because the underserved area points are not dependent upon data, they are dependent upon definition.

Response: A Census Designated Place cannot be defined as such without the use of data.

Discussion: The competitors are correct that Section 10.2(d) requires TDHCA to utilize the most current data available as of October 1, 2015, and the availability of more current data shall generally be disregarded. However, data and the definition of statistical entities are inextricably linked, as shown in the last sentence of Section 10.2(d). That sentence states that, when determining whether a Development site has an urban or rural designation, the Census Bureau's

TIGER shape files applicable to the dataset should be used. This shows the link between data and definitions. Further, as noted above, the Manual states: "If a potential CDP meets the required minimum population size it qualifies as a CDP and the Census Bureau includes it in its data tabulations and publications." Data is utilized to establish a CDP. By definition, a CDP cannot be determined as such unless the data supports such designation. And, as noted by the Census Bureau employee cited by the competitors, the TIGER boundaries provide the most upto-date information as to how a CDP has been defined.

TDHCA staff correctly determined: "For this issue, the most current data available as of October 1, 2015, is that included in the 2016 HTC Site Demographic Characteristics Report posted on the Department's website, which includes the Lopezville CDP, and the boundary map of the Lopezville CDP found on the website of the U.S. Census Bureau, which shows that the development site is located in the Lopezville CDP."

In conclusion, the competitors' arguments simply cannot support overturning the Executive Director's determination.

#### **Other Legal Matters**

In addition to the support set forth above, it should be noted that the QAP and Rules do not support overturning the Executive Director's determination for this application.

• Neither competitor submitted new, material information in its Third Party Request for Administrative Deficiency.

The Third Party Request for Administrative Deficiency process has a specific scope. Section 11.10 of the QAP states:

#### §11.10. Third Party Request for Administrative Deficiency for Competitive HTC Applications.

The purpose of the Third Party Request for Administrative Deficiency process is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention. Such Person may request the staff to consider whether a matter in an Application in which the Person has no involvement should be the subject of an Administrative Deficiency. Staff will consider the request and proceed as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. As a practical consideration, the Department expects that such requests be received by June 1. Requests made after this date may not be reviewed by staff. Requestors must provide, at the time of filing the challenge, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered.

TDHCA July 11, 2016 Page 6

The competitors did not bring new, material information to TDHCA. The fact that the Development site was in the Lopezville CDP and had been annexed into the City of Edinburg was known to TDHCA staff and disclosed in the original application. The competitors, and subsequently Coats Rose, were simply arguing about an issue that had already been addressed by staff. Competitors may not use the Third Party Request for Administrative Deficiency process to argue a legitimate staff determination.

• Competitors may not appeal a determination with regard to another applicant.

Further, if TDHCA's Board now decides that the Executive Director acted inappropriately in granting the Applicant's appeal, it would be based upon the appeal of a competitor, which is not permitted under the Rules. Section 10.902(b) expressly states:

An Applicant or Development Owner may not appeal a decision made regarding an Application filed by or an issue related to another Applicant or Development Owner.

TDHCA staff submitted its determinations on Third Party Request for Administrative Deficiencies to the Board as a report item, just as it has done in years past with challenges. Absent testimony from competitors, the Board would not have given this matter any further consideration. Witness other applicants that were not brought to this level of scrutiny because their competitors and opponents did not testify on June 30. We are not aware of any precedent in which the Board has allowed a competitor to successfully appeal another application.

Further, we are not aware of any precedent where a competitor or the Board has overturned an appeal properly granted by the Executive Director. Section 10.902 of the Rules allows the Board to hear an appeal if the applicant is not satisfied with the decision of the Executive Director. If the applicant is satisfied with the decision of the Executive Director, the Rules do not provide for another layer of review. In this case, the Applicant is satisfied with the determination of the Executive Director in the appeal. To maintain the integrity of the QAP, the Rules, and the process, the Executive Director's determination on this appeal must be upheld.

Sincerely,

Cynthia L. Bast

Cypethia L'Bast

TDHCA July 11, 2016 Page 7

cc: Madhouse Development Services

Exhibit A – Email correspondence with United States Census Bureau Exhibit B – Email correspondence from Edinburg City Manager

### Exhibit A

Email correspondence with United States Census Bureau

From: Charles S Spicer II (CENSUS/GEO FED) [mailto:charles.s.spicer.ii@census.gov]

**Sent:** Friday, July 01, 2016 9:48 AM

To: Henry Flores Sr. < henry@madhousedevelopment.net >

**Subject:** CDPs

CDPs are delineated through the Participant Statistical Areas Program (PSAP), which is conducted in the years prior to a decennial census. We are currently in the planning stages of the 2020 PSAP implementation. We will reach out to local officials for input on the current census tracts, census block groups, census county divisions, and census designated places (CDPs), to provide the opportunity to update current boundaries, and create new entities.

We have not made any announcements for the 2020 PSAP yet, but the 2020 program will be almost identical to 2010. Here are some links to existing 2010 documentation: <a href="http://www.census.gov/geo/partnerships/psap\_overview.html">http://www.census.gov/geo/partnerships/psap\_overview.html</a>

http://www.census.gov/geo/reference/frn.html

#### **Charles Spicer**

Geographer
Federal Geographic Coordination Branch
Geography Division
U.S. Census Bureau
Office 301.763.9283
charles.s.spicer.ii@census.gov

### Exhibit B

Email correspondence from Edinburg City Manager

From: Rene Ramirez [mailto:rene@texaspathfinder.com]

**Sent:** Thursday, June 30, 2016 1:15 PM

**To:** Henry Flores Sr. < <a href="mailto:henry@madhousedevelopment.net">henry@madhousedevelopment.net</a>>

**Subject:** Fwd: Requested Statement

Begin forwarded message:

**From:** Richard Hinojosa < <a href="mailto:rhinojosa@cityofedinburg.com">rhinojosa@cityofedinburg.com</a>>

Date: June 30, 2016 at 1:09:46 PM CDT

**To:** Rene Ramirez < <a href="mailto:rene@texaspathfinder.com">rene@texaspathfinder.com</a> <a href="mailto:cen">Cc: "J.R. Betancourt CPA" < <a href="mailto:jrb@betancourt-cpa.com">jrb@betancourt-cpa.com</a> <a href="mailto:rene@texaspathfinder.com">rene@texaspathfinder.com</a> <a href="mailto:rene@texaspathfinder.com">rene@texaspathfinder.com</a> <a href="mailto:rene@texaspathfinder.com">rene@texaspathfinder.com</a> <a href="mailto:cen">rene@texaspathfinder.com</a> <a href="mailto:rene@texaspathfinder.com">rene@texaspathfinder.com</a> <a href="mail

**Subject: Requested Statement** 

Good Afternoon Rene:

Here is the Statement that you requested.

"The standard annual filing of the City of Edinburg's Boundary Annexation Survey (BAS) to the Census Bureau occurs each year on December. The property referenced was part of Ordinance No. 2013-3694 dated December 10, 2013 annexing approximately 2281.65 acres into the boundary limits of the City of Edinburg. As part of our annual procedure, the City of Edinburg notified the Census Bureau of the annexation on February 2015."

Should you need any additional information, please advise.

Thanks.

#### Richard M. Hinojosa

City Manager

415 W. University Drive Edinburg, Texas 78541 (956) 388-8207 O - (956) 388-8989 F rhinojosa@cityofedinburg.com www.cityofedinburg.com

- -

# 16380 Sierra Vista

TEX. GOV'T CODE \$2306.6715(b) provides "[A]n applicant may not appeal a decision made under Section 2306.6710 regarding an application filed by another applicant." These materials were provided by another applicant for the apparent purpose of providing their perspective for the Board to consider as it decides whether to make any decision on a matter that is under TEX. GOV'T CODE \$2306.6710. Staff has already made its decision on these matters.



BARRY J. PALMER

bpalmer@coatsrose.com Direct Dial (713) 653-7395 Direct Fax (713) 890-3944

July 6, 2016

Chairman J. Paul Oxer and Board Members Texas Department of Housing and Community Affairs 221 East 11<sup>th</sup> Street Austin, Texas 78701-2410

RE: #16380; Sierra Vista, Lopezville CDP/Edinburg, Hidalgo County, Texas; Issues concerning definition of a "Place" and specifically a "Census Designated Place."

Dear Chairman Oxer and Board Members:

In connection with the issue of whether Sierra Vista qualifies for points as an "Underserved Area" under §11.9(c)(6)(C), the critical points are as follows:

- 1. Points are available for a Place that has never received a tax credit award for the same Target Population.
- 2. The operative word is "Place" which §10.3(a)(93) of the 2016 Rules defines as being an area defined as a "Place" by the U.S. Census Bureau.
- 3. Per the U.S. Census Bureau, a Place may be an "Incorporated Place" or a "Census Designated Place" ("CDP") (see Exhibit A).
- 4. Per the U.S. Census Bureau, a CDP may not be located within an Incorporated Place (See Exhibit B).
- 5. Census maps do not define a CDP they only locate areas that met the definition of a CDP at the time of the 2010 Census. Meeting the definition of a "Place" is a threshold requirement to qualify for the points under §11.9(c)(6)(C).
- 6. The fact that a site was located within a CDP in 2010 does not mean it still meets the Census Bureau's definition of a CDP, and therefore a "Place."
- 7. If the TDHCA accepts evidence of annexation to show that a site is currently within an incorporated municipality (i.e., an "Incorporated Place") for the purpose of determining whether the application has appropriate support resolutions and financial support, then the U.S. Census Bureau's <u>definition</u> of CDP excludes that site.
- 8. The following eight point items rely at least in part upon whether a site lies within a Place on March 1st: §11.9(c)(1) [Income Levels]; §11.9(c)(2)(A) [Rent Levels]; §11.9(c)(4) [Opportunity Index]; §11.9(c)(6) [Underserved Areas]; §11.9(c)(7) [Special Needs];

9 Greenway Plaza, Suite 1100 Houston, Texas 77046-0307
Phone: 713-651-0111 Fax: 713-651-0220
Web: www.coatsrose.com

- §11.9(d)(1) [Local Government Support]; §11.9(d)(2) [Local Political Subdivision Funding]; and §11.9(d)(7(A) [Revitalization Plan]. Sierra Vista claimed and received points for all but the last point item. It is decidedly inconsistent to treat only one of these eight point items as being ruled by the 2010 census maps.
- 9. If the TDHCA determines that §11.9(c)(6)(C) is controlled by the 2010 census map included in Sierra Vista's application [which would be contrary to precedent established by the Board in connection with Casa Alton (#07302) See Exhibit C], then that map should also be used to determine the site's location for the other point items in issue. The map shows the site as being in the Edinburg ETJ, and not within the City itself. This will affect points claimed by the applicant under six of the referenced point items particularly those items which require governmental resolutions to qualify for the points.

Given (a) the long-established precedent provided by the 2007 TDHCA Board [which to our knowledge has not been abrogated to this point - See Exhibit C]; (b) the logical consistency of either applying evidence of annexation for all purposes, or for no purpose; and (c) the inappropriate outcome of permitting the Sierra Vista site to qualify as an Underserved Area given the number of current tax credit developments serving the same area [See Exhibits D and E]; we respectfully request that the Board deny Sierra Vista the two points for being in an Underserved Area because it is, in actuality, within an Incorporated Place (the City of Edinburg) which already has 12 active tax credit developments serving the General Population.

Very truly yours,

Barry J. Palmer

Enclosures: Exhibits A-E

cc: Tim Irvine

Marni Holloway Sharon Gamble Donna Rickenbacker Mark Musemeche

# **EXHIBIT A**

2010 Census Summary File 1

Definition of "Place" - Page A-21

# 2010 Census Summary File 1

Issued September 2012

2010 Census of Population and Housing

SF1/10-4 (RV)

### **Technical Documentation**

USCENSU USCENSU USCENSU USCENSU USCENSU USCENSU USCENSUS



**U.S. Department of Commerce** 

Rebecca M. Blank, Acting Secretary

Rebecca M. Blank, Deputy Secretary

**Economics and Statistics Administration** 

Vacant

Under Secretary for Economic Affairs

**U.S. CENSUS BUREAU** 

Thomas L. Mesenbourg, Acting Director

#### SUGGESTED CITATION

2010 Census Summary File 1— (name of state or United States) [machine-readable data files]/

prepared by the U.S. Census Bureau, 2011.

TECHNICAL DOCUMENTATION: 2010 Census Summary File 1— Technical Documentation/prepared by the U.S. Census Bureau, Revised 2012.



#### **Economics** and Statistics Administration

#### Vacant,

**Under Secretary for Economic Affairs** 



#### **U.S. CENSUS BUREAU**

Thomas L. Mesenbourg,

**Acting Director** 

Nancy A. Potok, Deputy Director and **Chief Operating Officer** 

Frank A. Vitrano,

Acting Associate Director for Decennial Census

Enrique J. Lamas,

Associate Director for Demographic Programs

Brian Monaghan,

Acting Associate Director for Field Operations

address-based MAF and geographic TIGER® databases merged to form MAF/TIGER. The content of the MAF/TIGER database is undergoing continuous updates and is made available to the public through a variety of TIGER/Line® shapefiles.

#### PLACE

**Incorporated Places** are those reported to the Census Bureau as legally in existence as of January 1, 2010, as reported in the latest Boundary and Annexation Survey (BAS), under the laws of their respective states. An incorporated place is established to provide governmental functions for a concentration of people as opposed to a minor civil division, which generally is created to provide services or administer an area without regard, necessarily, to population. Places always are within a single state or equivalent entity, but may extend across county and county subdivision boundaries. An incorporated place usually is a city, town, village, or borough, but can have other legal descriptions. For Census Bureau data tabulation and presentation purposes, incorporated places exclude:

- Boroughs in Alaska (treated as statistical equivalents of counties)
- Towns in the New England states, New York, and Wisconsin (treated as MCDs)
- Boroughs in New York (treated as MCDs)

**Census Designated Places (CDPs)** are the statistical counterparts of incorporated places, and are delineated to provide data for settled concentrations of population that are identifiable by name but are not legally incorporated under the laws of the state in which they are located. The boundaries usually are defined in cooperation with local or tribal officials and generally updated prior to each decennial census. These boundaries, which usually coincide with visible features or the boundary of an adjacent incorporated place or another legal entity boundary, have no legal status, nor do these places have officials elected to serve traditional municipal functions. CDP boundaries may change from one decennial census to the next with changes in the settlement pattern; a CDP with the same name as in an earlier census does not necessarily have the same boundary. CDPs must be contained within a single state and may not extend into an incorporated place. There are no population size requirements for CDPs.

Hawaii is the only state that has no incorporated places recognized by the Census Bureau. All places shown in decennial census data products for Hawaii are CDPs. By agreement with the state of Hawaii, the Census Bureau does not show data separately for the city of Honolulu, which is coextensive with Honolulu County. In Puerto Rico, which also does not have incorporated places, the Census Bureau recognizes only CDPs and refers to them as comunidades or zonas urbanas. Guam also has only CDPs.

**Place Codes** are of two types. The five-digit Federal Information Processing Series (FIPS) place code is assigned based on alphabetical sequence within a state. If place names are duplicated within a state and they represent distinctly different areas, a separate code is assigned to each place name alphabetically by the primary county in which each place is located, or if both places are in the same county, they are assigned alphabetically by their legal descriptions (for example, "city" before "village"). Places also are assigned an eight-digit National Standard (ANSI) code.

Dependent and Independent Places refers to the relationship of places to the county subdivisions. Depending on the state, incorporated places are either dependent within, or independent of, county subdivisions, or there is a mixture of dependent and independent places in the state and in a county. Dependent places are part of the county subdivision; the county subdivision code of the place is the same as that of the underlying county subdivision(s) but is different from the place code. Independent places are not part of any minor civil division (MCD) and serve as primary county subdivisions. The independent place FIPS code usually is the same as that used for the MCD for the place. The only exception is if the place is independent of the MCDs in a state (lowa, Louisiana, Maryland, Nebraska, North Carolina, and Virginia) in which the FIPS MCD codes are in the 90000 range. Then, the FIPS MCD and FIPS place codes will differ. CDPs always are dependent within county subdivisions and all places are dependent within statistical county subdivisions.

**Consolidated City (Balance) Portions** refer to the areas of a consolidated city not included in another separately incorporated place. For example, Butte-Silver Bow, MT, is a consolidated city (former Butte city and Silver Bow County) that includes the separately incorporated municipality of Walkerville city. The area of the consolidated city that is not in Walkerville city is assigned to Butte-Silver Bow (balance). The name of the area of a consolidated city not specifically within a separately incorporated place always includes the "(balance)" identifier. Balance portions of consolidated cities are included with other places in Census Bureau products.

#### POPULATION AND HOUSING UNIT DENSITY

Population and housing unit density are computed by dividing the total population or number of housing units within a geographic entity by the land area of that entity measured in square miles or in square kilometers. Density is expressed as "population per square mile (kilometer)" or "housing units per square mile (kilometer)."

### **PUBLIC USE MICRODATA AREAS**

**Public Use Microdata Areas (PUMAs)** are geographic areas for which the Census Bureau provides selected extracts of raw data from a small sample of census records that are screened to protect confidentiality. These extracts are referred to as public use microdata sample (PUMS) files.

For the 2010 Census, each state, the District of Columbia, Puerto Rico, and some Island Area participants delineated PUMAs for use in presenting PUMS data based on a 5 percent sample of decennial census or American Community Survey data. These areas are required to contain at least 100,000 people. This is different from Census 2000 when two types of PUMAs were defined: a 5 percent PUMA as for 2010 and an additional super-PUMA designed to provide a 1 percent sample. The PUMAs are identified by a five-digit census code unique within state.

#### **PUERTO RICO**

The Census Bureau treats the Commonwealth of Puerto Rico as the statistical equivalent of a state for data presentation purposes.

#### Municipio

The primary legal divisions of Puerto Rico are termed "municipios." For data presentation purposes, the Census Bureau treats a municipio as the equivalent of a county in the United States.

### Barrio, Barrio-Pueblo, and Subbarrio

The Census Bureau recognizes barrios and barrios-pueblo as the primary legal divisions of municipios. These entities are similar to the minor civil divisions (MCDs) used for reporting data in 29 states of the United States. Subbarrios in 23 municipios are the primary legal subdivisions of the barrios-pueblo and some barrios. The Census Bureau presents the same types of statistical data for these subminor civil divisions (sub-MCDs) as it does for the barrios and barrios-pueblo. (There is no geographic entity in the United States equivalent to the subbarrio.)

#### Zona Urbana and Comunidad

There are no incorporated places in Puerto Rico; instead, the Census Bureau provides data for two types of census designated places (CDPs): zonas urbanas, representing the governmental center of each municipio, and comunidades, representing other settlements. There are no minimum population size requirements for zonas urbanas and comunidades.

Some types of geographic entities do not apply in Puerto Rico. For instance, Puerto Rico is not in any census region or census division (see also "Congressional District").

# **EXHIBIT B**

# Letter from U.S. Census Bureau



July 6, 2016

Dear Mr. Musemeche,

In response to your questions about Census Designated Places (CDPs) in Texas, CDPs are created by the Census Bureau for unincorporated areas where local, place-based demographic characteristics are desired. By definition, CDPs can only exist outside of incorporated places. If a nearby city or town annexes land that is part of a CDP, that land is removed from CDP status.

As you are aware, cities and towns may annex land at any time. The Census Bureau conducts the Boundary and Annexation Survey (BAS) once a year with a deadline of May 31<sup>st</sup> to address these changes. Submissions received after this date may not be reflected in the next years' BAS. Census maps therefore may not show the latest boundaries of incorporated places and affected CDPs. Despite the ambiguity created by the delay in reflecting changes in status on Census Bureau maps, a single tract of land can only be one or the other: CDP or incorporated place. It cannot be both at the same time.

Further, CDPs are not statutory, they are statistical entities defined and created by the Census Bureau with occasional input from State & County governments. While many federal programs make use of data for CDPs, their definition is not required by legislation. The Census Bureau does publish the CDP definition criteria every 10 years in the federal register and allows for public comment. Be aware, the CDP definition has changed slightly over the years. The latest CDP criteria as shown in the federal register can be found here:

http://www2.census.gov/geo/pdfs/reference/fedreg/cdp\_criteria.pdf

If you should have any further questions about Census Designated Places, please contact me at the phone or email address below.

Jim Castagneri

Geographer
U.S. Census Bureau

6950 W Jefferson Ave, Suite 250

Denver, CO 80235 720-972-3882

James.d.castagneri@census.gov



#### Environmental Impact

These final additions to Forest Service Manual (FSM) 2070 would address the use of native plant materials in revegetation, rehabilitation, and restoration projects; and when nonnative, noninvasive species may be used. Section 31.1b of Forest Service Handbook (FSH) 1909.15 (57 FR 43168; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instruction." The Agency's preliminary assessment is that this final action falls within this category of actions, and that no extraordinary circumstances exist as currently defined which would require preparation of an environmental impact statement or environmental assessment. A final determination will be made upon adoption of the final directive.

#### Federalism

The agency has considered this final directive under the requirements of Executive Order 13132 (August 4, 1999) on federalism. The agency has made an assessment that the final directive conforms with the federalism principles set out in this executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency concludes that the final directive does not have federalism implications.

#### Consultation and Coordination With Indian Tribal Governments

This final directive has been reviewed under Executive Order 13175 (November 6, 2000) on consultation and coordination with Indian tribal governments. This final directive does not have substantial direct effects on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. Nor does this final directive impose substantial direct compliance costs on Indian tribal governments or preempt tribal law. Therefore, it has been determined that this final directive does not have tribal implications requiring advance consultation with Indian tribes.

#### No Takings Implications

This final directive has been analyzed in accordance with the principles and criteria contained in Executive Order 12630 (March 15, 1998) on governmental actions and interference with constitutionally protected property rights. It has been determined that the final directive does not pose the risk of a taking of constitutionally protected private property.

#### Civil Justice Reform Act

This final action has been reviewed under Executive Order 12988 (February 7, 1996) on civil justice reform. If this final directive were adopted: (1) All State and local laws and regulations that are in conflict with this final directive or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this final directive; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

#### Energy Effects

This final directive has been reviewed under Executive Order 13211 (May 18, 2001) on actions concerning regulations that significantly affect energy supply, distribution, or use. It has been determined that this final directive does not constitute a significant energy action as defined in the Executive Order.

# Controlling Paperwork Burdens on the Public

This final directive does not contain any additional recordkeeping or reporting requirements associated with onshore oil and gas exploration and development or other information collection requirements as defined in Title 5 Code of Federal Regulations (CFR), part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: February 7, 2008.

#### Abigail R. Kimbell,

Chief.

[FR Doc. E8-2659 Filed 2-12-08; 8:45 am] BILLING CODE 3410-11-P

#### **DEPARTMENT OF COMMERCE**

#### **Bureau of the Census**

[Docket Number 070104002-7796-02]

# Census Designated Place (CDP) Program for the 2010 Census—Final Criteria

**AGENCY:** Bureau of the Census, Commerce.

**ACTION:** Notice of final criteria and program implementation.

SUMMARY: This Notice announces the Bureau of the Census' (Census Bureau's) final criteria for defining census designated places (CDPs) for the 2010 Census. CDPs¹ are statistical geographic entities representing closely settled, unincorporated communities that are locally recognized and identified by name. They are the statistical equivalents of incorporated places, with the primary differences being the lack of both a legally-defined boundary and an active, functioning governmental structure, chartered by the state and administered by elected officials. CDPs defined for the 2010 Census also will be used to tabulate American Community Survey, Puerto Rico Community Survey, Economic Census data after 2010, and potentially data from other Census Bureau censuses and surveys.

In addition to providing final criteria for CDPs, this Notice also contains a summary of comments received in response to proposed criteria published in the April 6, 2007, Federal Register (72 FR 17326), as well as the Census Bureau's response to those comments. DATES: This notice's final criteria will be effective on February 13, 2008.

FOR FURTHER INFORMATION CONTACT: The Geographic Standards and Criteria Branch, Geography Division, U.S. Census Bureau, via e-mail at geo.psap.list@census.gov or telephone at 301–763–3056.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

The CDP concept and delineation criteria have evolved over the past five decades in response to data user needs for place-level data. This evolution has taken into account differences in the way in which places were perceived, and the propensity for places to incorporate in various states. The result, over time, has been an increase in the number and types of unincorporated communities identified as CDPs, as well as increasing consistency in the relationship between the CDP concept

<sup>&</sup>lt;sup>1</sup> The term CDP includes comunidades and zonas urbanas in Puerto Rico.

and the kinds of places encompassed by the incorporated place category, or a compromise between localized perceptions of place and a concept that would be familiar to data users throughout the United States, Puerto Rico, and the Island Areas.

Although not as numerous as incorporated places or municipalities,2 CDPs have been important geographic entities since their introduction for the 1950 Census. (CDPs were referred to as "unincorporated places" from 1950 through the 1970 decennial censuses.) For the 1950 Census, CDPs were defined only outside urbanized areas and were required to have at least 1,000 residents. For the 1960 Census, CDPs could also be identified inside urbanized areas outside of New England, but these were required to have at least 10,000 residents. The Census Bureau modified the population threshold within urbanized areas to 5,000 in 1970. allowed for CDPs in urbanized areas in New England in 1980, and lowered the urbanized area threshold again to 2,500 in 1990. In time, other population thresholds were adopted for identification of CDPs in Alaska, as well as in Puerto Rico, the Island Areas, and on American Indian reservations, The Census Bureau eliminated all population threshold requirements for Census 2000, achieving consistency between CDPs and incorporated places, for which the Census Bureau historically has published data without regard to population size.

According to Census 2000, more than 35 million people in the United States,<sup>3</sup> Puerto Rico, and the Island Areas <sup>4</sup> lived in CDPs. The relative importance of CDPs varies from state-to-state depending on laws governing municipal incorporation and annexation, but also depending on local preferences and attitudes regarding the identification of

places.

#### II. Summary of Comments Received in Response to Proposed Criteria

The April 6, 2007, **Federal Register** (72 FR 17326) notice requested comment on proposed criteria for CDPs. Specific proposed changes to the Census 2000 included:

 Requiring each CDP to contain, at a minimum, some population or housing;

• Eliminating the ability to delineate CDPs that were coextensive with governmental minor civil divisions (MCDs) in the six New England States, Michigan, Minnesota, New Jersey, New York, Pennsylvania, and Wisconsin;

 Eliminating the use of hyphenated names for CDPs, except in situations in which two or more communities have grown together and share a common

identity.

The Census Bureau received ten comments related to CDPs. Two commenters expressed general support for the proposed criteria. Two commenters (both from townships in New Jersey) opposed elimination of CDPs. It was unclear from their comments whether they mistook the Census Bureau's question regarding continued identification of census county divisions as applying to CDPs, or whether their comments were offered in response to a separate inquiry from a township in New Jersey to treat townships as places within the Census Bureau's geographic area hierarchy. Treatment of townships as places would result in the elimination of small CDPs defined to represent closely settled communities within townships. Due to the lack of information, the Census Bureau did not make any changes to the criteria.

The Nevada State Demographers' office commented on the characterization of CDPs as unincorporated communities lacking legally described boundaries, noting that many CDPs in Nevada are designated as "special taxation areas" and as such have legally described boundaries. 5 Nevertheless, the Census Bureau notes that Nevada's CDPs are not incorporated as municipalities in the same sense as cities in that state, and therefore it is still appropriate to identify Nevada's special taxation areas as CDPs. The Census Bureau will attempt to provide greater detail in its documentation and geographic attributes describing the various kinds of communities identified as CDPs.

The Census Bureau received two comments related specifically to the proposal to reduce the number of instances in which places were combined to form a single CDP and related use of hyphenated names. Both commenters were from California, and each noted the negative impact this proposed criterion might have on the accurate depiction of unincorporated communities in California. Both agreed

with the criterion in principle, but requested that the Census Bureau clarify when it is acceptable for multiple communities to be defined as a single CDP (for instance, when two communities have grown together to the extent that it is difficult to discern where one ends and the other begins) and when it is not. The example of Arden-Arcade, California, was cited, noting that the identities of these once separate places have become so intertwined that it is more common to hear them referred to together, rather than apart. The Census Bureau agrees with this comment and will clarify in both published criteria and program guidelines when it is acceptable for multiple communities to be defined as a single CDP. Multiple communities may only be combined to form a single CDP when the identities of these communities have become so intertwined that the communities are commonly perceived and referenced as a single place, or when there is no distinguishable or suitable feature in the landscape that can be used as a boundary between the communities.

The Census Bureau received three comments related to the proposal to no longer allow CDPs in Connecticut, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin to be defined as coextensive with governmentally active MCDs. Each of the three commenters had extensive experience working with and analyzing statistical data for places, MCDs, and other census geographic areas. One of the commenters supported the proposal. Two of the commenters did not support the proposal, noting that CDPs that are coextensive with governmentally active MCDs represent a relatively small proportion of all CDPs and MCDs; therefore, the creation of coextensive, "whole-town" CDPs does not represent a substantial problem. Both commenters noted that since "place" is in general a rather nuanced concept, with different meanings to different people, the Census Bureau should not be overly restrictive in how it applies its CDP concept in areas of the United States, such as the Northeast and Midwest in which residents commonly perceive MCDs to be places in the same sense that residents of other parts of the country use the term "place." They concluded that if the goal of the proposal was to eliminate redundancy in place-based data tables for these 12 states, then that goal could be accomplished within the data tabulation program without requiring

<sup>&</sup>lt;sup>2</sup> Known by various terms throughout the United States: cities, towns (except in the six New England States, New York, and Wisconsin), villages, and boroughs (except in New York and Alaska).

<sup>&</sup>lt;sup>3</sup> For Census Bureau purposes, the United States includes the fifty states and the District of Columbia.

<sup>&</sup>lt;sup>4</sup>For Census Bureau purposes, the Island Areas includes the U.S. Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. There are no CDPs in American Samoa because villages cover its entire territory and population.

<sup>&</sup>lt;sup>5</sup> CDPs in Hawaii and zonas urbanas in Puerto Rico also have legally described boundaries.

modifications to geographic area criteria. The Census Bureau agrees that the elimination of redundant data should be accomplished through changes in the way in which place-level data tables are prepared rather than through changes to the CDP criteria. Therefore, the Census Bureau will review the way in which it presents data for places and MCDs in the states listed above, and seek to eliminate redundancy in place-level data tables through changes in data tabulation policy and procedures.

# Changes to the Criteria From the Proposed Rule

The changes made to the final criteria (from the proposed criteria) in "Section II, Census Designated Place Criteria and Characteristics for the 2010 Census," are as follows:

- 1. Section II, "Census Designated Place Criteria and Characteristics for the 2010 Census," in the introductory paragraph to this section, removed the reference to American Indian reservations and off-reservation trust lands in the first sentence because these areas are, by definition, within the United States.
- 2. Section II, "Census Designated Place Criteria and Characteristics for the 2010 Census," added a second paragraph to subsection 1, in response to comments received to clarify the circumstances under which it would be appropriate to combine multiple places to form a single CDP with a hyphenated name. This paragraph provides specific examples of CDPs that encompass multiple communities and are appropriately identified with a hyphenated name. We also have provided several questions for program participants to consider when determining whether to combine multiple communities as a single CDP and how to identify the CDP by name.
- 3. Section II, "Census Designated Place Criteria and Characteristics for the 2010 Census," subsection 4. The Census Bureau deleted the criterion in subsection 4 of the proposed criteria, stating that a CDP may not be coextensive with governmentally functioning MCDs in the 12 "strong-MCD" states: Connecticut, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin. The goal of this proposal was to eliminate redundancy in selected place-level data tables for these states, in which data appear for both the MCD and the coextensive CDP of the same name (for example, Framingham, Massachusetts MCD and Framingham CDP). While this practice

occasionally creates confusion on the part of some data users, the number of CDPs that are coextensive with governmentally active MCDs represents a relatively small proportion of all CDPs and MCDs in these states. Further, the concept of "place" is nuanced and varies to some extent from one part of the country to another, and there are instances in which residents of an MCD identify it as a place, in the same sense as places are recognized throughout the country. Rather than adopt a restrictive criterion applicable to only a subset of states, we agreed with the commenters and concluded that the elimination of redundant data could be accomplished through changes in the way in which place-level data tables are prepared rather than through changes to the CDP criteria.

#### III. Census Designated Place Criteria and Characteristics for the 2010 Census

The criteria contained herein apply to the United States, Puerto Rico, and the Island Areas. In accordance with the final criteria, the Census Bureau may modify and, if necessary, reject any proposals for CDPs that do not meet the established criteria. In addition, the Census Bureau reserves the right to modify the boundaries and attributes of CDPs as needed to maintain geographic relationships before the final tabulation geography is set for the 2010 Census.

The Census Bureau will use the following criteria and characteristics to identify the areas that will qualify for designation as CDPs for use in tabulating data from the 2010 Census, the American Community Survey, the Puerto Rico Community Survey, the Economic Census, and potentially other Census Bureau censuses and surveys.

1. A CDP constitutes a single, closely settled center of population that is named. To the extent possible, individual unincorporated communities should be identified as separate CDPs. Similarly, a single community should be defined as a single CDP rather than multiple CDPs with each part referencing the community name and a directional term (i.e., north, south, east, or west). Since a CDP is defined to provide data for a single named locality, the Census Bureau does not encourage CDPs that comprise a combination of places or identified by hyphenated names. For example, CDPs such as Poplar-Cotton Center and Downieville-Lawson-Dumont are no longer acceptable. Communities were often combined as a single CDP in order to comply with the Census Bureau's minimum population requirements. The Census Bureau's elimination of population threshold criteria has made

such combinations unnecessary. Other communities were combined because visible features were not available for use as boundaries for separate CDPs. The Census Bureau's new policy to allow the use of some nonvisible boundaries so that participants can separate individual communities has dispensed with the need to have multiplace CDPs.

Multiple communities may only be combined to form a single CDP when the identities of these communities have become so intertwined that the communities are commonly perceived and referenced as a single place. For example, the communities of Arden and Arcade in California have grown together over time and residents commonly use the place name Arden-Arcade. Further, because of the intertwined identity, residents would have difficulty identifying a boundary between the separate, historical communities of Arden and Arcade. Multiple communities also may be defined as a single CDP when there is no distinguishable or suitable feature in the landscape that can be used as a boundary between the communities, even if the two communities still have separate identities. For example, the CDP of Ashton-Sandy Spring in Maryland encompasses two communities that still maintain separate identities in common, daily usage. The two communities, however, have grown together to such an extent that a clear break between the two communities is no longer identifiable in the landscape. In general, when considering whether to combine multiple communities as a single CDP, the following questions should be taken into account: Do residents commonly perceive and refer to the communities as a single entity? Are there landscape elements, such as signs, that use a hyphenated name for the community? Can residents or other knowledgeable individuals identify clear, commonly accepted boundaries for the individual communities?

2. A CDP generally consists of a contiguous cluster of census blocks comprising a single piece of territory and containing a mix of residential and commercial uses similar to that of an incorporated place of similar size. Some CDPs, however, may be predominantly residential; such places should represent recognizably distinct, locally known communities, but not typical suburban subdivisions. Examples of such predominantly residential communities that can be recognized as CDPs are colonias found along the United States-Mexico border, small rural communities, and unincorporated resort and retirement communities.

3. A CDP may not be located, either partially or entirely, within an incorporated place or another CDP.

4. Ā CDP may be located in more than one county but must not cross state boundaries. It is important to note, however, that since county boundaries provide important demarcations for communities, CDPs that cross county lines should be kept to a minimum and identified only when the community clearly sees itself existing on both sides

of a county boundary.

5. There are no minimum population or housing unit thresholds for defining CDPs; however, a CDP must contain some population or housing units or both. The Census Bureau recognizes that some communities, such as a resort or other kinds of seasonal communities, may lack population at certain times of the year. Nevertheless, there should be some evidence, generally in the form of houses, barracks, dormitories, commercial buildings and/or other structures, providing the basis for local perception of the place's existence. For the 2010 Census, the Census Bureau will not accept a CDP delineated with zero population and zero housing units. The Census Bureau will review the number of housing units within the place, as reported in the previous decennial census, and consider whether additional information is needed before recognizing the CDP. Participants submitting boundaries for places with less than ten housing units may be asked to provide additional information

attesting to the existence of the CDP. 6. CDP boundaries should follow visible features, except in those circumstances when a CDP's boundary is coincident with the nonvisible boundary of a state, county, MCD (in the six New England states, Michigan, Minnesota, New Jersey, New York, Pennsylvania, and Wisconsin), or incorporated place. CDP boundaries may follow other nonvisible features in instances where reliance upon visible features will result in overbounding of the CDP in order to include housing units on both sides of a road or street feature. Such boundaries might include parcel boundaries and public land survey system lines; fence lines; national, state, or local park boundaries; ridgelines; or drainage ditches.

7. The CDP name should be one that is recognized and used in daily communication by the residents of the community. Because unincorporated communities generally lack legally defined boundaries, a commonly used community name and the geographic extent of its use by local residents is often the best identifier of the extent of a place, the assumption being that if

residents associate with a particular name and use it to identify the place in which they live, then the CDP's boundaries can be mapped based on the use of the name. There should be features in the landscape that use the name, such that a non-resident would have a general sense of the location or extent of the community; for example, signs indicating when one is entering the community; highway exit signs that use the name; or businesses, schools, or other buildings that make use of the name. It should not be a name developed solely for planning or other purposes (including simply to obtain data from the Census Bureau) that is not in regular daily use by the local residents and business establishments.

8. A CDP may not have the same name as an adjacent or nearby incorporated place. If the community does not have a name that distinguishes it from other nearby communities, then the community is not a distinct place. The use of directional terms ("north," "south," "east," "west," and so forth) to differentiate the name of a CDP from a nearby municipality where this name is not in local use is not acceptable. For example, the name "North Laurel" would be permitted if this name were in local use. The name "Laurel North" would not be permitted if it were not in local use. Again, this has much to do with the way in which people typically refer to the places in which they live. It is permissible to change the name of a 2000 CDP for the 2010 Census if the new name provides a better identification of the community.

#### IV. Definitions of Key Terms

Alaska Native regional corporation (ANRC)—A corporate geographic area established under the Alaska Native Claims Settlement Act (Public Law 92–203) to conduct both the business and nonprofit affairs of Alaska Natives. Twelve ANRCs cover the state of Alaska, except for the Annette Island Reserve.

American Indian reservation (AIR)—A federally recognized American Indian land area with boundaries established by final treaty, statute, executive order, and/or court order, and over which a federally recognized American Indian tribal government has governmental authority. Along with reservations, designations such as colonies, communities, pueblos, rancherias, and reserves apply to AIRs.

Census block—A geographic area bounded by visible and/or invisible features shown on a map prepared by the Census Bureau. A block is the smallest geographic entity for which the Census Bureau tabulates decennial census data.

Coextensive—Descriptive of two or more geographic entities that cover exactly the same area, with all boundaries shared.

Comunidad—A census designated place in Puerto Rico that is not related to a municipio's seat of government, called an aldea or a ciudad prior to the 1990 Census.

Contiguous—Descriptive of geographic areas that are adjacent to one another, sharing either a common boundary or point of contact.

Housing unit—A house, an apartment, a mobile home or trailer, or a group of rooms or a single room occupied as a separate living quarter or, if vacant, intended for occupancy as a separate living quarter. Separate living quarters are those in which the occupants live and eat separately from any other residents of the building and which have direct access from outside the building or through a common hall.

Incorporated place—A type of governmental unit established to provide governmental services for a concentration of people within legally prescribed boundaries, incorporated under state law as a city, town (except in New England, New York, and Wisconsin), borough (except in Alaska and New York), village, or other description.

Island areas—An entity, other than a state or the District of Columbia, under the jurisdiction of the United States. For the 2010 Census, these will include American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and several small islands in the Caribbean Sea and the Pacific Ocean. The Census Bureau treats each Island Territory as the statistical equivalent of a state.

Minor civil division—The primary governmental or administrative division of a county in 28 states, Puerto Rico, and the Island Areas having legal boundaries, names, and descriptions. MCDs represent many different types of legal entities with a wide variety of characteristics, powers, and functions depending on the state and type of MCD. In some states, some or all of the incorporated places also constitute MCDs.

Municipio—A type of governmental unit that is the primary legal subdivision of Puerto Rico. The Census Bureau treats the municipio as the statistical equivalent of a county.

Nonvisible feature—A map feature that is not visible, such as a city or county boundary, a property line running through space, a short imaginary extension of a street or road, or a point-to-point line.

Statistical geographic entity—A geographic entity that is specially defined and delineated, such as block group, CDP, or census tract, so that the Census Bureau may tabulate data for it. Designation as a statistical entity neither conveys nor confers legal ownership, entitlement, or jurisdictional authority.

Urbanized area (UA)—An area consisting of a central place(s) and adjacent urban fringe that together have a minimum residential population of at least 50,000 people and generally an overall population density of at least 1,000 people per square mile. The Census Bureau uses published criteria to determine the qualification and boundaries of UAs at the time of each decennial census or from the results of a special census during the intercensal period.

Visible feature—A map feature that can be seen on the ground, such as a road, railroad track, major above-ground transmission line or pipeline, stream, shoreline, fence, sharply defined mountain ridge, or cliff. A nonstandard visible feature is a feature that may not be clearly defined on the ground (such as a ridge), may be seasonal (such as an intermittent stream), or may be relatively impermanent (such as a fence). The Census Bureau generally requests verification that nonstandard features pose no problem in their location during field work.

Zona urbana—In Puerto Rico, the settled area functioning as the seat of government for a municipio. A zona urbana cannot cross a municipio boundary.

#### Executive Order 12866

This notice has been determined to be not significant under Executive Order 12866.

Paperwork Reduction Act

This program notice does not represent a collection of information subject to the requirements of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

Dated: February 8, 2008.

Steve H. Murdock.

Director, Bureau of the Census. [FR Doc. E8–2667 Filed 2–12–08; 8:45 am] BILLING CODE 3510–07–P

#### **DEPARTMENT OF COMMERCE**

# International Trade Administration [A-570-890]

Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce. SUMMARY: In response to requests from interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("PRC"). The period of review ("POR") for this administrative review is January 1, 2006, through December 31, 2006. This administrative review covers multiple producers/exporters of the subject merchandise, three of which are being individually investigated as mandatory respondents. The Department is also conducting a new shipper review for an exporter/producer. The POR for the new shipper review is also January 1, 2006, through December 31, 2006.

We preliminarily determine that all three mandatory respondents in the administrative review made sales in the United States at prices below normal value ("NV"). With respect to the remaining respondents in the administrative review (herein after collectively referred to as the Separate-Rate Applicants), we preliminarily determine that 30 entities have provided sufficient evidence that they are separate from the state-controlled entity, and we have established a weightedaverage margin based on the rates we have calculated for the three mandatory respondents, excluding any rates that are zero, de minimis, or based entirely on adverse facts available, to be applied to these separate rate entities. In addition, we have determined to rescind the review with respect to three entities in this administrative review. See "Partial Rescission" section below. Further, we preliminarily determine that the remaining separate-rate applicants have not demonstrated that they are entitled to a separate rate, and will thus be considered part of the PRC entity. Finally, we preliminarily determine that the new shipper made sales in the United States at prices below normal value. If these preliminary results are adopted in our final results of review, we will instruct

U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. We intend to issue the final results of this review no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** February 13, 2008.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Hua Lu, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4474 and (202) 482–6478, respectively.

#### Background

On January 4, 2005, the Department published in the Federal Register the antidumping duty order on wooden bedroom furniture from the PRC. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China, 70 FR 329 (January 4, 2005). On January 3, 2007, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on wooden bedroom furniture from the PRC for the period January 1, 2006, through December 31, 2006. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review, 72 FR 99 (January 3, 2007). On March 7, 2007, the Department initiated the second administrative review of the antidumping duty order on wooden bedroom furniture from the PRC. See Notice of Initiation of Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China, 72 FR 10159 (March 7, 2007) ("Initiation Notice"). Additionally, on March 7, 2007, the Department initiated new shipper reviews of the order with respect to the following two companies: Golden Well International (HK), Ltd. ("Golden Well") and its supplier Zhangzhou XYM Furniture Product Co., Ltd. and Mei Jia Ju Furniture Industrial (Shenzhen) Co., Ltd. ("Mei Jia Ju"). See Notice of Initiation of New Shipper Reviews on Wooden Bedroom Furniture from the

# EXHIBIT C

# Letter Dated June 23, 2016 from Barry J. Palmer



BARRY J. PALMER

bpalmer@coatsrose.com Direct Dial (713) 653-7395 Direct Fax (713) 890-3944

June 23, 2016

By Email to tim.irvine@tdhca.state.tx.us

Tim Irvine, Executive Director Texas Department of Housing and Community Affairs 221 East 11<sup>th</sup> Street Austin, Texas 78701-2410

RE: #16380; Sierra Vista, Lopezville CDP/Edinburg, Hidalgo County, Texas; Issues concerning definition of a "Place" and specifically a "Census Designated Place."

#### Dear Tim:

I write to express concern regarding the TDHCA's apparent interpretation of exactly what constitutes a "Place" for purposes of awarding points for Underserved Areas under Section 11.9(c)(6)(C) of the 2016 QAP. Staff's recent uncertainty in following the requirements of the QAP and Rules on this matter raises concerns that the unambiguous requirements of the Rules and the TDHCA Board's previous determinations in similar situations are being disregarded, which will result in a miscarriage in awarding the 2016 Competitive Round tax credits.

I have been provided with copies of the TDHCA's letters sent on June 21, 2016 to Mark Musemeche and to Donna Rickenbacker in response to Third Party Deficiency Requests filed by each of them on March 28, 2016 and May 15, 2015, respectively. The manner in which these Deficiency Requests were handled demonstrates uncertainty which may result in what we believe to be a misinterpretation by Staff.

As you are aware, the QAP grants Underserved Area points if an applicant has a site located in a "Place" that has never received a tax credit allocation serving the same Target Population. MDS Housing Owasso, Ltd. (the "Applicant") claimed two points for Sierra Vista Apartments (the "Project") on the grounds that it is located in "Lopezville CDP/Edinburg" and Lopezville CDP has no tax credit allocations. The Applicant elected a General Target Population.

### Chronology of Requests and Responses.

• On March 28, 2016, MGroup Holdings, Inc. ("MGroup"), an affiliate of Mark Musemeche, submitted a Third Party Deficiency Request to the Department. Mr.

9 GREENWAY PLAZA, STE 1100, HOUSTON, TEXAS 77046
PHONE: (713) 651-0111 FAX: (713) 651-0220
Web: www.coatstosc.com

Musemeche pointed out that the Applicant's site was not in Lopezville CDP, having been annexed by the City of Edinburg as of December, 2013. Under the applicable definition of a Census Designated Place ("CDP"), the Project could no longer be considered to be located in a CDP and therefore did not qualify for the Underserved Area points claimed by the Applicant.

- On April 18, 2016, Sharon Gamble sent an Administrative Deficiency Notice to the Applicant requesting a response to the MGroup's Third Party Deficiency Request. Unfortunately, the Deficiency Notice from the Department incorrectly stated that the issue raised by MGroup was whether the Applicant's site was located in the "Lopezville ETJ" which was not the issue raised by the MGroup. It is clear that Lopezville is a CDP and does not include an ETJ.
- On April 25, 2016, the Applicant responded to the Deficiency Notice with a letter from Locke Lord claiming that the Applicant maintains that the location of its site is within both the City of Edinburg and the Lopezville CDP.
- On April 27, 2016, the MGroup received an email from Sharon Gamble stating that the
  Department had confirmed the Applicant's site was in the City of Edinburg, that the
  Project is therefore ineligible for the Underserved Area points, and that a scoring notice
  had been issued to the Applicant which was subject to appeal.
- On May 16, 2016, unaware of the MGroup challenge, Marque, an affiliate of Donna Rickenbacker, submitted a Third Party Deficiency Request to the Department also claiming that the Applicant's site was within the city limits of Edinburg and that the U.S. Census Bureau's definition of a CDP precludes a site from being located within both an incorporated place (i.e., the City of Edinburg) and an unincorporated CDP. The U.S. Census Bureau's definition of a Census Designated Place was provided by Marque in its Attachment II, and is shown here in its entirety:

Census Designated Places (CDPs) are the statistical counterparts of incorporated places, and are delineated to provide data for settled concentrations of population that are identifiable by name but are not legally incorporated under the laws of the state in which they are located. The boundaries usually are defined in cooperation with local or tribal officials and generally updated prior to each decennial census. These boundaries, which usually coincide with visible features or the boundary of an adjacent incorporated place or another legal entity boundary, have no legal status, nor do these places have officials elected to serve traditional municipal functions. CDP boundaries may change from one decennial census to the next with changes in the settlement pattern; a CDP with the same name as in an earlier census does not necessarily have the same boundary. CDPs must be contained within a single state and may not extend into an incorporated area. There are no population size requirements for CDPs. [Emphasis added]

Marque also provided evidence indicating that the Applicant was aware of the site's location as of March 1, 2016 by including in its application a Hidalgo County Appraisal District statement showing the City of Edinburg as a taxing jurisdiction. Finally, Marque provided a number of selections from TDHCA Board transcripts showing instances in which the Board held that for scoring purposes the definitive location of a development site is its location as of March 1<sup>st</sup> during the Competitive Round.

- On May 17, 2016, Sharon Gamble sent an email to Marque stating that the Department "...received this same request from someone else and looked into it. We determined that the site is in Edinburg. We denied the points and sent a scoring notice, which the applicant will likely appeal." She also asked whether or not Marque wanted to withdraw its request. We assume the question on withdrawal was made because Staff deemed their review and determination on the merits of the matter to be closed, subject to any rights of the Applicant to appeal to the Board.
- On May 20, 2016, Staff released the TDHCA Log reflecting that the Sierra Vista had been denied two requested points, thereby scoring 156, pending appeal to the Board.
- On May 20, 2016, Staff posted to the Sierra Vista imaged application (i) a Scoring Notice showing denial of the two Underserved Area points; and (ii) the Third Party Deficiency Request from MGroup. To this point, these were the only updates posted concerning the Sierra Vista application. The only communication between the Department and the Third Parties filing Deficiency Requests to this point were the emails from Sharon Gamble of April 27, 2016 and May 17, 2016, each of which indicated that the Project was determined to be located in the City of Edinburg and therefore ineligible for the Underserved Area points.
- On or about June 16, 2016, the TDHCA removed the Scoring Notice denying the Underserved Area points and posted to the Sierra Vista application the following additional information:
  - (i) A Deficiency Notice dated June 1, 2016 sent by Sharon Gamble to the Applicant Stating that "The Department has determined that the development site is located in the Lopezville CDP", and as such the Department requested additional information from the Applicant in support of scoring categories that would be impacted by the site's location in the Lopezville CDP;
  - (ii) Locke Lord's response of April 25, 2016 (described above);
  - (iii) Marque's Third Party Deficiency Request of May 16, 2016 (described above);
  - (iv) An unrelated Administrative Deficiency Notice from Shannon Roth dated May 9, 2016, evidencing that the Department had been reviewing the Sierra Vista application and issuing administrative deficiencies to the Applicant since early May, 2016; and

(v) Final Scoring Notice dated June 14, 2016, granting to the Applicant 158 points, being all points requested, including Underserved Area points.

Nothing was posted with the Sierra Vista application to indicate the events that caused Staff to change its position concerning the scoring from that stated in the April 27, 2016 and the May 17, 2016 emails.

- On June 21, 2016, the MGroup received a letter from Marni Holloway responding to its Third Party Deficiency Request of March 28, 2016, indicating that Staff had determined that the Applicant's site is in both the City of Edinburg and the Lopezville CDP and as such was qualified for the Underserved Area points based on the grounds that: (i) the U.S. Census has not updated its official records to reflect the annexation and adjustments to the boundaries for the Lopezville CDP; (ii) §10.3(93) (definition of "Place") does not indicate that the site can only be in an incorporated city or in an unincorporated CDP; and (iii) a plain reading of §10,3(93) indicates that the definition turns upon the Census Bureau's characterization of an area; and (iv) according to the Census Bureau the site is in the Lopezville CDP.
- On June 21, 2016, Marque received a letter from Marni Holloway responding to its Third Party Deficiency Request of May 16, 2016, reconfirming the change in Staff's position based upon similar arguments presented in the MGroup response letter, but also stating that the TDHCA Board transcripts provided by Marque in support of its assertion that the TDHCA Board has consistently evaluated an application based upon the location of a site as of March 1<sup>st</sup> were distinguishable from the issues at hand because §10.2(d) of the TDHCA Rules (which defines "Census Data") allows the Department to:

... use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded.

### **Decision Turns on Census Definition.**

We respectfully direct your attention to the fact that §10.3(93) of the Rules clearly and definitively states that a "Place" is defined as such by the U.S. Census Bureau:

Place -- An area defined as such by the United States Census Bureau, which, in general, includes an incorporated city, town, or village, as well as unincorporated areas know as census designated places. The Department may provide a list of Places for reference. [Emphasis added]

The language beyond the underlined portion merely provides a listing of types of areas that may be "Places" and does not expand upon the definition of the U.S. Census Bureau. Accordingly, as Marque pointed out in her Deficiency Request of May 16, 2016, the Census Bureau's definition prohibits a CDP from including areas located within an incorporated place, and the TDHCA has adopted this definition through §10.3(a)(93) of the Rules.

Tim Irvine, Executive Director June 23, 2016 Page 5

### U.S. Census Bureau's Response to Inquiry.

Seeking clarification concerning the U.S. Census Bureau's position on whether a site can be in a CDP and in an incorporated city simultaneously, MGroup requested information from the Denver Regional Office of the U.S. Census Bureau, which has jurisdiction over Texas. Enclosed as <a href="Exhibit">Exhibit "A"</a> is a copy of email correspondence on June 23, 2016, between Mark Musemeche of MGroup and Jim Castagneri, Geographer at the U.S. Census Bureau, concerning the interaction between incorporated areas and CDPs. Mr. Musemeche inquired:

Just so I am clear on official mapping I am trying to confirm that even though the official Census or latest BAS [Boundary and Annexation Survey] mapping may show an area of a CDP, if indeed a city annexed a tract of land that was in a CDP, the land can no longer be claimed to be in a CDP once it was annexed regardless of what may still be showing on ATIGER or BAS. Therefore a tract of land cannot coexist in a location that is BOTH a CDP and incorporated city.

Mr. Castagneri's response was:

That is correct Mark, if an annexation has been **legally approved** by the state, the subsumed land can no longer exist as a CDP. [Emphasis in original]

Mr. Castagneri goes on to explain that the U.S. Census Bureau's records may not reflect that a portion of a CDP has been annexed due to delays in reporting annexations to the Census Bureau, but despite the ambiguity created by this,

... a single tract of land can only be one or the other; CDP or Place. It cannot be both at the same time. ...

Incidentally, if any entity were to withhold boundary updates from the Census Bureau and knowingly use old CDP information to leverage federal program funds for benefit, one could face legal action from the federal government. [Emphasis added]

The TDHCA Staff and Board have firmly established the precedent that the actual location of a site on March 1<sup>st</sup> of a Competitive Round will establish the location of the site for the purposes of the application.<sup>1</sup> The Applicant self-identified as being located in the Lopezville CDP, even though Applicant also provided evidence in its Application that the site was subject to ad valorem taxation by the City of Edinburg – which is only possible if the site has been annexed.

See the July 11, 2013 transcript provided by Ms. Rickenbacker in which Liberty Manor (lost its appeal of denial of points for funding from the City of Liberty Hill because it was not located within the City of Liberty Hill on March  $1^{st}$ , even though its annexation into the city was anticipated. (See pages 49-73). See also Casa Alton, #07302, Board Meeting June 29, 2007. 4844-8449-9251.v3

### Casa Alton - Precedent Based on Essentially the Same Situation.

We point out that even though the Census Bureau may make maps available that show the boundaries of an incorporated municipality as of the date of publication, in the past the TDHCA Board has routinely accepted evidence of annexation as being definitive as to the location of a site – even when that annexation is not shown in the Census Bureau records. Marque provided transcripts of the discussions at Board Meetings of such issues. The transcript reflecting the closest fact situation is the one for June 28, 2007, in which the Board denied an appeal of two points that Casa Alton (#07302) claimed for being in an "Area" defined as "Alton North." (See pages 93-100)

Based upon the 2000 census, the Casa Alton site was located in Alton North, an unincorporated area, and would have received a Housing Needs Characteristics score of 6 points. However, after the 2000 census, the Casa Alton site was annexed into the City of Alton, and a development in the City of Alton would have received only 4 points for Housing Needs Characteristics. Just as with Sierra Vista, another developer challenged whether Casa Alton could qualify for being in Alton North when it was, in fact, located in the City of Alton at the time of application. A copy of the Staff's synopsis of the Challenge is enclosed as <a href="Exhibit">Exhibit "B"</a>. Based upon its location within the City of Alton at the time of application, the TDHCA Board denied Casa Alton's appeal. Exactly the same situation is presented here, where Sierra Vista's site was in Lopezville CDP at the time of the 2010 census. However, Sierra Vista's site was annexed into the City of Edinburg in 2013. At the time of the 2016 application, Sierra Vista was located within the city limits of Edinburg – and under the U.S. Census Bureau's definition of what constitutes a "Place" (previously known as an "Area") a location may not be in both a CDP and an incorporated municipality at the same time, because a CDP "may not extend into an incorporated area."

### §10.2(d) Does Not Apply Because Outcome is Based upon the Definition and Not the Data.

The Staff indicated that the points were awarded in part because §10.2(d) of the Rules prohibits use of Census data more current than what was available on October 1, 2015, and as of the 2010 Census, the Applicant's site was in a CDP. We believe that the proscription in §10.2(d) does not apply to this situation. The issue is whether the Applicant's site can meet the U.S. Census Bureau's definition of a CDP on March 1, 2016. Because the site for Sierra Vista has been incorporated into the City of Edinburg, it is no longer eligible to be considered a CDP. The annexation occurred in 2013 and proof of its legality was available on October 1, 2015. The email from Mr. Castagneri of the U.S. Census Bureau clearly states that it is impossible for a location to be both within an incorporated city and also a CDP. The determination of whether Underserved Area points should be awarded is not dependent upon data – it is dependent upon the Census Bureau's definition which was adopted by the TDHCA.

#### TDHCA Warns To Confirm Data in Demographic Characteristics Report.

The only places in which the Lopezville CDP concept is addressed by the TDHCA materials is in the 2016 HTC Site Demographic Characteristics Report under the "Urban-Rural" data and under the "2x Units Per Capita" data. We do not contest that Edinburg and Lopezville CDP are both "Urban" in character.

Tim Irvine, Executive Director June 23, 2016 Page 7

We are enclosing a copy of pertinent pages of the "2x Units per Capita" report, however (See Exhibit "C"). This is the report that the applicant had to access in order to determine whether there were additional Units of affordable housing within the designated Place. We particularly wish to point out the warning highlighted at the top of the first page of the report, which states:

Applicants are encouraged to independently verify the information provided herein. In some instances Developments have been found to be located in an ETJ of a city rather [than] within the city limits and such information could change the results.

TDHCA advises that the population figures reflected in the report are from the 2009-2013 ACS (American Community Survey – an ongoing statistical survey by the U.S. Census Bureau), but the population figures do not relate to the question in issue. The remaining figures relate to the TDHCA's allocation of Housing Tax Credit awards throughout the State of Texas, and therefore that data would appear to be generated by the TDHCA and not by the U.S. Census Bureau or ACS. This is important because it means §10.2(d) does not apply to this information. Staff was incorrect in basing its decision on §10.2(d) in any regard. Here the critical information concerning Edinburg and Lopezville CDP is whether or not there are other developments with tax credit allocations serving the same Target Population as the Project (General, in this case).

Both Edinburg and Lopezville CDP are identified as "Places" in the "2x Units per Capita" report. Edinburg shows that it has 892 tax credit units, whereas Lopezville CDP has none. This distinction provides the motivation for self-identifying as being within the Lopezville CDP. If the TDHCA Staff believes that, notwithstanding the U.S. Census Bureau definition of a CDP, a site can be in both an incorporated municipality and a CDP simultaneously, then we suggest that the applicant should be required to comply with the requirements of both the city and the CDP in order to qualify for points. In this instance, the CDP would not have any tax credit units, per the "2x Units per Capita" report, but Edinburg has 892 units. The TDHCA's Property Inventory indicates that Edinburg has 14 current tax credit developments, and 12 of them are for the General population. For that reason we believe Sierra Vista should be denied the two points it requests for being in a Place without a tax credit development for the same Target Population. Edinburg does not appear to be an Underserved Area. Sierra Vista is located in Edinburg and should not be considered eligible for the Underserved Area points.

Thank you for your courtesy in considering the issues raised. If you have any questions or require further information concerning this matter, please do not hesitate to call.

Very truly yours,

Barry J. Palmer

Tim Irvine, Executive Director June 23, 2016 Page 8

Enclosures: Exhibits A - C

cc: Donna Rickenbacker

Mark Musemeche

# Exhibit "A"

From: "James D Castagneri (CENSUS/DN FED)" < James. D. Castagneri@census.gov >

Date: June 23, 2016 at 12:39:25 PM CDT

To: Mark Musemeche < mgroupinc@sbcglobal.net>

Subject: Re: Census Definitions of CDPs and Incorporated Places

That is correct Mark, if an annexation has been legally approved by the state, the subsumed land can no longer exist as a CDP. However, our record of such depends on the entity filing a boundary update through our annual Boundary Annexation Survey (BAS).

Despite the ambiguity in BAS filing status with the Census Bureau, a single tract of land can only be one or the other; CDP or Place. It cannot be both at the same time. While it might be approved by the state, an annexation is not official at the federal level until the boundary information is filed with the Census Bureau. Therefore, one cannot argue that a City boundary overlaps a CDP if an annexation has not been filed with the Census Bureau. Once we are aware of the annexation, we immediately remove the CDP area in question and demographic data are adjusted for future reports.

Incidentally, if any entity were to withhold boundary updates from the Census Bureau and knowingly use old CDP information to leverage federal program funds for benefit, one could face legal action from the federal government.

Hope this clears things up.

Jim Castagneri

Geographer

U.S. Census Bureau

6950 W Jefferson Ave. Suite 250

Lakewood, CO 80235

720-962-3882

www.census.gov

From: Mark Musemeche <mgroupinc@sbcglobal.net>

Sent: Thursday, June 23, 2016 10:55 AM
To: James D Castagneri (CENSUS/DN FED)

Subject: Re: Census Definitions of CDPs and Incorporated Places

Jim thank you for clarifying Census Designated places. Your response was very helpful. Just so I am clear on official mapping I am trying to confirm that even though the official Census or latest BAS mapping may show an area of a CDP, if indeed a city annexed a tract of land that was in a CDP, the land can no longer be claimed to be in a CDP once it was annexed regardless of what may still be showing on TIGER or BAS. Therefore a tract of land cannot coexist in a location that is BOTH a CDP and incorporated city.

Correct?

Sent from my iPad

On Jun 23, 2016, at 10:46 AM, James D Castagneri (CENSUS/DN FED) < James.D.Castagneri@census.gov> wrote:

Hello Mark -

In response to your questions about Census Designated Places (CDPs) in Texas;

- CDPs are created by the Census Bureau within counties for unincorporated areas where local, place-based demographic characteristics are desired.
- By definition, CDPs can only exist outside of incorporated areas. If a nearby city or town annexes land that is part of a CDP, that land is removed from CDP status at the time the Census files the boundary change.
- CDPs are created or refined once every ten years. Cities and town can annex land at any time. Census maps therefore may not show the latest boundaries of incorporated places and affected CDPs.

The issue of city-CDP adjacency can be complicated if the local government does not file it's annexations with the Census Bureau's annual Boundary and Annexation Survey (BAS). The very latest official record of place boundaries and any affect CDPs can be viewed using the TIGERweb mapping tool;

https://tigerweb.geo.census.gov/tigerweb/

Be sure to click the checkbox next to 'Places and County Subdivisions' to turn-on cities and CDPs. Guadalupe County outside San Antonio is an excellent example of how CDPs lose land to cities when they annex.

Please let me know if you have any other questions.

#### Jim Castagneri

#### Geographer

U.S. Census Bureau

6950 W Jefferson Ave. Suite 250

Lakewood, CO 80235

720-962-3882

www.census.gov

## Exhibit "B"

## Status Log of 2007 Competitive Housing Tax Credit Challenges Received as of July 30, 2007

Challenge Received Date	#	Development Name	Challenger	Nature and Basis of Challenge	Status
5/23/07	07302	Casa Alton	Alyssa Carpenter	Challenge regarding eligibility for points under §49.9(i)(11) of the 2007 QAP, Housing Needs Characteristics. The challenge asserts that the Application is eligible for fewer points than requested based on Development location. The basis of the challenge as reflected in the challenge documentation is: the Development is located in the City of Alton; the Application requested points based on the Development's location in Alton North; and the Affordable Housing Need Score for the City of Alton is lower than that of Alton North.	Analysis: The proposed Development Site is currently located within the City of Alton. At the time of the 2000 Decennial Census the proposed Development Site was located within the Alton North CDP; however, the Development Site has since been annexed into the City of Alton, as confirmed by the City's Planning Director and the Applicant. The current location of a Development, not its location as of the most recent Decennial Census, is used to evaluate eligibility for points based on demographic information from the most recent Decennial Census.  Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP. The Application score will be reduced from six points to four points for §49.9(i)(11) of the 2007 QAP based on the proposed Development's location within the City of Alton.

# Exhibit "C"

#### 2x Units Per Capita (§11.3(b) of the 2016 Qualified Allocation Plan)

The following data provides information required to determine if a Development Site is located in a place or county with more than twice the state average of units per capita supported by Housing Tax Credits (HTC) or private activity bonds. Pursuant to §11.3(b) of the Qualified Allocation Plan, as well as §2306.6703(a)(4) of the Texas Government Code, Applicants may be required to obtain a Governing Body Resolution in order for Developments located in certain census tracts to be eligible for funding.

The population figures are from the 2009-2013 ACS. The tax credit units data is derived from the Department's inventory of tax credit developments (as of November 12, 2015 TDHCA Board meeting, last worksheet in this spreadsheet). Applicants are encouraged to independently verify the information provided herein. In some instances Developments have been found to be located in an ETJ of a city rather within the city limits and such information could change the results. Please contact jason.burr@tdhca.state.tx.us with any questions.

Updated November 20, 2015

Place Data

County Data

Place Name	Place population	All Place Units	All Unit Per Cap Pl	All Units Place/TX Per Cap	Place > 2x Per Capita	County name	County population	All County Units	All Units Per Capita Cnty	Cnty Units Per Cap/ TX Units Per Cap	Cnty > 2x Per Capita		
Abbott	375	0	0	0	No	Anderson	58262	637	0.01093337	1.242981963	No		
Abernathy	3320	24	0.007228916	0.821833691	No	Andrews	15554	24	0.001543011	0.175420333	No		
Abilene	119721	1231	0.01028224	1.168956905	No	Angelina	87042	765	0.008788861	0.999179136	No		
Abram	1745	0	0	0	No	Aransas	23627	104	0.004401744	0.500421017	No		
Ackerly	141	0	0	0	No	Archer	8853	0	0	0	No		
Addison	14114	0	0	0	No	Armstrong	1773	0	0	0	No		
Adrian	225	0	0	0	No	Atascosa	45714	112	0.002450015	0.278534876	No		
Agua Dulce	2716	0	0	0	No	Austin	28573	150	0.005249711	0.596823893	No		
Agua Dulce	733	0	0	0	No	Bailey	7121	0	0	0	No		
Aguilares	58	0	0	0	No	Bandera	20533	76	0.003701359	0.420796354	No		
Airport Heights	52	0	0	0	No	Bastrop	74730	298	0.003987689	0.453348377	No		
Airport Road Addition	108	0	0	0	No	Baylor	3678	0	0	0	No		
Alamo	18658	326	0.017472398	1.986384394	No	Bee	32281	130	0.004027137	0.457833066	No		
Alamo Heights	7247	0	0	0	No	Bell	316144	1623	0.005133737	0.583639073	No		
Alba	817	0	0	0	No	Bexar	1753238	16261	0.009274839	1.054428554	No		
Albany	2265	40	0.017660044	2.007717333	Yes	Blanco	10562	20	0.001893581	0.215275505	No		
Aldine	14893	120	0.008057477	0.916030301	No	Borden	649	0	0	0	No		
Aledo	2770	0	0	0	No	Bosque	18094	56	0.003094949	0.351855403	No		
Alfred	114	0	0	0	No	Bowie	92851	976	0.010511465	1.195016813	No		
Alice	19325	196	0.010142303	1.153047908	No	Brazoria	319493	2066	0.006466495	0.735156418	No		
Alice Acres	240	0	0	0	No	Brazos	197642	1419	0.007179648	0.816232605	No		
Allen	87213	94	0.001077821	0.122534226	No	Brewster	9244	92	0.009952402	1.131458616	No		
Alma	325	0	0	0	No	Briscoe	1615	0	0	0	No		

Edinburg	77415	892	0.011522315	1.309937333	No	
Edmonson	98	0	0	0	No	
Edna	5550	48	0.008648649,	0.983238867	No	
Edom	374	0:	0	0	No	
Edroy	245	0	0	0.	No	
Eidson Road	10140	0	0:	0	No	
El Brazil	22	0	0	0	No	
El Camino Angosto	269	01	0	0:	No	
El Campo	11554	141	0.012203566	1.387386719	No	
El Castíllo	256	0	0	O	No	÷
El Cenizo	256	0	0	08	No	
El Cenizo	3296	0	0	0	No	
El Chaparral	87	0	0	0	No	
d Indio	217	0	0	0	No	
El Lago	2744	0	0	0	No	
El Mesquite	0	0		Access 10	No	
El Paso	660795	7518	0.011377205	1.293440206	No	22.4
:l Quiote	125	0	0	0	No	
I Rancho Vela	188	0	0	0	No	
I Refugio	<b>265</b> %	0:	0	0	No	
I Socio	239	0:	0	0	No	
lbert	74	0	0	0	No	
ildorado	1966	32	0.016276704	1.850449546	No	
lectra	2773	54	0.019473494	2.213883041	Yes	
ilgin	7882	160	0.020299416	2.307779629	Yes	
lias-Fela Solis	19	0	0	0	No	
ilkhart	1419	54	0.038054968	4.32635495	Yes	3
Im Creek	2090	0	0	0	No	
lmendorf	1406	0	0	0	No	
ilmo	605	0	0	0	No	
ilsa	6042	154	0.025488249	2.897682402	Yes	
merald Bay	841	0	0	0	No	
mhouse	124	0	0.	0	No	
mory incantada-Ranchito-El	1340;	50	0.037313433	4.242052013;	Yes	
Calaboz	1987	0	0:	0	No	
inchanted Oaks	295	0	0:	0	No	

Lorna Grande	18	0	0	0	No	
Loma Linda	35	0	0	0	No	
Loma Linda East (Jim Wells						
County)	373	0	0	0	No	
Loma Linda East (Start	•					
County)	0	0			No	
Loma Linda West	130	0	0	0	No	
Loma Vista	38	0	0	0	No	
Lometa	781	0	0	0	No	
Lone Oak	670	0	0	0	No	
Lone Star	1595	47	0.029467085	3.350024273	Yes	
Longoria	0	0			No	
Longview	81435	643	0.007895868	0.897657483	No	
Loop	326	0	0	0	No	
Lopeño	0	0			No	
Lopezville	3590	0	0	0	No	
Loraine	702	0	0	0	No	
Lorena	1686	48	0.028469751	3.236640397	Yes	
Lorenzo	1044	0	0	0	No	
Los Altos	31	0	0	0	No	
Los Alvarez	238	0	0	0	No	
Los Angeles	114	Ō	0	0	No	
Los Arcos	42	0	0	0	No	
Los Arrieros	66	0	0	0	No	
Los Barreras	201	0	0	0	No	
Los Centenarios	0	0			No	
Los Corralitos	47	0	0	0	No	
Los Ebanos (Hidalgo						
County)	166	0	0	0	No	
Los Ebanos (Starr County)	579	0	0	0	No	
Los Fresnos	5966	187	0.031344284	3.563437457	Yes	
Los Fresnos	196	187	0.954081633	108.4666728	Yes	
Los Huisaches	28	0	0	0	No	
Los Indios	953	0	0	0	No	
Los Lobos	19	0	0	0	Νo	
Los Minerales	0	0			No	
Los Nopalitos	40	0	0	0	No	

## **EXHIBIT D**

Letter dated June 20, 2016 from State Representative Armando "Mando" Martinez

## The State of Texas House of Representatives

### Armando "Mando" Martinez

State Representative District 39

Capitol Office: P.O. Box 2910 Austin, TX 78768-2910 512-463-0530 512-463-0849 Fax

District Office: 914 W. Pike Blvd. Weslaco, TX 78596 956-447-9473 Fax 956-447-8683

June 20, 2016

Honorable J. Paul Oxer

Chairman of the Board
and Members of the Board of the
Texas Department of Housing and Community Affairs
221 E. 11<sup>th</sup> Street
Austin, Texas 78701

Re:

16380-Sierra Vista

Dear Chairman Oxer and Members of the TDHCA Board:

DWR Development Group applied for 2016 9% housing tax credits and submitted TDHCA Application No. 16104-Villa Verde Estates in connection with the development of affordable rental housing on a site near the northeast corner of West Mile 5 North Rd. and S. Border Ave., in the ETJ of Weslaco, Hidalgo County, Texas. The Villa Verde Estates site is in my district. I gave this application my full support as did the Hidalgo County Commissioner's Court and the Weslaco City Council.

I have been contacted by representatives of DWR Development Group, the Mayor of Weslaco, and other individuals regarding Application No. 16380-Sierra Vista, a competing application that is proposing to develop a site in Edinburg, Texas.

I have been told TDHCA received two separate letters from competing applicants including one from an affiliate of the DWR Development Group challenging points claimed by the Sierra Vista applicant under the Underserved Area scoring category. Based on the challenges, this scoring category allows an applicant to qualify for 2-points if their site is located in a "Place" that has never received tax credits and your rules define a Place as:



Chairman Oxer and TDHCA Board Members June 20, 2016 Page -2-

"...an area defined as such by the United States Census Bureau...that includes unincorporated areas known as census designated places."

The Sierra Vista applicant claimed that their site is located in Lopezville, a census designated place (CDP) and therefore should qualify for the 2-points claimed. DWR provided TDHCA evidence to the contrary including a copy of the City ordinance showing that the Sierra Vista site was annexed into the City of Edinburg in December of 2013.

I am told DWR also provided to TDHCA a copy of the definition of a Place from the Census Bureau's website that defines a CDP as the statistical "counterpart" of an incorporated place (i.e. the City of Edinburg), which definition further states that a CDP "...may not extend into an incorporated place." Therefore, based on the Census Bureau's definition of a CDP, one can conclude that once the Sierra Vista site was annexed into the City of Edinburg, an incorporated place; it no longer extended into or remained a part of the unincorporated area of Lopezville.

I bring this matter to your attention because it appears TDHCA's staff agreed with the challenges, deemed the Sierra Vista site to be in the City of Edinburg and deducted the Underserved Area points from their final score. Then, as late as June 16<sup>th,</sup> posted a reversal of their position, gave the points back to this applicant and rescored their application. I am being told TDHCA's staff made no efforts to communicate with the challengers, explain the basis for the change and explain why their position in the final stages of the 2016 application cycle. Their actions have effectively eliminated the Villa Verde Estates development from receiving an award of tax credits, a housing community that would be located in my district and serve my constituents.

I believe that DWR provided to TDHCA a compelling set of arguments for denying the Underserved Area points to the Sierra Vista applicant, all of which should be vetted and given full consideration by the Board. I also point out that the challenge included transcripts from several appeals to the Board whereby the Board has consistently upheld scoring determinations based on evaluating applications using the current location of the development site as of March 1, 2016.

The Sierra Vista site is in the City of Edinburg and was as of March 1, 2016. TDHCA's staff appears to be disregarding previous Board conclusions on similar matters and in the process making decisions that are contrary to the Board's prior rulings. Any reinterpretation of prior rulings should be left to the Board based on its full consideration of the arguments and the merits of the claims made by all parties.

I strive to do the best job for my constituents and am a proud supporter of high quality affordable housing which is desperately needed in the Weslaco area. My district, District 39, has not been the recipient of tax credit funded housing in many years. I respect my colleagues and their efforts to support housing initiatives in their districts, but I believe that if TDHCA applies the rules in a consistent and transparent manner then the disbursement of the State's housing dollars will be more equitably distributed across more areas of the Valley.

Chairman Oxer and TDHCA Board Members June 20, 2016 Page -3-

I respectfully request that the merits of the challenges and the issues raised in this letter regarding the definition of a Place be placed on the agenda for the Board's full consideration at your next meeting in June.

Sincerely,

Glo Q. XS

Armando "Mando" Martinez State Representative, District 39

cc: Tim Irvine - Via Email - tim.irvine@tdhca.state.tx.us

TDHCA Executive Director

Mayor David Suarez, City of Weslaco Mike Perez, Weslaco City Manager

## **EXHIBIT** E

Letter dated June 28, 2016 from State Senator Eddie Lucio, Jr.

#### THE SENATE OF TEXAS

P.O. BOX 12068 CAPITOL BUILDING, 38,5 AUSTIN, TEXAS 78711 (512) 463-0127

1210 W. Interstate 2, Ste. 10 Pharr, Texas 78577 (956) 787-5227



7 NORTH PARK PLAZA BROWNSVILLE, TEXAS 78521 (956) 548-0227

700 Bast Kleberg Avenue Kingsville, TX 78363 (361) 592-3252

June 28, 2016

The Honorable J. Paul Oxer, Chairman, & Board Members Texas Department of Housing and Community Affairs (TDHCA) 221 East 11th Street Austin, Texas 78701

Dear Chairman Oxer and Members of the TDHCA Board:

Out of great respect for the Board's diligent efforts to meet the intent of governing state and federal statutes and to further the goals of guiding rules, I write you concerning a matter brought to my attention regarding the state's Housing Tax Credit (HTC) Program.

I am informed of a challenging and unique situation currently being addressed by TDHCA staff pertaining to the possible awarding of the "Underserved Area" incentive points to a "project location" that is within the boundaries of a municipality. Constituents have voiced concern that awarding these incentive points in this manner may potentially put into question the utility of these points. Concerned stakeholders have asked that this matter be addressed through an Agenda Action Item at your upcoming July hearing.

Because the awarding of the "Undeserved Area" points to any "project location" that may be within the jurisdiction of a municipality that has seen prior housing tax credit awards is outside the norm, arguably this matter could merit review by the Board during your next public meeting. Affording all sides a forum to publicly plead their case allows the Board an opportunity to act as a deliberative body to ensure that the intent and goals of the HTC's statutory framework are met.

In closing, our state and federal governments are served well by boards and commissions like yours, which carry out the statutory intent of the laws enacted. As stewards of our HTC Program, you have the necessary discretion to ensure compliance with the intent and goals of governing statutes. This discretion serves the Board well as you address this unique occurrence.

I thank you in advance for working to find an amicable resolution to this most challenging situation.

Sincerely,

Eddie Lucio, Jr. State Senator

ELJ/de



## Status Log of 2007 Competitive Housing Tax Credit Challenges Received as of July 30, 2007

Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
5/23/07	07302	Casa Alton	Alyssa Carpenter	Challenge regarding eligibility for points under §49.9(i)(11) of the 2007 QAP, Housing Needs Characteristics. The challenge asserts that the Application is eligible for fewer points than requested based on Development location. The basis of the challenge as reflected in the challenge documentation is: the Development is located in the City of Alton; the Application requested points based on the Development's location in Alton North; and the Affordable Housing Need Score for the City of Alton is lower than that of Alton North.	Analysis: The proposed Development Site is currently located within the City of Alton. At the time of the 2000 Decennial Census the proposed Development Site was located within the Alton North CDP; however, the Development Site has since been annexed into the City of Alton, as confirmed by the City's Planning Director and the Applicant. The current location of a Development, not its location as of the most recent Decennial Census, is used to evaluate eligibility for points based on demographic information from the most recent Decennial Census.  Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP. The Application score will be reduced from six points to four points for §49.9(i)(11) of the 2007 QAP based on the proposed Development's location within the City of Alton.

May 23, 2007

Ms. Audrey Martin
Multifamily Finance Production
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

RE: Challenge to 2007 HTC Application 07302, Casa Alton

Dear Ms. Martin:

Please accept this letter as a formal challenge to application 07302, Casa Alton. In this application, it appears that the applicant has elected 6 points under Section 49.9(i)(11) for the 2007 Affordable Housing Needs Score. According to our research, the Casa Alton development site is located within the City of Alton, and should have received 4 points for this item instead of 6.

According to the place-level data from the 2007 Housing Tax Credit Site Demographics Characteristics as of April 12, 2007 Board Meeting, 6 points may be elected for developments in Alton North (See Attachment 1). As also highlighted here, developments in Alton should receive 4 points.

In Volume 4, Tab 13, of application 07302, it confirms that the applicant considers the development site to be in Alton North (See Attachment 2). As such, the applicant elected 6 points for "Housing Needs Characteristics" in Volume 4, Tab 1 (Attachment 3).

However, according to our research, this development site is currently located within the city limits of the City of Alton.

The map from Volume 2, Tab 3, shows that the site is located on the west side of Trosper Rd. and approximately west of Diamond Head Avenue (Attachment 4). I have also included a flood zone map with the site location outlined, as found in Volume 3, Tab 2, of application 07302 (Attachment 5).

In 2000, this location was outside of the City of Alton and within the Alton North CDP. A map from the US Census website depicting the 2000 places and census tracts is attached, with the 07302 site marked in blue (Attachment 6).

However, according to the US Census's 2005 city and town information, the site is located within the City of Alton. A map from the US Census website depicting the 2005 cities and towns is attached, with the 07302 site marked in blue (Attachment 7).

We have also included a letter from the David Deleon, Planning Director with the City of Alton, that confirms that the 07302 development site is indeed located within the city limits of the City of Alton (Attachment 8). The letter includes a map with the land tract of the site outlined in orange with the proposed 07302 site plan outlined in yellow. For clarification, I have also printed out the first page of the site purchase contract contained in Volume 3, Tab 2, of application 07302 confirming that the site is located in tract 42-4, the same tract that Mr. Deleon references in his letter. I have also included the site plan from Volume 2, Tab 4, of application 07302 confirming the outline of the development site with the map from the letter. Furthermore, I have included the

zoning letter from Mr. Deleon with the City of Alton that was included in Volume 3, Tab 2, of application 07302 that certifies that the development site is zoned per the City of Alton's Comprehensive Zoning Plan.

According to guidance received from the Department, the current location of the development site should be used for both the Affordable Housing Needs Score and the 2x per Capita items. Email documentation of this guidance is included as Attachment 9. It specifically states that "Although 2000 census data is used, the current location of the development should be used for both items."

Alton North is a Census Designated Place, which by definition is an unincorporated area. Because the 07302 site is now located in an incorporated area known as Alton, it cannot be considered as being within a CDP:

Based on this information, application 07302 should have elected and received 4 points under Section 49.9(i)(11) for the 2007 Affordable Housing Needs Score because the proposed development site is currently located within the City of Alton, This should be a deduction of 2 points, as they should not have elected 6 points because the site is not located in the Alton North CDP.

We respectfully request that TDHCA review this matter and reconsider the AHNS points awarded to application 07302.

Please contact me at (512) 789-1295 if you have any questions.

Regards.

Alyssa Carpenter Ph: (512) 789-1295 Fax: (512) 233-2269

Email: ajcarpen@gmail.com

#### Attachments:

- Page from 2007 Housing Tax Credit Site Demographics Characteristics as of April 12, 2007 Board Meeting with Alton North and Alton highlighted,
- 2. Page from Volume 4, Tab 13, of application 07302 with Alton North circled.
- Page from Volume 4, Tab 1, of application 07302 with Housing Needs Characteristics score highlighted.
- 4. Page from Volume 2, Tab 3, of application 07302 with map of area and site designated as a star.
- 5. Page from Volume 3, Tab 2, of application 07302 with site outlined.
- Map from the US Census website depicting the 2000 places and census tracts with the 07302 site marked in blue.
- Map from the US Census website depicting the 2005 cities and towns with the 07302 site marked in blue.
- Letter from City of Alton confirming 07302 development site is located within the city limits of the City of Alton, First page of the property contract for development site from Volume 3, Tab 2, of application 07302, Site plan from Volume 2, Tab 4, of application 07302. Zoning letter from Volume 3, Tab 2, of application 07302.
- April 23, 2007, email from Audrey Murtin clarifying that a development should use its current location for AHNS and 2x per Capita items.

2 Andre 3 Angle 3 Angle 3 Anna 3 Anna 3 Anna 4 Anna 2 Anso 1 Antor 5 Apple 8 Aquil 10 Arans 2 Arche 6 Arcol 3 Argyl 3 Ariny 4 Anp 11 Arroy 11 Arroy 11 Arroy		The State of the S	o Type-Burk in Lithori Eustras (1)	GO Cerean Psychology	Portacle Housing Head Spire (2)	ydan ha Ekuthan Pakith (3)	HTD Uses in Flace	a PW Captal TX Per Captal	Per Cap v Ca TX Per Cap (4)		Course President from Printing Archive
3 Alma 3 Alpin 4 Alto 1 Alto 1 Alto 1 Alto 3 Alvar 6 Alvar 6 Amer 1 Amhr 6 Amer 1 Amhr 6 Angle 7 Ande 12 Andr 6 Angle 3 Angu 3 Anne 3 Anne 4 Anno 2 Anso 1 Anto 5 Apple 8 Aquil 10 Arans 2 Arcte 6 Arcol 3 Argyl 3 Argyl 1 Arroy 11 Arroy		å	Age .	300	- 15	ID .	量	8	JE.	B	-7
3 Alpini 4 Alto 1 Alto 3 Alvar 6 Amer 1 Amhr 6 Amer 1 Amhr 6 Angle 7 Ande 12 Andr 6 Angle 3 Anne 3 Anne 3 Anne 4 Anno 2 Anso 1 Anto 5 Apple 8 Aquil 10 Arans 2 Arch 6 Arco 1 Arch 1 Arroy 1		Collin	Urb./Exurb.	43554		Yes	94	0.19			
4 Aito 11 Aiton 11 Aiton 13 Aivar 6 Aivar 6 Aire 1 Amer 6 Amer 1 Amer 6 Ande 12 Ande 12 Ande 13 Ange 14 Anne 15 Ange 16 Ange 16 Ange 17 Ande 18 Ange 18 Ange 19 Ange 19 Ange 10 Aran 10 Aran 10 Aran 10 Aran 11 Arroy		Ellis	Rural	302	7	No	0		No		
11 Alto B 11 Alton 13 Alvar 14 Alton 13 Alvar 15 Amer 16 Amer 16 Amer 17 Ande 18 Ande 17 Ande 18 Ande 18 Ande 19 Anne 19 Anne 10 Anne 10 Aran 10 Aran 10 Aran 10 Aran 11 Arroy		Browster	Rural	5786		No	92	2.04			
1 Allon 3 Alvar 6 Alvin 3 Alvor 1 Amar 6 Amer 1 Amhr 6 Anah 8 Ande 7 Ande 12 Andr 6 Angle 13 Anna 3 Anna 3 Anna 3 Anna 1 Anno 2 Anno 1 Ardor 1 Ardor 2 Arch 6 Argy 1 Arch 6 Argy 1 Arroy 1 Arr		Cherokee	Rural	1190		No	32	3.43			11
1 Alton 3 Alvar 6 Alvin 3 Alvor 1 Amar 6 Amer 1 Amhr 6 Anah 8 Ande 7 Ande 12 Ande 13 Anne 3 Anne 3 Anne 3 Anne 13 Anne 14 Anno 2 Anso 1 Ardor 1 Ardor 2 Arso 1 Ardor 2 Arso 1 Ardor 2 Arso 3 Argy 1 Arroy 1 Ar		Starr	Rural	569		No	0		No	Yes	
3 Alvar 6 Alvar 1 Amar 6 Ame 1 Amhr 6 Anah 6 Anah 8 Ande 7 Ande 12 Andr 6 Angle 3 Anna 3 Anna 3 Anna 3 Anna 3 Anna 4 Anna 1 Artor 5 Apple 8 Aqui 10 Aran 2 Arche 6 Argul 11 Artor 11 Artor		Hidalgo	Rural	4384		No	106	1.65		-	
6 Alvin 3 Alvor 1 Amar 6 Amer 1 Amhr 6 Anah 8 Ande 7 Ande 12 Andr 6 Angle 3 Angu 3 Anna 3 Anna 3 Anna 1 Arror 1 Arror 2 Arch 6 Argul 1 Arror 1 Arroy 1		Hidalgo	Rurai	5051		No	0		No	Yes	
3 Aivor 1 Amar 6 Ames 1 Amhr 6 Anah 8 Ande 7 Ande 12 Andr 6 Angle 3 Anna 3 Anna 3 Anna 3 Anna 4 Annd 2 Anso 13 Anna 1 Arrior 5 Apple 6 Argui 10 Arans 2 Arch 6 Argui 10 Arans 2 Arch 11 Arroy 11 Arroy		Johnson	Rural	3288		No	24	0.84		1	
1 Amar 6 Amer 1 Amhr 6 Anah 8 Ande 7 Ande 12 Andr 6 Angle 3 Anna 3 Anna 3 Anna 3 Anna 4 Annd 2 Anso 13 Antho 1 Artho 5 Apple 8 Aquil 10 Arana 2 Arche 6 Arcol 3 Artho 1 Arche 6 Arcol 3 Artho 1 Arche 6 Arcol 1 Arche 1 Arche		Brazoria	Urb./Exurb	21413		Yes	246	1.46		-	
6 America Andre Sanda Andre Sanda Anne Sanda		Wise	Rural	1007		No	0		No		
1 Amhri 6 Anah 7 Ande 12 Andre 6 Angle 3 Anna 3 Anna 3 Anna 4 Anna 2 Anso 13 Anthe 14 Anna 2 Arso 15 Apple 8 Aquil 10 Arans 2 Arche 6 Arcol 3 Ariny 11 Arroy 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Potter	Urb./Exurb	173627		No	1434	1.05			
6 Anah 8 Ande 7 Ande 12 Andre 6 Angle 3 Anna 3 Anna 3 Anna 4 Anno 2 Anso 13 Antho 1 Anto 5 Apple 8 Aquil 10 Arans 2 Arche 6 Arcol 3 Argyl 4 Arp 11 Arroy 11 Arroy 12 Arroy 13 Arroy 14 Arroy 15 Arroy 16 Arroy 17 Arroy 18		Liberty	Rural	1079		No	0		No		10.0
8 Ande 7 Ande 7 Ande 7 Ande 8 Angle 8 Angle 3 Anna 3 Anna 3 Anna 4 Anna 2 Anso 1 Ardor 5 Apple 8 Aquil 10 Aran: 2 Arche 6 Arcol 3 Argyl 4 Arp 11 Arroy		Lamb	Rural	791		No	9	1.51			
7 Ande 6 Angle 3 Angu 3 Anna 3 Anna 3 Anna 3 Anna 4 Anna 2 Anso 1 Anto 5 Apple 8 Aqui 10 Aran: 2 Arche 6 Arcol 3 Argyl 3 Aring 4 Arp 11 Arroy 11 Arroy		Chambers	Rural	2210		No	0		No		
12 Andre 5 Angle 3 Angu 3 Anna 3 Anna 3 Anna 3 Anna 4 Anna 2 Anso 1 Anto 5 Apple 8 Aqui 10 Arana 2 Archa 6 Arcol 3 Argyl 4 Arp 11 Arroy 11 Arroy	and the same and t	Grimes	Rurat	257		No	- 0		No		
5 Angle 3 Angu 3 Anna 3 Anna 3 Anna 3 Anna 4 Anna 1 Anto 5 Apple 5 Apple 6 Arcol 3 Argyl 3 Aring 4 Argyl 1 Arroy 11 Arroy 11 Arroy 11 Arroy 11 Arroy 11 Ashe	iderson Mill	Williamson	Urb./Exurb.	8953		Yes	0		No	Yes	
3 Angu 3 Anna 3 Anna 3 Anna 4 Anna 2 Anso 1 Anto 5 Apple 8 Aquii 10 Aran 2 Arch 6 Arcol 3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Andrews	Rural	9652		No	24	0.35			
3 Anna 3 Anna 3 Anna 4 Anna 4 Anna 2 Anso 13 Antho 1 Anto 5 Apple 8 Aquil 10 Arana 2 Arche 6 Arcol 3 Argyl 3 Arina 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Arroy 11 Arroy 11 Arroy		Brazona	Rural	18130		No	248	1.76	S.Common	-	
3 Anne 3 Anne 4 Anno 2 Anso 3 Antho 1 Antor 5 Apple 8 Aquil 10 Arani 2 Arche 6 Arcol 3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Navarro	Rural	334		No	0		No		
3 Anne 3 Anne 4 Anno 2 Anso 13 Antho 5 Apple 8 Aquil 10 Arans 2 Arche 6 Arcol 3 Argyl 3 Ariny 4 Arp 11 Arroy 11 Arroy 11 Ashe		Collin	Rural	1225		No	0		No	-	
3 Anna 4 Anno 2 Anso 13 Antho 5 Apple 8 Aquil 10 Arans 2 Archo 6 Arcol 3 Argyl 3 Ariny 4 Arp 11 Arroy 11 Arroy 11 Ashe		Parker	Rural	1108		No	0		No		
4 Anno 2 Anso 13 Antho 5 Apple 8 Aquil 10 Aran 2 Arche 6 Arcol 3 Argyl 4 Arp 11 Arroy 11 Arroy 11 Ashe	inetta North	Parker	Rurai	467		No	0		No		
2 Anso 13 Antho 5 Apple 8 Aquil 10 Aran: 2 Arche 6 Arcol 3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe	metta South	Parker	Rural	555		No	0		No		
13 Antho 5 Apple 8 Aquil 10 Aran: 2 Arche 6 Arcol 3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Red River	Rurat	282		No	0		No		
1 Antor 5 Apple 8 Aquil 10 Aran 2 Arch 6 Arcol 3 Argyl 3 Arlin 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Jones	Rural	2556		No	0		No		
5 Apple 8 Aquil 10 Aran: 2 Arche 5 Arcol 3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Arroy 11 Ashe		El Paso	Urb./Exurb.	3850		Yes	60		No		Yes
8 Aquil 10 Aran: 2 Arche 6 Arcol 3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Arroy		Hockley	Rural	1200		No	0		No		1
10 Arans 2 Arche 5 Arcol 3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Arroy 11 Arroy		Nacogdoch		444		No	0		No		
2 Arche 6 Arcol 3 Aring 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Hill	Rurai	136		No	0		No		
6 Arcol 3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe	ansas Pass	San Patrici		B138		No.		1.57			
3 Argyl 3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Archet	Rural	1848	_	No	0		No		
3 Arling 4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Fort Bend	Rural	1048		No	- 0		No		
4 Arp 11 Arroy 11 Arroy 11 Arroy 11 Ashe		Denton	Urb./Exurb.	2365		Yes	0		No		
11 Arroy 11 Arroy 11 Arroy 11 Ashe		Terrant	Urb./Exurb	332969		No	2969	1,11			
11 Arroy 11 Arroy 11 Ashe		Smith	Rural	901		No	- 0	_	No	-	-
11 Arroy 11 Ashe	the state of the s	Cameron	Rural	320		No	0		No	Yes	_
11 Ashe	royo Colorado Est		Rural	755		No	0		No	Yes	-
	royo Gardens-La		Rural	732		No	0		No	Yes	-
2 Aspe		Dimmit	Rural	1342		No	0		No		
_	And a second sec	Stonewall	Rural	1021		No	0		No		1
_	escacita	Harris	Urb./Exurb.	35757		Yes	-0		No	Yes	-
4 Ather			Rural	11297		No	156	1.71		-	-
4 Atlan		Cass	Rural	5745		No	0		No	-	-
3 Auth		Dentan	Rural	1500		No	0		No		-
3 Auro		Wise	Rural	853		No.	0		No	-	-
7 Austi 10 Austi		Travis Refugio	Urb./Exurb. Rural	656562 192		No No	8316	1,61	No	-	-

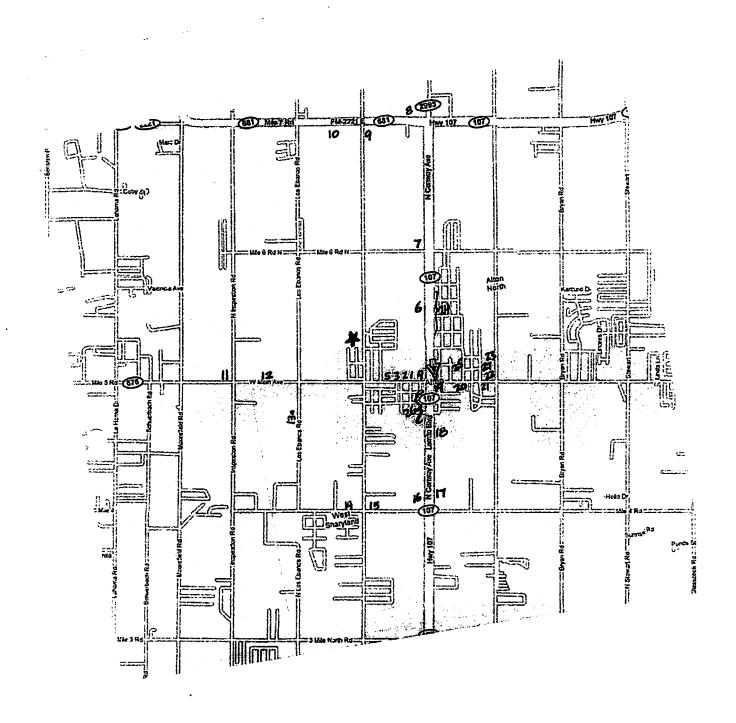
ATTACHMENT 2

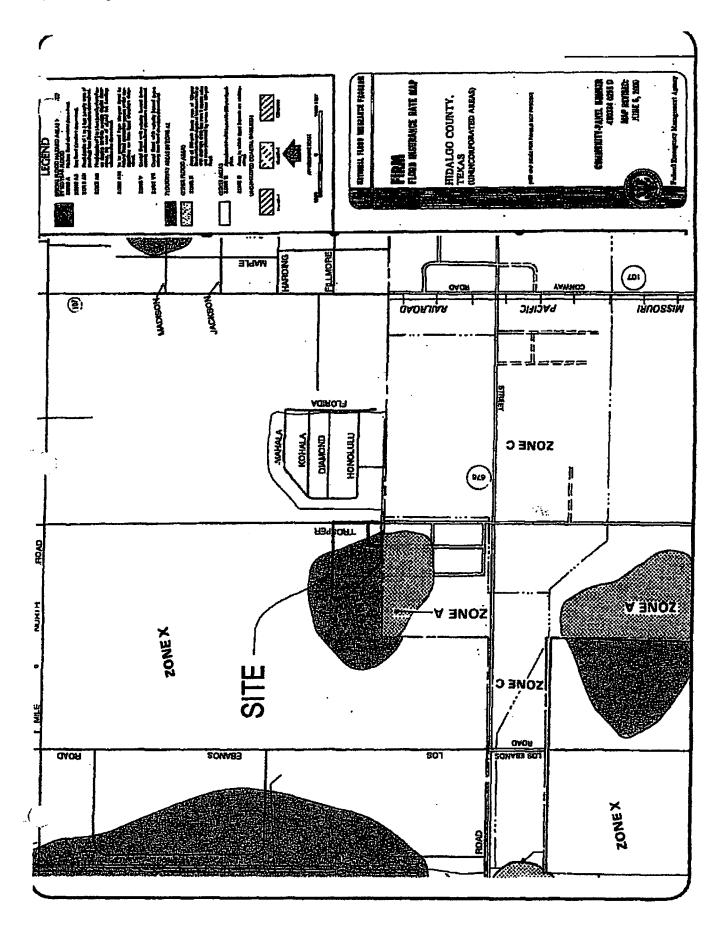
							unit:	4 955		1
10 A!	lloa	Jim Wells	Rural	19010	5	Yes	196		No	Ļ
10 A	lice Acres	Jim Wells	Rural	491	4	No	0		No	Y
3 A!	llen	Collin	Urb/Exurb.	43554	6	Yes	94	0.188	No	ł
3 Al	lma	Ellis	Rurel	302	7	No	0	0	No	1
13 A	lpine	Brewster	Rural	5786	7	No	92	2.065	Yes	1
4 AI	lto	Cherokee	Rural	1190	5	No	32	3.474	Yes	L
11 AI	Ito Bonito	Starr	Rural	569	4	No	0	0	No	ľ
		Hidaigo	Rurel	4384	4	No	106	1.681	No	L
11 A	Iton North	Hidalgo	Rural	5051	6	No C	0 2	0	No	ľ
3 A	lvarado	Johnson	Rural	3288	5	No	24		No	1
6 AI	lvin	Brazoria	Urb./Exurb.	21413	В	Yes	304	1.821	No	1
3 A	lvord	Wise	Rural	1007	7	No	0	0	No	1
1 A	marillo	Potter	Urb/Exurb.	173627	6	No	1434	1.065	No	ŀ
6 A	mes	Liberty	Rural	1079	5	No	0	0	No	J
1 A	mherst	Lamb	Rural	791	5	No	9	1.531	No	]
6 A	nahuac	Chambers	Rural	2210	8	No	0	Ö	No	]
8 A	nderson	Grimes	Rural	257	4	No	0	0	No	1
7 A	nderson Mill	Williamson	Urb./Exurb.	8953	6	Yes	0	0	No	Ñ
12 A	ndrews	Andrews	Rural	9652	6	No	24	0.355	No	T
	naleton	Brazerla	Rural	18130	6	No	248	1.798	No	1
	ngus	Navarro	Rural	334	5	No	0	o	No	1
	nna	Collin	Rural	1225	7	No	0	0	No	1
-	nnetta	Parker	Rural	1108	7	No	0	0	No	1
	nnetta North	Parker	Rural	467	7	No	0	0	No	1
_	nnetta South	Parker	Rural	555	7	No	0	0	No	ł
	nnona	Red River	Rural	282	7	No	0	a	No	┨
_	inson	Jones	Rural	2556	4	No	0	0	No	┨
							<del></del>	ļ <u>`</u>		┪
_	nthony	El Paso	Urb./Exurb.	3850	4	Yes	60	2.016	Yes	4
-	nton	Hockley	Rural	1200	4	No	0	0	No	4
_	ppleby	Nacogdoches		444	6	No	0	0	No	4
	quilla	Hill	Rural	136	7	No	0	0	No	4
	rensas Pass	San Patricio	Rural	8138	5	No	100	1.585	No	4
	rcher City	Archer	Rurel	1848	5	No	0	0	No	1
	rcola	Fort Bend	Rural	1048	6	No	0	0	No	1
	rgyle	Denton	Urb-/Exurb.	2365	5	Yes	0	0	No	1
_	rlington	Tarrant	Urb./Exurb.	332969	6	No	2969	1.12	No	1
4 A	иp	Smith	Rural	901	4	No	0	0	No	1.
	rroyo Alto	Cameron	Rural	320	4	No	0	0	No	1
	rroyo Colorado Estates	Cameron	Rural	755	7	No	0	0	No	Y
11 A	rroyo Gardens-La Tina I	Cameron	Rural	732	4	No	0	0	No	Y
11 Ā	sherton	Dimmit	Rural	1342	7	No	0	0	No	ſ
2 A	spermont	Stonewall	Rural	1021	5	No	0	0	No	1
6 A	tascocita	Harris	Urb/Exurb.	35757	6	Yes	0	0	No	Y
4 A	thens	Henderson	Rural	11297	5	No	156	1.732	No	Γ
4 A	illanta	Cass	Rural	5745	5	No	0	0	No	1
3 A	ubrey	Denton	Rural	1500	7	No	0	ó	No	7
3 A	nice	Wise	Rural	853	7	No	0	0	No	1
7 A	ustin	Travis	Urb./Exurb.	656562	6	No	8064	1.577	No	1
10 A	ustwell	Refugio	Rural	192	7	No	0	0	No	1
_	very	Red River	Rural	462	6	No	o	0	No	1
	vinger	Cass	Rural	484	7	No	0	0	No	1
	zie	Tarrant	Urb./Exurb.	9600	5	Yes	140	1.891	No	1
6 B	acliff	Galveston	Urb./Exurb.	6962	7	Yes	0	0	No	ħ
	ailey	Fannin	Rural	213	7		0	0	No _	÷

Production of the Control of the Con

Instructions: Complete the following form and indicate all points requested for this Application. All evidence as required by §49.9(i) must be submitted as outlined in the Application Submission Procedures Manual.

549.9(1)	A5P Tab		Point
(1)	2	Financial Fensibility of the Development (28 points)	28
(2)		Quantifiable Community Participation (Points Not Requested in Self Score)	N/A
(3)	3	The Income Levels of Tenants of the Development (22 Point Maximum)	22
(4)	4	The Size of the Units (Development Characteristics) (20 Points Maximum for Part A and B combined)	20
(5)	5	The Commitment of Development Funding by Local Political Subdivisions (18 Points Maximum)	IA.
(6)		The Level of Community Support from State Elected Officials (Points Not Requested in Self Score)	NA
(7)	6	The Rent Levels of the Units (12 Points Maximum)	12
(1)	7	The Cost of the Development by Square Foot (Development Characteristics) (10 Points)	10
(9)	B	The Services to be Provided to Tenants of the Development (8 Paints Maximum for Part A and B Combined)	8
(10)	N/A	Rehabilitation or Reconstruction (7 Points)	0
(0)	N/A	Housing Needs Characteristics (7 Points Maximum)	6
(12)	9	Development Includes the Use of Existing Housing as part of a Community Revitalization Plan (Development Characteristics) (7 Points)	0
(13)	10	Pre-Application Participation Incentive Points (6 Points)	6
(14)	31	Development Location (4 Points)	4
(15)	N/A	Exurban Developments (Development characteristics) (7 Points)	0
(16)	12	Demonstration of Community Support other than Quantifiable Community Participation (To be awarded points, points must be requested by checking the hos, but points are not added into Total Self Score)	0
(17)	13	Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits (7 Points)	2
(18)	14	Tenant Populations with Special Housing Needs (4 Points)	4
(19)	15	Length of Affordability Period (4 Points Maximum)	4
(20)	16	Site Characteristics (+4 Points Maximum for Part A and B Combined. Note: may be as low as -5 Points)	4
(21)	17	Development Size (3 Points)	0
(22)	18	Qualified Census Tracts with Revitalization (1 Point)	u
(23)	19	Sponsor Characteristics (2 Points)	n





W'00 Census Tract

VOO Place

'00 County

W State

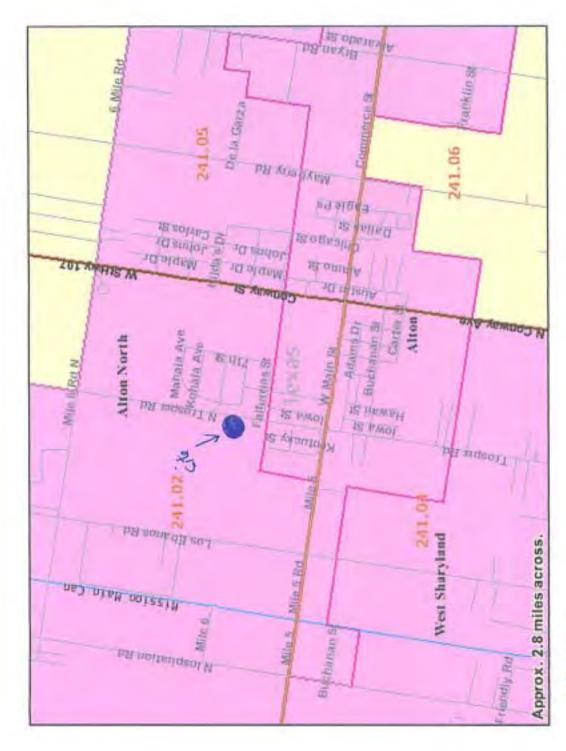
Boundaries

Stream/Waterbody

N Stream/Waterbody

N Major Road

Street



US CONSUS Jacks - blocks



US Centur 2005 Citei-tuns

Boundaries

Vistate

Visionity

V



# CITY OF ALTON

ture On The Grew

205 West Main Ave. Alton, Texas

May 22, 2007

RE: Trosper Rd. Development

To Whom It May Concern:

The City of Alton confirms based on the attached map, that the proposed development

along N. Trosper Rd. (42-4) is inside of the city's current city boundaries.

If anyone has any further questions regarding this matter, please call me at (956) 581-2733.

Sincerely,

David Delega

David Deleon'
Planning Director
City of Alton
"City on the Grow"



Proposed Casa Alton TDHCA# 07302 Development

#### UNIMPROVED PROPERTY CONTRACT

- PARTIES: CARLOS L. GUERRA; and EUGENIO BOTELLO(Seller) agrees to sell and convey to NATIONAL FARM WORKERS SERVICE CENTER. INC., a Texas corporation(Buyer) and Buyer agrees to buy from Seller the property described below.

#### 3. SALES PRICE:

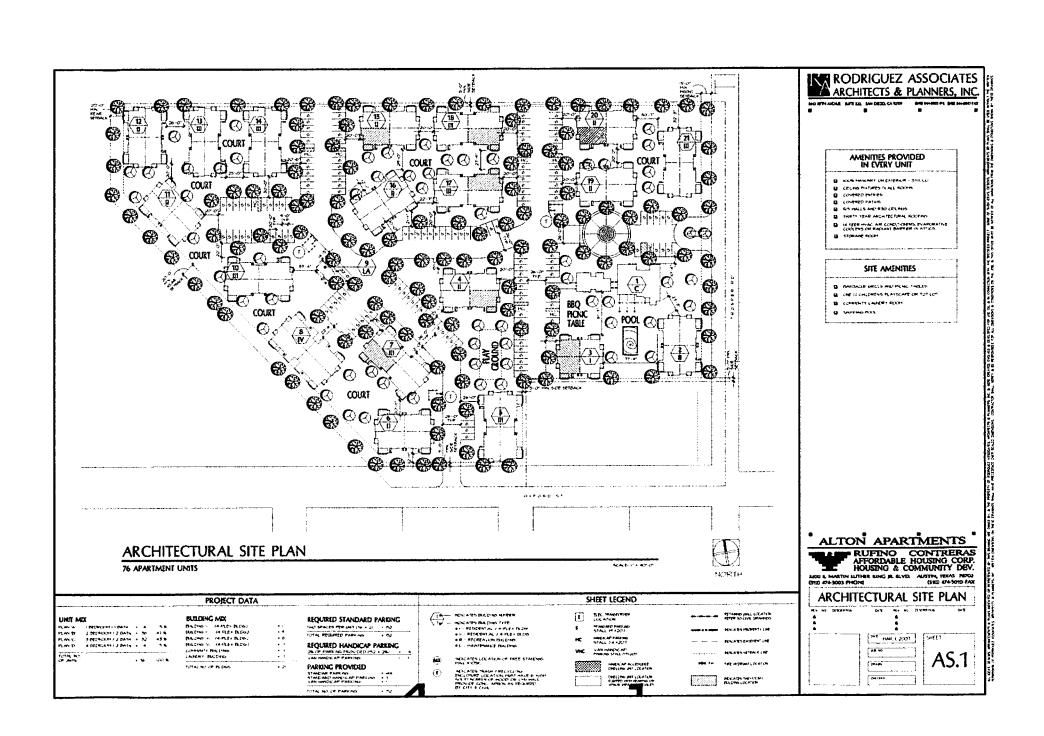
- A. Cash portion of Sales Price, payable by Buyer at closing \$22,000.00 Per acre based on survey. Estimate \$439,780,00
- B. Sum of all financing described below (excluding any loan funding fee or mortgage insurance premium)

  \$ 0
- C. Sales Price (Sum of A and B) 5 439,780,00
- 4. FINANCING: Not Applicable
- 5. EARNEST MONEY: in five business days of execution of this contract by both parties, Buyer shall deposit \$10,000,00 as non-refundable earnest money of which \$1,000,00 is the option fee described below with FIDELITY NATIONAL TITLE CO., as escrow agent, at \$15 CONGRESS AVE., Suite 1310, Austin, Texas 78701. All earnest money will be credited to the sales price. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.

#### 6. TITLE POLICY AND SURVEY:

- A. TITLE POLICY: Seller shall furnish to Buyer at Seller's and Buyer's equal expense an owner policy of title insurance (the Title Policy) issued by <u>FIDELITY</u> <u>NATIONAL TITLE CO</u>, (the Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning erdinances) and the following exceptions:
  - Restrictive covenants common to the platted subdivision in which the Property is located.
  - (2) The standard printed exception for standby feet, taxes and assessments.
  - (3) Liens created as part of the financing described in Paragraph 4.
  - (4) Utility easements created by the dedication deed or plat of the subdivision in

Initiated for identification by Bully and Scaler\_





# CITY OF ALTON

Cars on the Grow

205 West Main Ave. Alton, Texas

February 16, 2007.

Ms. Monica Poss.

Dear Ms. Poss,

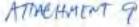
This letter certifies that the Southeast part of the Lot 42-4 West Addition to Sharyland is currently zoned Residential Division 3 as per City of Alton Comprehensive Zoning Plan.

Should you have any questions regarding this matter, please call me at (956) 581-2733.

Sincerely,

David Dobon

David Deleon Planning and Zoning Director City of Alton





alyssa carpenter <ajcarpen@gmail.com>

## AHNS and 2x per Capita Questions

Audrey Martin <audrey.martin@tdhca.state.tx.us>

Mon, Apr 23, 2007 at 4:19

PN

To: alyssa carpenter <ajcarpen@gmail.com>

Cc: brenda.hull@tdhca.state.tx.us, Robbye Meyer <rmeyer@tdhca.state.tx.us>

Alyssa,

The municipality in which the development is now located should be used for AHNS and 2X per capita. Although 2000 census data is used, the current location of the development should be used for both items. Please let me know if this changes anything for one of your applications.

As for 07153, according to my records a threshold review has not been performed.

Please let me know if you have any other questions.

Thanks.

Audrey M. Martin

Competitive HTC Program Administrator

Texas Department of Housing and Community Affairs

Ph: (512) 475-3872

Fax: (512) 475-0764

audrey martin@tdhca.state.tx.us

[Quoted text hidden]

# Applicant Response 07302



## Rufino Contreras Affordable Housing Corporation, Inc.

908 E. 5th Street, Suite 201, Austin, TX 78702- Tel. (512) 474-5003 Fax- (512) 474-5010 a subsidiary corporation of the National Farm Workers Service Center, Inc.

May 25, 2007

Ms. Audrey Martin
Multifamily Finance Division
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

Re: Challenge to 2007 HTC Application 07302, Casa Alton

Dear Ms Martin,

Please accept this letter as a response to the challenge to the above referenced application. Casa Alton should be considered to be located in Alton North, not Alton, and receive the 6 points requested in the application for Affordable Housing Needs Score.

The challenge argues that the proposed site, on northwest corner of Trosper Road and proposed Oxford Street is in the City of Alton and not in Alton North according to the US Census's 2005 city and town information. We argue that this source of information is not valid in determining the place or area in which a site is located.

There is not a single instance of the TDHCA referring applicants to US Census 2005 data and there are at least four instances in the 2007 Qualified Allocation Plan and Rules and at least three instances in the Reference Manual which refer to the most recent decennial census (i.e. the 2000 Census) as the source of data:

- §49.3 (11) (A) defines Area as the geographic area contained within the boundaries of...Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census. (Exhibit A)
- §49.6 (g) states that...the Board will not allocate housing tax credits for a...Development located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tracts as established by the U.S. Census Bureau for the most recent Decennial Census. (Exhibit B)
- §49.6 (h) (1) state that staff will only recommend a 30% increase in Eligible Basis if...(2) The Development is located in a Qualified Census Tract that has less than 40% Housing Tax Credit Units per households in the tract as established by the U.S. Census Bureau for the most recent Decennial Census. (Exhibit C)
- §49.8 (i) (15) states that applications may qualify to receive 7 points if the Development is not located in a Rural Area and has a population less than 100,000 based on the most current Decennial Census. (Exhibit D)
- The 2007 Reference Manual List of Items on the TDHCA website directs applicants to go to <a href="http://qct.huduser.org/index.html">http://qct.huduser.org/index.html</a> in order to find Qualified Census Tracts and Difficult Development Areas. This web page is a Qualified Census Tract Generator that states that the





# Rufino Contreras Affordable Housing Corporation, Inc.

908 E. 5th Street, Suite 201, Austin, TX 78702- Tel. (512) 474-5003 Fax- (512) 474-5010 a subsidiary corporation of the National Farm Workers Service Center, Inc.

2007 QCTs are based on new metropolitan area geography and a new, more detailed tabulation of household income at the census tract level from the 2000 Census. (Exhibit E)

- The Reference Manual also directs applicants to the 2007 Housing Tax Credit Site Demographic Characteristics as of 4/12/2007 Board Meeting Place Level. This document states that a site located outside the boundaries of a place (as designated by the 2000 U.S. Census) will use the Affordable Housing Needs Score of the place whose boundary is closest to the site. (Exhibit F)
- The Reference Manual also directs applicants to the 2007 Housing Tax Credit Site Demographic Characteristics as of April 12, 2007 Board Meeting Tract Level. This document lists the 2000 U.S. Census as the tract data source. (Exhibit G)

In addition to the references to the Decennial Census in the QAP and Reference Manual, the TDHCA staff accepted a response to a deficiency notice to application #060047, stating that the same site should be considered in Alton North, not the City of Alton. A copy of the deficiency and response are attached as well.

The TDHCA, by referencing the 2000 Census and the Decennial Census as a source of information regarding HTC applications, not only implies that this is a valid source for determining the Area where a site is located but also states such:

§49.3 (I1) (A) The geographic area contained within the boundaries of:

- (i) An incorporated place or
- (ii) Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.

The QAP does not specify which of these two options, or definitions, takes precedence. Though the site where 07302 is proposed to be developed has been annexed into City of Alton boundaries in the recent past, it is also in the Alton North CDP as established by the 2000 census. In essence both definitions are true. However, given that we are relying upon the Reference Manual (and thus the 2000 Census) for other data, we cannot include our site in Alton without invalidating all of the other data we rely upon for application purposes.

If the TDHCA required applicants use the most recent site location boundaries in determining Area, updated on an annual basis as cities annex land block by block, then all data pertaining to these Areas would need to be updated as well. For instance, changing the geographical boundaries of any Area would necessitate a change in that place's population, HTC units in place, Place Per Capita/TX Per Capita, and possibly the Area Type. These new boundaries would also result in changes regarding the items previously mentioned in the QAP, namely issues such as determining census tracts that have more than 30% Housing Tax Credit Units per household, Eligible Basis, and Exurban points. Since this data is not updated on an annual basis, the TDHCA and the applicants rely on more static data, namely the decennial census, to keep all statistics pertinent.

If we were to designate Alton and not Alton North as our development's Area, the information cited in the Reference Manual for Alton would not apply to our site location. For example, the Reference Manual states that Alton has a population of 4,384. That population statistic does not include the





# Rufino Contreras Affordable Housing Corporation, Inc.

908 E. 5th Street, Suite 201, Austin, TX 78702- Tel. (512) 474-5003 Fax- (512) 474-5010 a subsidiary corporation of the National Farm Workers Service Center, Inc.

geographical area where our proposed development would be located, does not include the people who live on land annexed by the City of Alton since 2000. If we were to designate Alton and not Alton North as our Area, ALL data we would draw from the Reference Manual would be irrelevant to the geographical location of our project. Therfore, it is the Alton North data in the Reference Manual that most accurately reflects the population and housing characteristics of our geography.

Based on this information, we request that application 07302 receive 6 points for the 2007 Affordable Housing Needs Score.

Sincerely,

Jean Coburn Project Manager



# EXHIBIT A 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

- (4) Applicable Fraction—The fraction used to determine the Qualified Basis of the qualified low-income building, which is the smaller of the Unit fraction or the floor space fraction, all determined as provided in the Code, \$42(c)(1).
- (5) Applicable Percentage—The percentage used to determine the amount of the Housing Tax Credit for any Development (New Construction, Reconstruction, and/or Rehabilitation), as defined more fully in the Code, \$42(b).
  - (A) For purposes of the Application, the Applicable Percentage will be projected at:
- (i) 40 basis points over the current applicable percentage for 70 percent present value credits, pursuant to \$42(b) of the Code for the month in which the Application is submitted to the Department, or
- (ii) 15 basis points over the current applicable percentage for 30 percent present value credits, pursuant to \$42(b) of the Code for the month in which the Application is submitted to the Department.
- (B) For purposes of making a credit recommendation at any other time, the Applicable Percentage will be based in order of priority on:
  - (i) The percentage indicated in the Agreement and Election Statement, if executed; or
- (ii) The actual applicable percentage as determined by the Code, \$42(b), if all or part of the Development has been placed in service and for any buildings not placed in service the percentage will be the actual percentage as determined by Code, \$42(b) for the most current month; or
- (iii) The percentage as calculated in subparagraph (A) of this paragraph if the Agreement and Election Statement has not been executed and no buildings have been placed in service.
- (6) Applicant--Any Person or Affiliate of a Person who files a Pre-Application or an Application with the Department requesting a Housing Credit Allocation. (§2306.6702)
- (7) Application--An application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material. (§2306.6702)
- (8) Application Acceptance Period--That period of time during which Applications for a Housing Credit Allocation from the State Housing Credit Ceiling may be submitted to the Department as more fully described in \$49.9(a) and \$49.21 of this title. For Tax-Exempt Bond Developments this period is the date the Volume 1 and 2 are submitted or the date the reservation is issued by the Texas Bond Review Board, whichever is earlier, and for Rural Rescue Applications this is that period of time stated in the Rural Rescue Policy.
- (9) Application Round--The period beginning on the date the Department begins accepting Applications for the State Housing Credit Ceiling and continuing until all available Housing Tax Credits from the State Housing Credit Ceiling (as stipulated by the Department) are allocated, but not extending past the last day of the calendar year. (§2306.6702)
- (10) Application Submission Procedures Manual--The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for the filing of Pre-Applications and Applications for Housing Tax Credits.
  - (11) Area--
    - (A) The geographic area contained within the boundaries of:
      - (i) An incorporated place or
- (ii) Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.
- (B) For Developments located outside the boundaries of an incorporated place or CDP, the Development shall take up the Area characteristics of the incorporated place or CDP whose boundary is nearest to the Development site.
- (12) Area Median Gross Income (AMGI)--Area median gross household income, as determined for all purposes under and in accordance with the requirements of the Code, §42.
  - (13) At-Risk Development -- a Development that: (\$2306.6702)
- (A) has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under at least one of the following federal laws, as applicable:
  - (i) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. §17151);
  - (ii) Section 236, National Housing Act (12 U.S.C. §1715z-1);
  - (iii) Section 202, Housing Act of 1959 (12 U.S.C. §1701q);
  - (iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. §1701s);
- (v) the Section 8 Additional Assistance Program for housing Developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;
- (vi) the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development;
  - (vii) Sections 514, 515, and 516, Housing Act of 1949 (§42U.S.C. §§1484, 1485, and 1486); or
  - (viii) Section 42, of the Internal Revenue Code of 1986 (26 U.S.C. §42), and

EXHIBIT B

### 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

Applications are not subject to these Housing Tax Credit limitations, and Tax-Exempt Bond Developments will not count towards the total limit on tax credits per Applicant. The limitation does not apply (§2306.6711(b)):

- (1) to an entity which raises or provides equity for one or more Developments, solely with respect to its actions in raising or providing equity for such Developments (including syndication related activities as agent on behalf of investors);
- (2) to the provision by an entity of "qualified commercial financing" within the meaning of the Code (without regard to the 80% limitation thereof);
- (3) to a Qualified Nonprofit Organization or other not-for-profit entity, to the extent that the participation in a Development by such organization consists only of the provision of loan funds, grants or social services; and
- (4) to a Development Consultant with respect to the provision of consulting services, provided the Development Consultant fee received for such services does not exceed 10% of the fee to be paid to the Developer (or 20% for Qualified Nonprofit Developments), or \$150,000, whichever is greater.
  - (e) Limitations on the Size of Developments.
- (1) The minimum Development size will be 16 Units if the Development involves Housing Tax Credits. The minimum Development size will be 4 Units if the funding source only involves the Housing Trust Fund or HOME Program.
- (2) Rural Developments involving any New Construction (excluding New Construction of non-residential buildings) will be limited to 76 Units. Rural Developments involving only Rehabilitation do not have a size limitation.
- (3) Developments involving any New Construction (excluding New Construction of non-residential buildings), that are not Tax-Exempt Bond Developments, will be limited to 252 Total Units, wherein the maximum Department administered Units will be limited to 200 Units. Tax-Exempt Bond Developments will be limited to 252 Total Units. These maximum Unit limitations also apply to those Developments which involve a combination of Rehabilitation, Reconstruction, and New Construction. Developments that consist solely of acquisition/Rehabilitation or Rehabilitation only may exceed the maximum Unit restrictions.
- (4) For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is being constructed to provide replacement of previously existing affordable multifamily units on its site (in a number not to exceed the original units being replaced, unless a market study supports the absorption of additional units) or that were originally located within a one mile radius from the proposed Development, the combined Unit total for the Developments may not exceed the maximum allowable Development size, unless the first phase has been completed and has attained Sustaining Occupancy (as defined in §1.31 of this title) for at least six months.
- (f) Limitations on the Location of Developments. Staff will only recommend, and the Board may only allocate, housing tax credits from the Credit Ceiling to more than one Development from the Credit Ceiling in the same calendar year if the Developments are, or will be, located more than one linear mile apart as determined by the Department. If the Board forward commits credits from the following year's allocation of credits, the Development is considered to be in the calendar year in which the Board votes, not in the year of the Credit Ceiling. This limitation applies only to communities contained within counties with populations exceeding one million (which for calendar year 2007 are Harris, Dallas, Tarrant and Bexar Counties). For purposes of this rule, any two sites not more than one linear mile apart are deemed to be "in a single community." (\$2306.6711) This restriction does not apply to the allocation of housing tax credits to Developments financed through the Tax-Exempt Bond program, including the Tax-Exempt Bond Developments under review and existing Tax-Exempt Bond Developments in the Department's portfolio. (\$2306.67021)
- (g) Limitations of Development in Certain Census Tracts. Staff will not recommend and the Board will not allocate housing tax credits for a Competitive Housing Tax Credit or Tax Exempt Bond Development located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tract as established by the U.S. Census Bureau for the most recent Decennial Census unless the Applicant:
  - (1) In an area whose population is less than 100,000;
- (2) Proposes only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings); or,
- (3) Submits to the Department an approval of the Development referencing this rule in the form of a resolution from the governing body of the appropriate municipality or county containing the Development. For purposes of this paragraph, evidence of the local government approval must be received by the Department no later than April 2, 2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed). These ineligible census tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

2007 Qualified Allocation Plan and Rules Page 15 of 65 EXHIBIT C

### 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

- (h) Limitations on Developments Proposing to Qualify for a 30% increase in Eligible Basis. Staff will only recommend a 30% increase in Eligible Basis:
- (1) If the Development proposing to build in a Hurricane Rita Gulf Opportunity Zone (Rita GO Zone), which was designated as a Difficult to Develop Area as determined by HB4440, is able to be placed in service by December 31, 2008 (or date as revised by the Internal Revenue Service) as certified in the Application; or,
- (2) The Development is located in a Qualified Census Tract that has less than 40% Housing Tax Credit Units per households in the tract as established by the U.S. Census Bureau for the most recent Decennial Census. Developments located in a Qualified Census Tract that has in excess of 40% Housing Tax Credit Units per households in the tract are not eligible to qualify for a 30% increase in Eligible Basis, which would otherwise be available for the Development site pursuant to the Code, §42(d)(5)(C), unless the Development is proposing only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings). These ineligible Qualified Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.
- (i) Rehabilitation Costs. Developments involving Rehabilitation must establish that the Rehabilitation will substantially improve the condition of the housing and will involve at least \$12,000 per Unit in direct hard costs (including site work, contingency, contractor profit, overhead and general requirements) unless financed with TX-USDA-RHS in which case the minimum is \$6,000.
- (j) Unacceptable Sites. Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.
- (k) Appeals and Administrative Deficiencies for Site and Development Restrictions. An Application or Development found to be in violation under subsections (a) (h) of this section will be notified in accordance with the Administrative Deficiency process described in \$49.9(d)(4) of this title. They may also utilize the appeals process described in \$49.17(b) of this title.

### \$49.7. Regional Allocation Formula; Set-Asides; Redistribution of Credits.

- (a) Regional Allocation Formula. As required by \$2306.111(d), Texas Government Code, the Department uses a regional distribution formula developed by the Department to distribute credits from the State Housing Credit Ceiling to all urban/exurban areas and rural areas. The formula is based on the need for housing assistance, and the availability of housing resources in those urban/exurban areas and rural areas, and the Department uses the information contained in the Department's annual state low income housing plan and other appropriate data to develop the formula. This formula establishes separate targeted tax credit amounts for rural areas and urban/exurban areas within each of the Uniform State Service Regions. Each Uniform State Service Region's targeted tax credit amount will be published on the Department's web site. The regional allocation for rural areas is referred to as the Rural Regional Allocation and the regional allocation for urban/exurban areas is referred to as the Urban/Exurban Regional Allocation. Developments qualifying for the Rural Regional Allocation must meet the Rural Development definition. At least 5% of each region's allocation for each calendar year shall be allocated to Developments which are financed through TX-USDA-RHS, that meet the definition of a Rural Development, do not exceed 76 Units if proposing any New Construction (excluding New Construction of nonresidential buildings), and have filed an "Intent to Request 2007 Housing Tax Credits" form by the Pre-Application submission deadline. These Developments will be attributed to the Rural Regional Allocation in each region where they are located. Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will be considered under this set-aside. Any Rehabilitation or Reconstruction of an existing 515 development that retains the 515 loan and restrictions, regardless of the source or nature of additional financing, will be considered under this set-aside. Commitments of 2007 Housing Tax Credits issued by the Board in 2006 will be applied to each Set-Aside, Rural Regional Allocation, Urban/Exurban Regional Allocation and TX-USDA-RHS Allocation for the 2007 Application Round as appropriate.
- (b) Set-Asides. An Applicant may elect to compete in as many of the following Set-Asides for which the proposed Development qualifies: (§2306.111(d))
- (1) At least 10% of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of the Code, §42(h)(5). Qualified Nonprofit Organizations must have the Controlling interest in the Qualified Nonprofit Development applying for this Set-Aside. If the organization's Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the controlling managing General Partner. If the organization's Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member. Additionally, a Qualified Nonprofit Development submitting an Application in the nonprofit set-aside must have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or a co-Developer as evidenced in the development agreement. (§2306.6729 and §2306.6706(b))

2007 Qualified Allocation Plan and Rules Page 16 of 65 EXHIBIT D

### 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

paragraph. Areas qualifying under any one of the subparagraphs (A) - (G) of this paragraph will receive 4 points. An Application may only receive points under one of the subparagraphs (A) - (G) of this paragraph.

- (A) A geographical Area which is an Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD at the time of Application submission (\$2306.127).
- (B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the first day of the Application Acceptance Period. (General Appropriation Act, Article VII, Rider 6; \$2306.127)
- (C) the Development is located in a county that has received an award as of November 15, 2006, within the past three years, from the Texas Department of Agriculture's Rural Municipal Finance Program or Real Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.
- (D) the Development is located in a census tract which has a median family income (MFI), as published by the United States Bureau of the Census (U.S. Census), that is higher than the median family income for the county in which the census tract is located. This comparison shall be made using the most recent data available as of the date the Application Round opens the year preceding the applicable program year. Developments eligible for these points must submit evidence documenting the median income for both the census tract and the county. These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.
- (E) the proposed Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and is proposed to be located in an elementary school attendance zone of an elementary school that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. The date for consideration of the attendance zone is that in existence as of the opening date of the Application Round and the academic rating is the most current rating determined by the Texas Education Agency as of that same date. (§42(m)(1)(C)(vii))
- (F) the proposed Development will expand affordable housing opportunities for low-income families with children outside of poverty areas. This must be demonstrated by showing that the Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and that the census tract in which the Development is proposed to be located has no greater than 10% poverty population according to the most recent census data. (§42(m)(1)(C)(vii)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.
- (15) Exurban Developments (Development characteristics). (\$2306.6725(a)(4); \$42(m)(1)(C)(i)) Applications may qualify to receive 7 points if the Development is not located in a Rural Area and has a population less than 100,000 based on the most current Decennial Census
- (16) Demonstration of Community Support other than Quantifiable Community Participation: If an Applicant requests these points on the self scoring form and correctly certifies to the Department that there are no neighborhood organizations that meet the Department's definition of Neighborhood Organization pursuant to \$49.9(i)(2)(A)(iv) of this title and 12 points were awarded under paragraph (2) of this subsection, then that Applicant may receive two points for each letter of support submitted from a community or civic organization that serves the community in which the site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. The community or civic organization must provide some documentation of its existence in the community to include, but not be limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that are not active in the area that includes the location of the Development will not be counted. For purposes of this item, community and civic organizations do not include neighborhood organizations, governmental entities, taxing entities or educational activities. Letters of support received after March 1, 2007, will not be accepted for this item. Two points will be awarded for each letter of support submitted in the Application, not to exceed 7 points. Should an Applicant elect this option and the Application receives letters in opposition by March 1, 2007, then two points will be subtracted from the score for each letter in opposition. provided that the letter is from an organization serving the community. At no time will the Application. however, receive a score lower than zero for this item.
- (17) Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits: The Application may receive 7 points if the proposed Development is located in a census tract in which there are no other existing developments supported by housing tax credits. Applicant must provide evidence of the census

2007 Qualified Allocation Plan and Rules Page 43 of 65

### **Qualified Census Tract Table Generator**

This page allows you to generate Low-Income Housing Tax Credit (LIHTC) Qualified Census Tract (QCT) tables for individual counties, individual metropolitan areas, nonmetropolitan parts of individual States, all counties in a single State, the complete table for all metropolitan areas, and the complete table for all nonmetropolitan parts of States. Simply click the appropriate button below.

Geocoded lists of all Qualified Census Tracts are available in WinZip-archived dBase files.  $|\underline{2006}|$  2007 |

### Notes on 2007 QCTs

The 2007 QCTs are based on new metropolitan area geography and a new, more detailed tabulation of household income at the census tract level from the 2000 Census. See the latest <u>Designation Notice</u> for information on the application of new metropolitan area geography. An explanation of the new, more detailed tabulation of household income at the census tract level from the 2000 Census used to designate the 2007 QCTs, and a downloadable data file, are available <u>here</u>.

Excel spreadheets containing the <u>data</u> used to designate the 2007 QCTs are available <u>here</u>. The designation <u>algorithm</u> can be read <u>here</u>.

Select Individual County/Metro Area/Nonmetro State Table
Select Year: C 2006
© 2007 Generate Complete Metro Table
The Complete Metro Table is available as an Adobe Acrobat (*.PDF) file formatted for optimal printing.   2006   2007
Select Year: C 2006
© 2007 Generate Complete Nonmeiro Table
The Complete Nonmetro Table is available as an Adobe Acrobat (*.PDF) file formatted for optimal printing.   2006   2007
Difficult Development Area Tables Select Year:
<ul> <li>C 2006 (updated to include changes related to the Gulf Opportunity Zone Act of 2005)</li> <li>€ 2007</li> </ul>
Generate DDA Tables
The Difficult Development Area tables are available as Adobe Acrobat (*.PDF) files formatted for optimal printing.
Metro DDAs 2006   Nonmetro DDAs 2006   Metro DDAs 2007   Nonmetro DDAs 2007

To determine the census tract number for a particular address, visit the <u>HUD User GIS Service --</u>
Low-Income Housing Tax Credit Qualified Census Tract (QCT) Locator, or for Guam and Northern

Marianas Island locations, the Small Business Administration (SBA) HUB Zone Locator.

http://qct.huduser.org/index.html

### EXHIBIT F



# 2007 Housing Tax Credit Site Demographic Characteristics as of 04/12/2007 Board Meeting

### Place Level - Sorted by Place

### Instructions:

A site located outside the boundaries of a place (as designated by the 2000 U.S. Census) will use the Affordable Housing Need Score of the place whose boundary is closest to the site.

if information for a specific place is not included in the table, then contact TDHCA's Division of Policy and Public Affairs at (512) 475-3976. All other questions relating to scoring an application should be submitted in writing to Jason Burr via email at jason.burr@tdhca.state.tx.us.

#### Notes

(1) These area designations may be updated when TX-USDA-RHS releases the 2007 areas eligible for funding or applicants may petition TDHCA to update the "Rural" designation of a place within a metropolitan statistical area by providing a letter from a local official. Such letter must clearly indicate that the place has an incorporated area boundary that touches the boundary of another place with a population of over 20,000. Such petitions should be submitted to the TDHCA Division of Policy and Public Affairs via email at info@tdhca.state.bc.us or fax at (512) 475-3746. To treat all applicants equitably, such letter must be provided to TDHCA prior to the commencement of the pre-application submission period for HTC applications. The results of such petitions will be posted on the HTC application updates portion of the website at http://www.tdhca.state.bc.us/lihtc.htm and any changes to the area designations will be e-mailed to the applicant contact e-mail adderesses as listed in the application.

(2) QAP 49.9(i)(11), Affordable Housing Needs Score - The number represented for the place is the number of points that may be requested for a Competitive Housing Tax Credit Application for the 2007 Application Round.

(3) QAP 49.9(i)(15), Exurban Points - The "Yes" or "No" in this column for each place indicates whether a Competitive Housing Tax Credit Application in the place is eligible for Exurban points.

(4) QAP 49.5(a)(7), 2X Per Capita - A "Yes" in this column for a place indicates that the place violates the 2X per capita limitation; a "No" indicates that the place does not violate the 2X per capita limitation. HTC Unit Data is based on Board approvals through 12/14/2006. Population data is based on Texas State Data Center 06 Population Estimate. A site located outside the boundaries of an incorporated place will use the County HTC per capita. The HTC per capita status of the Census Designated Places (CDP) shown in the table below is based on the county per capita.

Region	Place	County	Area Type-Rural or Urban/ Exurban (1)	2000 Census Population	Affordable Housing Need Score (2)	Eligible for Exurban Points (3)	HTC Units in Place	Place Per Capita/TX Per Capita	PI Per Cap >2x TX Per Cap (4)	CDP	Status Changed from Previous Analysis
	Abbott	Hill	Rural	300		No	0		No		
1	Abernathy	Hale	Rural	2839		No	24	1.17			
	Abilene	Taylor	Urb./Exurb.	115930		No	823	0.97			
_	Abram-Perezville	Hidalgo	Rural	5444		No	0		No	Yes	
12	Ackerly	Dawson	Rural	245		No	0		No		
3	Addison	Dallas	Urb./Exurb.	14166	5	Yes	0	0	No		
1	Adrian	Oldham	Rural	159	7	No	_ 0		No No		
13	Agua Dulce (El Paso	El Paso	Rural	738	4	No	0	0	No	Yes	
10	Agua Dulce (Nueces	Nueces	Rural	737	6	No	0	0	No		
10	Airport Road Addition	Brooks	Rural	132		No	0		No	Yes	
11	Alamo	Hidalgo	Urb./Exurb.	14760	4	Yes	290	2.25	Yes		
9	Alamo Heights	Bexar	Urb./Exurb.	7319		Yes	0	0	No		
4	Alba	Wood	Rurai	430	7	No	0	0	No		
_2	Albany	Shackelford	Rural	1921	6	No	40	2.98			
6	Aldine	Harris	Urb./Exurb.	13979	4	Yes	120	1.13	No	Yes	
	Aledo	Parker	Rural	1726		No	0	0	No		
	Alfred-South La Pald	Jim Wells	Rural	451	4	No	0		No	Yes	
10	Alice	Jim Wells	Rural	19010	5	Yes	196	1.36	No		
10	Alice Acres	Jim Wells	Rural	491	4	No	0	0	No	Yes	

EXHIBIT G



# 2007 Housing Tax Credit Site Demographic Characteristics as of April 12, 2007 Board Meeting Tract Level - Sorted by County then Tract

Tract Data Source: U.S. Census 2000

The complete tract identifier used by the Census Bureau is below provided (i.e. 48001950600). The first five digits are the state and county code. The remaining six digits are the tract code. Often in general use, only the tract code is shown with a decimal prior to the final two digits. For example, the above referenced tract would be shown as 9506.00.

Applicants may petition TDHCA to update the unit concentration data if they believe that the number of HTC units in the tract is in error. Such petitinn must be provided to the TDHCA Division of Policy and Public Affairs via email at info@tdhca.state.tx.us or fax at (512) 475-3746 prior to the commencement of the pre-application submission period for HTC applications. The results of such petitions will be posted on the HTC application updates portion of tha website at http://www.tdhca.state.tx.us/lihtc.htm and any changes to the area designations will be e-mailed to the applicant contact e-mail adderesses as listed in the application.

### Notes:

- (1) QAP §49.9(i)(14)(D), Tract MFI > County MFI Points If "Yes", the Application is eligible for points pursuant to this section.
- (2) QAP §49.9(i)(14)(F), Developments Outside of Poverty Areas If "Yes", the Application is eligible for points pursuant to this section.
- (3) QAP §49.9(i)(17), Developments Located in Cencus Tracts with No Other HTC Developments If "Yes", the Application is eligible for points pursuant to this section.
- (4) QAP ineligibility item 49.6(g): If "Yes", New Construction Applications are ineligible for Housing Tax Credits unless the Applicant submits to the Department an approval of the Development referencing this rule in the form of a resolution from the governing body of the appropriate municipality or county containing the Development by the required deadlines outlined in the QAP.
- (5) For QAP ineligibility item 49.6(h), if "Yes", not eligible for the 130% Eligibile Basis Increase.

Tract ID	County	2000 Tract Median Family Income	2000 County Median Family Income	Eligible for §49.9(i)(14)(D) Tract MFI > County MFI Points (1)	2000 Tract Population	2000 Tract Poverty Population	Eligible for Poverty < 10% Points? (2)	Eligible for §49.9(i)(17)? (3)		mengiore Tracif (4)	Ineligible For 130% Basis Boost? (5)
48001950100	Anderson	38571	37513	Yes	4449	626	No	No	no	no	
48001950200	Anderson	40391	37513	Yes	3371	509	No	Yes	no	no	
48001950300	Anderson	40278	37513	Yes_	738	117	No	Yes	no	no	
48001950400	Anderson	57788	37513	Yes	14381	3	Yes	Yes	no	no	
48001950500	Anderson	31223	37513	No	3954	981	No	No	no	no	
48001950600	Anderson	37769	37513	Yes_	6363	1127	No	Yes	no	no	
48001950700	Anderson	26736	37513	No	2353	677	No	No	no	no	
48001950800	Anderson	37319	37513	No	4955	815	No	No	no	no	
48001950900	Anderson	40071	37513	Yes	8744	995	No	No	no	no	
48001951000	Anderson	38264	37513	Yes	5801	804	No	No	no	no	
48003950100	Andrews	56406	37017	Yes	1525	151	Yes	Yes	no	no	
48003950200	Andrews	39816	37017	Yes	5607	822	No	No	no	no	
48003950300	Andrews	29211	37017	No	3519	753	No	Yes	no	no	

MR. GERBER: And Madam Chair, this item has actually been dropped because there are no underwriting appeals that have been submitted at this meeting.

MS. ANDERSON: So far, so good, Mr. Gouris. It is a far way to three days from now. Okay. Item 3. Tax credit items, Mr. Gerber.

MR. GERBER: Madam Chair Item 3A, the first appeal, this is the Elder Street Lofts. And this item has been removed from the agenda, because I, as Executive Director, first hear the appeals. This was one that I was able to grant within my discretion.

With respect to the second item, Casa Alton, I am going to ask for Audrey Martin our tax credit administrator to come forward and present that item.

MS. MARTIN: Madam Chair and Board members, I am Audrey Martin, competitive housing tax credit program administrator. Item 3A is an appeal of a scoring determination for application 07-302, Casa Alton, which is proposed to be located in the City of Alton. The applicant is appealing the point award under Section 49.9 I-11, of the 2007 QAP, which is housing needs characteristics.

Under this section of the QAP, an application is awarded points based on objective measures of housing

need in the area where the development is located. Each area in the state is given a housing need score by the Department, using a methodology approved by the Board during the November 2006 Board meeting. The Department then takes that housing needs score and awards points to an application based on the area in which the development is currently located.

The issue central to this appeal is what location should be used to award points under housing needs score. As I mentioned, the Department uses the currently development location. This methodology has been consistently applied, consistent with the QAP to every competitive housing tax credit application.

In this appeal however, the applicant asserts that because data from the year 2000 census is used to establish housing need, and because references to this year 2000 data are made throughout the QAP, then the development location as of the year 2000 should be used to award points for housing needs score. This development was located in Alton North in the year 2000, but is now located within the city limits of the City of Alton.

The housing needs score for Alton North is two points higher at six points than the housing needs score for Alton, which is four points. Therefore, it is

advantageous for this applicant to be awarded points based on the development location as of the year 2000, which was in Alton North.

I would like to point out here that the date the Department uses to establish housing needs score is updated to account for boundary changes such as the one that has happened within Alton within the past seven years. So finally, I would just like to reemphasize that the Department has consistently evaluated all competitive housing tax credit applications using the current development location, not its location seven years ago when awarding housing needs score.

In addition, there is one other proposed development in Alton this year, and that application received a housing needs score of four, which is the housing needs score for Alton. So deviating from the methodology the Department has used to evaluate all other applications would allow an unfair scoring advantage to this application. Staff recommends that the Board deny this appeal.

MS. ANDERSON: Yes, Ms. Ray?

MS. RAY: Madam Chair, I would like to ask the staff one question. I read through all the supporting documentation. I could not understand exactly when this

area was annexed by the City of Alton.

MS. MARTIN: Sure. This area was annexed via City Ordinance in December of 2000, but wasn't recorded until October of 2002. So it has still been a considerable amount of time.

MS. RAY: That is the only thing I would like clarified. Thank you very much.

MS. ANDERSON: I do have public comment on this item. Monica Poss and then Jean Coburn.

MS. POSS: Good afternoon. I am Monica Poss with the National Farmworker Service Center, appealing staff decisions to move the area in question in the housing needs characteristics score from Alton North to Alton. These are two completely separate geographical areas, contiguous but with their own separate boundaries and different populations, with different characteristics within each of those boundaries.

We are appealing this based on two factors.

One, the rules of the QAP, which we followed. And two, the characteristics of the population in the boundaries within which our site lies. Section 49.9 I-11, selection criterial for housing needs score in the QAP states that an applicant choose, request the housing need in the Area with a capital A in which the development is located.

Section 49.3 of the QAP which is the definition section, defines Area as the geographic area contained within the boundaries of, one, an incorporated place, or two, a census designated place, CDP, as established by the U.S. Census Bureau for the most recent decennial census. And in this case, it is the 2000 census.

I want to make it clear, we weren't trying to pull a fast one on anyone, and gain an extra two points. When developers go looking for land, they frequently pull the maps from the 2000 census data, which is the data the TDHCA actually refers us to in looking at census tract numbers, where there are no developments, in helping identify sites within those areas. According to the boundary maps, we are within Alton North in that area.

Our challenger has stated we are within the boundaries of Alton as shown on 2005 census. Nowhere in the QAP is 2005 census maps recognized as a legitimate source of information. Throughout the QAP, the TDHCA refers applicants to the 2000 census as the legitimate source of data.

The TDHCA even uses the 2000 census maps to determine boundaries themselves for areas in their site demographics characteristics report. That is the report that states the housing needs characteristics score in

question here. According to this data and these maps, our development clearly falls within the Alton North area.

The other area in question, Alton, is contiguous to our site, our area. But we are not located within its boundaries. Though the development site has been annexed by the city since the last census, the housing needs characteristics score for Alton is based upon the needs of the population within the boundary of the area Alton, not the full city limits. We do not fall within those boundaries. The Alton and Alton North areas are two separate geographical areas and we are within Alton North.

MS. ANDERSON: Thank you.

Ms. Jean Coburn. And then Ms. Cynthia Bast.

MS. COBURN: I'll yield my time.

MS. POSS: I just wanted to summarize by saying that in deciding -- I am Monica Poss, again and always. So summarize in determining our area as Alton North and not Alton, we relied on the sources of data supported by the TDHCA, the only source of data recognized by the QAP. The rules of the QAP, which tell us where to choose our site and incorporated place or the CDP, with no precedents placed on either one. And the area which most describes the unique population characteristics of the boundaries

that surround our site. Thank you.

MS. ANDERSON: Thank you. Ms. Bast.

MS. POSS: She is here to clean up after me in case I make a mess.

MS. BAST: I will defer.

MS. ANDERSON: Okay.

MS. POSS: Any questions?

(No response.)

MS. ANDERSON: Okay. Thank you, Ms. Poss. Audrey.

MR. BOGANY: Audrey, you just heard her explanation. What are your thoughts?

MS. MARTIN: Well, my main thought is that in the section of the QAP that talks about housing needs characteristic, we actually refer the applicants to our reference manual, which is posted and put out by the Department each year. That reference manual uses the affordable housing needs score methodology, again, that the Board approved in November of 2006.

In that methodology, we use updated population numbers from the Texas State Data Center, which do take into account boundary changes that occur. So I think that our methodology does cover this boundary change.

MR. BOGANY: Okay, thank you.

MR. CONINE: Move staff recommendation to deny.

MS. RAY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Where are we. Oh, 3B.

MR. GERBER: Madam Chair, item 3B is the 2007 competitive tax credit cycle. As, you know, it is nearing an end with only 32 days left until the final awards are made. And as, you know, each June, we are required by statute to provide a list of approved applications, which counsel has opined is comprised of all currently eligible applications. The list is not to note which applications are being recommended for an actual award of credits. That will occur at the July 30 meeting.

In January, the Department received 212 preapplications, requesting \$156 million in housing tax credits. And in March, the Department received 111 full Board Report Items

June 30, 2016 Meeting

TDHCA ID#	16380	Development Name:		Sierra Vista
City:	Lopezvi	lle CDP	Region:	11
Requester:	Mark M	usemeche, I	MGroup Hol	dings, Inc.

Nature and Basis of Request: The request asked the Department to review whether the Application identified the correct Place for the location of the proposed Development Site as required to score two points under §11.9(c)(6)(C) Underserved Area, of the 2016 Qualified Allocation Plan. The Application identified the Lopezville CDP as the Place of the Development. The requester provided information indicating that the portion of the CDP containing the Development Site was annexed by the City of Edinburg in 2013.

Analysis and Resolution: Staff reviewed the request and initially determined that an Administrative Deficiency should be issued. Staff issued such a deficiency and, upon review of the response, determined that since the proposed site was annexed by the City of Edinburg in 2013, the Application was not eligible for the requested points. A scoring notice was issued to the Applicant, and the Applicant appealed the loss of points to the Department's Executive Director. The Executive Director granted the appeal based on the fact that, per §10.2(d), Census Data, "Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded." The most current data available as of October 1, 2015, indicates that the Development Site is in the Lopezville CDP.

Based on this determination, staff determined that the matter should not be the subject of an Administrative Deficiency.

Based on these findings, staff determined that no further action is required.

TDHCA ID#	16380	Development Name:		Sierra Vista
City:	Lopezville CDP <b>Region:</b>			11
Requester:	Donna l	Rickenback	er, Marque Re	eal Estate Consultants

Nature and Basis of Request: The request asked the Department to review whether the Application identified the correct Place for the location of the proposed Development Site as required to score two points under §11.9(c)(6)(C) Underserved Area, of the 2016 Qualified Allocation Plan. The Application identified the Lopezville CDP as the Place of the Development. The requester provided information indicating that the portion of the CDP containing the Development Site was annexed by the City of Edinburg in 2013.

Analysis and Resolution: Staff reviewed the request and initially determined that an Administrative Deficiency should be issued. Staff issued such a deficiency and, upon review of the response, determined that since the proposed site was annexed by the City of Edinburg in 2013, the

Application was not eligible for the requested points. A scoring notice was issued to the Applicant, and the Applicant appealed the loss of points to the Department's Executive Director. The Executive Director granted the appeal based on the fact that, per §10.2(d), Census Data, "Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded." The most current data available as of October 1, 2015, indicates that the Development Site is in the Lopezville CDP.

Based on this determination, staff determined that the matter should not be the subject of an Administrative Deficiency.

Based on these findings, staff determined that no further action is required.

# 16380

# Sierra Vista

# Third Party Request for Administrative Deficiency



BARRY J. PALMER

bpalmer@coatsrose.com Direct Dial (713) 653-7395 Direct Fax (713) 890-3944

June 23, 2016

By Email to tim.irvine@tdhca.state.tx.us

Tim Irvine, Executive Director Texas Department of Housing and Community Affairs 221 East 11<sup>th</sup> Street Austin, Texas 78701-2410

RE: #16380; Sierra Vista, Lopezville CDP/Edinburg, Hidalgo County, Texas; Issues concerning definition of a "Place" and specifically a "Census Designated Place."

Dear Tim:

I write to express concern regarding the TDHCA's apparent interpretation of exactly what constitutes a "Place" for purposes of awarding points for Underserved Areas under Section 11.9(c)(6)(C) of the 2016 QAP. Staff's recent uncertainty in following the requirements of the QAP and Rules on this matter raises concerns that the unambiguous requirements of the Rules and the TDHCA Board's previous determinations in similar situations are being disregarded, which will result in a miscarriage in awarding the 2016 Competitive Round tax credits.

I have been provided with copies of the TDHCA's letters sent on June 21, 2016 to Mark Musemeche and to Donna Rickenbacker in response to Third Party Deficiency Requests filed by each of them on March 28, 2016 and May 15, 2015, respectively. The manner in which these Deficiency Requests were handled demonstrates uncertainty which may result in what we believe to be a misinterpretation by Staff.

As you are aware, the QAP grants Underserved Area points if an applicant has a site located in a "Place" that has never received a tax credit allocation serving the same Target Population. MDS Housing Owasso, Ltd. (the "Applicant") claimed two points for Sierra Vista Apartments (the "Project") on the grounds that it is located in "Lopezville CDP/Edinburg" and Lopezville CDP has no tax credit allocations. The Applicant elected a General Target Population.

### Chronology of Requests and Responses.

• On March 28, 2016, MGroup Holdings, Inc. ("MGroup"), an affiliate of Mark Musemeche, submitted a Third Party Deficiency Request to the Department. Mr.

9 Greenway Plaza, Ste 1100, Houston, Texas 77046 Phone: (713) 651-0111 Fax: (713) 651-0220 Web: <u>www.coatstose.com</u> Musemeche pointed out that the Applicant's site was not in Lopezville CDP, having been annexed by the City of Edinburg as of December, 2013. Under the applicable definition of a Census Designated Place ("CDP"), the Project could no longer be considered to be located in a CDP and therefore did not qualify for the Underserved Area points claimed by the Applicant.

- On April 18, 2016, Sharon Gamble sent an Administrative Deficiency Notice to the Applicant requesting a response to the MGroup's Third Party Deficiency Request. Unfortunately, the Deficiency Notice from the Department incorrectly stated that the issue raised by MGroup was whether the Applicant's site was located in the "Lopezville ETJ" which was not the issue raised by the MGroup. It is clear that Lopezville is a CDP and does not include an ETJ.
- On April 25, 2016, the Applicant responded to the Deficiency Notice with a letter from Locke Lord claiming that the Applicant maintains that the location of its site is within both the City of Edinburg and the Lopezville CDP.
- On April 27, 2016, the MGroup received an email from Sharon Gamble stating that the Department had confirmed the Applicant's site was in the City of Edinburg, that the Project is therefore ineligible for the Underserved Area points, and that a scoring notice had been issued to the Applicant which was subject to appeal.
- On May 16, 2016, unaware of the MGroup challenge, Marque, an affiliate of Donna Rickenbacker, submitted a Third Party Deficiency Request to the Department also claiming that the Applicant's site was within the city limits of Edinburg and that the U.S. Census Bureau's definition of a CDP precludes a site from being located within both an incorporated place (i.e., the City of Edinburg) and an unincorporated CDP. The U.S. Census Bureau's definition of a Census Designated Place was provided by Marque in its Attachment II, and is shown here in its entirety:

Census Designated Places (CDPs) are the statistical counterparts of incorporated places, and are delineated to provide data for settled concentrations of population that are identifiable by name but are not legally incorporated under the laws of the state in which they are located. The boundaries usually are defined in cooperation with local or tribal officials and generally updated prior to each decennial census. These boundaries, which usually coincide with visible features or the boundary of an adjacent incorporated place or another legal entity boundary, have no legal status, nor do these places have officials elected to serve traditional municipal functions. CDP boundaries may change from one decennial census to the next with changes in the settlement pattern; a CDP with the same name as in an earlier census does not necessarily have the same boundary. CDPs must be contained within a single state and may not extend into an incorporated area. There are no population size requirements for CDPs. [Emphasis added]

Marque also provided evidence indicating that the Applicant was aware of the site's location as of March 1, 2016 by including in its application a Hidalgo County Appraisal District statement showing the City of Edinburg as a taxing jurisdiction. Finally, Marque provided a number of selections from TDHCA Board transcripts showing instances in which the Board held that for scoring purposes the definitive location of a development site is its location as of March 1<sup>st</sup> during the Competitive Round.

- On May 17, 2016, Sharon Gamble sent an email to Marque stating that the Department "...received this same request from someone else and looked into it. We determined that the site is in Edinburg. We denied the points and sent a scoring notice, which the applicant will likely appeal." She also asked whether or not Marque wanted to withdraw its request. We assume the question on withdrawal was made because Staff deemed their review and determination on the merits of the matter to be closed, subject to any rights of the Applicant to appeal to the Board.
- On May 20, 2016, Staff released the TDHCA Log reflecting that the Sierra Vista had been denied two requested points, thereby scoring 156, pending appeal to the Board.
- On May 20, 2016, Staff posted to the Sierra Vista imaged application (i) a Scoring Notice showing denial of the two Underserved Area points; and (ii) the Third Party Deficiency Request from MGroup. To this point, these were the only updates posted concerning the Sierra Vista application. The only communication between the Department and the Third Parties filing Deficiency Requests to this point were the emails from Sharon Gamble of April 27, 2016 and May 17, 2016, each of which indicated that the Project was determined to be located in the City of Edinburg and therefore ineligible for the Underserved Area points.
- On or about June 16, 2016, the TDHCA removed the Scoring Notice denying the Underserved Area points and posted to the Sierra Vista application the following additional information:
  - (i) A Deficiency Notice dated June 1, 2016 sent by Sharon Gamble to the Applicant Stating that "The Department has determined that the development site is located in the Lopezville CDP", and as such the Department requested additional information from the Applicant in support of scoring categories that would be impacted by the site's location in the Lopezville CDP;
  - (ii) Locke Lord's response of April 25, 2016 (described above);
  - (iii) Marque's Third Party Deficiency Request of May 16, 2016 (described above);
  - (iv) An unrelated Administrative Deficiency Notice from Shannon Roth dated May 9, 2016, evidencing that the Department had been reviewing the Sierra Vista application and issuing administrative deficiencies to the Applicant since early May, 2016; and

(v) Final Scoring Notice dated June 14, 2016, granting to the Applicant 158 points, being all points requested, including Underserved Area points.

Nothing was posted with the Sierra Vista application to indicate the events that caused Staff to change its position concerning the scoring from that stated in the April 27, 2016 and the May 17, 2016 emails.

- On June 21, 2016, the MGroup received a letter from Marni Holloway responding to its Third Party Deficiency Request of March 28, 2016, indicating that Staff had determined that the Applicant's site is in both the City of Edinburg and the Lopezville CDP and as such was qualified for the Underserved Area points based on the grounds that: (i) the U.S. Census has not updated its official records to reflect the annexation and adjustments to the boundaries for the Lopezville CDP; (ii) §10.3(93) (definition of "Place") does not indicate that the site can only be in an incorporated city or in an unincorporated CDP; and (iii) a plain reading of §10,3(93) indicates that the definition turns upon the Census Bureau's characterization of an area; and (iv) according to the Census Bureau the site is in the Lopezville CDP.
- On June 21, 2016, Marque received a letter from Marni Holloway responding to its Third Party Deficiency Request of May 16, 2016, reconfirming the change in Staff's position based upon similar arguments presented in the MGroup response letter, but also stating that the TDHCA Board transcripts provided by Marque in support of its assertion that the TDHCA Board has consistently evaluated an application based upon the location of a site as of March 1<sup>st</sup> were distinguishable from the issues at hand because §10.2(d) of the TDHCA Rules (which defines "Census Data") allows the Department to:

... use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded.

### **Decision Turns on Census Definition.**

We respectfully direct your attention to the fact that §10.3(93) of the Rules clearly and definitively states that a "Place" is defined as such by the U.S. Census Bureau:

Place -- An area defined as such by the United States Census Bureau, which, in general, includes an incorporated city, town, or village, as well as unincorporated areas know as census designated places. The Department may provide a list of Places for reference. [Emphasis added]

The language beyond the underlined portion merely provides a listing of types of areas that may be "Places" and does not expand upon the definition of the U.S. Census Bureau. Accordingly, as Marque pointed out in her Deficiency Request of May 16, 2016, the Census Bureau's definition prohibits a CDP from including areas located within an incorporated place, and the TDHCA has adopted this definition through §10.3(a)(93) of the Rules.

Tim Irvine, Executive Director June 23, 2016 Page 5

### U.S. Census Bureau's Response to Inquiry.

Seeking clarification concerning the U.S. Census Bureau's position on whether a site can be in a CDP and in an incorporated city simultaneously, MGroup requested information from the Denver Regional Office of the U.S. Census Bureau, which has jurisdiction over Texas. Enclosed as <a href="Exhibit">Exhibit "A"</a> is a copy of email correspondence on June 23, 2016, between Mark Musemeche of MGroup and Jim Castagneri, Geographer at the U.S. Census Bureau, concerning the interaction between incorporated areas and CDPs. Mr. Musemeche inquired:

Just so I am clear on official mapping I am trying to confirm that even though the official Census or latest BAS [Boundary and Annexation Survey] mapping may show an area of a CDP, if indeed a city annexed a tract of land that was in a CDP, the land can no longer be claimed to be in a CDP once it was annexed regardless of what may still be showing on ATIGER or BAS. Therefore a tract of land cannot coexist in a location that is BOTH a CDP and incorporated city.

### Mr. Castagneri's response was:

That is correct Mark, if an annexation has been **legally approved** by the state, the subsumed land can no longer exist as a CDP. [Emphasis in original]

Mr. Castagneri goes on to explain that the U.S. Census Bureau's records may not reflect that a portion of a CDP has been annexed due to delays in reporting annexations to the Census Bureau, but despite the ambiguity created by this,

... a single tract of land can only be one or the other; CDP or Place. It cannot be both at the same time. ...

Incidentally, if any entity were to withhold boundary updates from the Census Bureau and knowingly use old CDP information to leverage federal program funds for benefit, one could face legal action from the federal government. [Emphasis added]

The TDHCA Staff and Board have firmly established the precedent that the actual location of a site on March 1<sup>st</sup> of a Competitive Round will establish the location of the site for the purposes of the application.<sup>1</sup> The Applicant self-identified as being located in the Lopezville CDP, even though Applicant also provided evidence in its Application that the site was subject to ad valorem taxation by the City of Edinburg – which is only possible if the site has been annexed.

¹ See the July 11, 2013 transcript provided by Ms. Rickenbacker in which Liberty Manor (lost its appeal of denial of points for funding from the City of Liberty Hill because it was not located within the City of Liberty Hill on March 1<sup>st</sup>, even though its annexation into the city was anticipated. (See pages 49 − 73). See also Casa Alton, #07302, Board Meeting June 29, 2007. 4844-8449-9251.v3

### Casa Alton - Precedent Based on Essentially the Same Situation.

We point out that even though the Census Bureau may make maps available that show the boundaries of an incorporated municipality as of the date of publication, in the past the TDHCA Board has routinely accepted evidence of annexation as being definitive as to the location of a site – even when that annexation is not shown in the Census Bureau records. Marque provided transcripts of the discussions at Board Meetings of such issues. The transcript reflecting the closest fact situation is the one for June 28, 2007, in which the Board denied an appeal of two points that Casa Alton (#07302) claimed for being in an "Area" defined as "Alton North." (See pages 93-100)

Based upon the 2000 census, the Casa Alton site was located in Alton North, an unincorporated area, and would have received a Housing Needs Characteristics score of 6 points. However, after the 2000 census, the Casa Alton site was annexed into the City of Alton, and a development in the City of Alton would have received only 4 points for Housing Needs Characteristics. Just as with Sierra Vista, another developer challenged whether Casa Alton could qualify for being in Alton North when it was, in fact, located in the City of Alton at the time of application. A copy of the Staff's synopsis of the Challenge is enclosed as <a href="Exhibit">Exhibit "B"</a>. Based upon its location within the City of Alton at the time of application, the TDHCA Board denied Casa Alton's appeal. Exactly the same situation is presented here, where Sierra Vista's site was in Lopezville CDP at the time of the 2010 census. However, Sierra Vista's site was annexed into the City of Edinburg in 2013. At the time of the 2016 application, Sierra Vista was located within the city limits of Edinburg – and under the U.S. Census Bureau's definition of what constitutes a "Place" (previously known as an "Area") a location may not be in both a CDP and an incorporated municipality at the same time, because a CDP "may not extend into an incorporated area."

### §10.2(d) Does Not Apply Because Outcome is Based upon the Definition and Not the Data.

The Staff indicated that the points were awarded in part because §10.2(d) of the Rules prohibits use of Census data more current than what was available on October 1, 2015, and as of the 2010 Census, the Applicant's site was in a CDP. We believe that the proscription in §10.2(d) does not apply to this situation. The issue is whether the Applicant's site can meet the U.S. Census Bureau's definition of a CDP on March 1, 2016. Because the site for Sierra Vista has been incorporated into the City of Edinburg, it is no longer eligible to be considered a CDP. The annexation occurred in 2013 and proof of its legality was available on October 1, 2015. The email from Mr. Castagneri of the U.S. Census Bureau clearly states that it is impossible for a location to be both within an incorporated city and also a CDP. The determination of whether Underserved Area points should be awarded is not dependent upon data – it is dependent upon the Census Bureau's definition which was adopted by the TDHCA.

### TDHCA Warns To Confirm Data in Demographic Characteristics Report.

The only places in which the Lopezville CDP concept is addressed by the TDHCA materials is in the 2016 HTC Site Demographic Characteristics Report under the "Urban-Rural" data and under the "2x Units Per Capita" data. We do not contest that Edinburg and Lopezville CDP are both "Urban" in character.

Tim Irvine, Executive Director June 23, 2016 Page 7

We are enclosing a copy of pertinent pages of the "2x Units per Capita" report, however (See Exhibit "C"). This is the report that the applicant had to access in order to determine whether there were additional Units of affordable housing within the designated Place. We particularly wish to point out the warning highlighted at the top of the first page of the report, which states:

Applicants are encouraged to independently verify the information provided herein. In some instances Developments have been found to be located in an ETJ of a city rather [than] within the city limits and such information could change the results.

TDHCA advises that the population figures reflected in the report are from the 2009-2013 ACS (American Community Survey – an ongoing statistical survey by the U.S. Census Bureau), but the population figures do not relate to the question in issue. The remaining figures relate to the TDHCA's allocation of Housing Tax Credit awards throughout the State of Texas, and therefore that data would appear to be generated by the TDHCA and not by the U.S. Census Bureau or ACS. This is important because it means §10.2(d) does not apply to this information. Staff was incorrect in basing its decision on §10.2(d) in any regard. Here the critical information concerning Edinburg and Lopezville CDP is whether or not there are other developments with tax credit allocations serving the same Target Population as the Project (General, in this case).

Both Edinburg and Lopezville CDP are identified as "Places" in the "2x Units per Capita" report. Edinburg shows that it has 892 tax credit units, whereas Lopezville CDP has none. This distinction provides the motivation for self-identifying as being within the Lopezville CDP. If the TDHCA Staff believes that, notwithstanding the U.S. Census Bureau definition of a CDP, a site can be in both an incorporated municipality and a CDP simultaneously, then we suggest that the applicant should be required to comply with the requirements of both the city and the CDP in order to qualify for points. In this instance, the CDP would not have any tax credit units, per the "2x Units per Capita" report, but Edinburg has 892 units. The TDHCA's Property Inventory indicates that Edinburg has 14 current tax credit developments, and 12 of them are for the General population. For that reason we believe Sierra Vista should be denied the two points it requests for being in a Place without a tax credit development for the same Target Population. Edinburg does not appear to be an Underserved Area. Sierra Vista is located in Edinburg and should not be considered eligible for the Underserved Area points.

Thank you for your courtesy in considering the issues raised. If you have any questions or require further information concerning this matter, please do not hesitate to call.

Very truly yours,

by THO

Barry J. Palmer

Tim Irvine, Executive Director June 23, 2016 Page 8

Enclosures: Exhibits A - C

cc: Donna Rickenbacker

Mark Musemeche

# Exhibit "A"

From: "James D Castagneri (CENSUS/DN FED)" < James.D.Castagneri@census.gov>

**Date:** June 23, 2016 at 12:39:25 PM CDT

**To:** Mark Musemeche < mgroupinc@sbcglobal.net>

Subject: Re: Census Definitions of CDPs and Incorporated Places

That is correct Mark, if an annexation has been legally approved by the state, the subsumed land can no longer exist as a CDP. However, our record of such depends on the entity filing a boundary update through our annual Boundary Annexation Survey (BAS).

Despite the ambiguity in BAS filing status with the Census Bureau, a single tract of land can only be one or the other; CDP or Place. It cannot be both at the same time. While it might be approved by the state, an annexation is not official at the federal level until the boundary information is filed with the Census Bureau. Therefore, one cannot argue that a City boundary overlaps a CDP if an annexation has not been filed with the Census Bureau. Once we are aware of the annexation, we immediately remove the CDP area in question and demographic data are adjusted for future reports.

Incidentally, if any entity were to withhold boundary updates from the Census Bureau and knowingly use old CDP information to leverage federal program funds for benefit, one could face legal action from the federal government.

Hope this clears things up.

Jim Castagneri

### Geographer

U.S. Census Bureau

6950 W Jefferson Ave. Suite 250

Lakewood, CO 80235

720-962-3882

www.census.gov

From: Mark Musemeche <mgroupinc@sbcglobal.net>

**Sent:** Thursday, June 23, 2016 10:55 AM **To:** James D Castagneri (CENSUS/DN FED)

**Subject:** Re: Census Definitions of CDPs and Incorporated Places

Jim thank you for clarifying Census Designated places. Your response was very helpful. Just so I am clear on official mapping I am trying to confirm that even though the official Census or latest BAS mapping may show an area of a CDP, if indeed a city annexed a tract of land that was in a CDP, the land can no longer be claimed to be in a CDP once it was annexed regardless of what may still be showing on TIGER or BAS. Therefore a tract of land cannot coexist in a location that is BOTH a CDP and incorporated city.

Correct?

Sent from my iPad

On Jun 23, 2016, at 10:46 AM, James D Castagneri (CENSUS/DN FED) < <u>James.D.Castagneri@census.gov</u>> wrote:

Hello Mark -

In response to your questions about Census Designated Places (CDPs) in Texas;

- CDPs are created by the Census Bureau within counties for unincorporated areas where local, place-based demographic characteristics are desired.
- By definition, CDPs can only exist outside of incorporated areas. If a nearby city or town annexes land that is part of a CDP, that land is removed from CDP status at the time the Census files the boundary change.
- CDPs are created or refined once every ten years. Cities and town can annex land at any time. Census maps therefore may not show the latest boundaries of incorporated places and affected CDPs.

The issue of city-CDP adjacency can be complicated if the local government does not file it's annexations with the Census Bureau's annual Boundary and Annexation Survey (BAS). The very latest official record of place boundaries and any affect CDPs can be viewed using the TIGERweb mapping tool;

### https://tigerweb.geo.census.gov/tigerweb/

Be sure to click the checkbox next to 'Places and County Subdivisions' to turn-on cities and CDPs. Guadalupe County outside San Antonio is an excellent example of how CDPs lose land to cities when they annex.

Please let me know if you have any other questions.

### Jim Castagneri

### Geographer

U.S. Census Bureau

6950 W Jefferson Ave. Suite 250

Lakewood, CO 80235

720-962-3882

www.census.gov

# Exhibit "B"

### Status Log of 2007 Competitive Housing Tax Credit Challenges Received as of July 30, 2007

Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
5/23/07	07302	Casa Alton	Alyssa Carpenter	Challenge regarding eligibility for points under §49.9(i)(11) of the 2007 QAP, Housing Needs Characteristics. The challenge asserts that the Application is eligible for fewer points than requested based on Development location. The basis of the challenge as reflected in the challenge documentation is: the Development is located in the City of Alton; the Application requested points based on the Development's location in Alton North; and the Affordable Housing Need Score for the City of Alton is lower than that of Alton North.	Analysis: The proposed Development Site is currently located within the City of Alton. At the time of the 2000 Decennial Census the proposed Development Site was located within the Alton North CDP; however, the Development Site has since been annexed into the City of Alton, as confirmed by the City's Planning Director and the Applicant. The current location of a Development, not its location as of the most recent Decennial Census, is used to evaluate eligibility for points based on demographic information from the most recent Decennial Census.  Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP. The Application score will be reduced from six points to four points for §49.9(i)(11) of the 2007 QAP based on the proposed Development's location within the City of Alton.

# Exhibit "C"

### 2x Units Per Capita (§11.3(b) of the 2016 Qualified Allocation Plan)

The following data provides information required to determine if a Development Site is located in a place or county with more than twice the state average of units per capita supported by Housing Tax Credits (HTC) or private activity bonds. Pursuant to §11.3(b) of the Qualified Allocation Plan, as well as §2306.6703(a)(4) of the Texas Government Code, Applicants may be required to obtain a Governing Body Resolution in order for Developments located in certain census tracts to be eligible for funding.

The population figures are from the 2009-2013 ACS. The tax credit units data is derived from the Department's inventory of tax credit developments (as of November 12, 2015 TDHCA Board meeting, last worksheet in this spreadsheet). Applicants are encouraged to independently verify the information provided herein. In some instances Developments have been found to be located in an ETJ of a city rather within the city limits and such information could change the results. Please contact jason.burr@tdhca.state.tx.us with any questions.

### Updated November 20, 2015

### Place Data

	•	iace Data			
Place Name	Place population	All Place Units	All Unit Per Cap Pl	All Units Place/TX Per Cap	Place > 2x Per Capita
Abbott	375	0	0	0	No
Abernathy	3320	24	0.007228916	0.821833691	No
Abilene	119721	1231	0.01028224	1.168956905	No
Abram	1745	0	0	0	No
Ackerly	141	0	0	0	No
Addison	14114	0	0	0	No
Adrian	225	0	0	0	No
Agua Dulce	2716	0	0	0	No
Agua Dulce	733	0	0	0	No
Aguilares	58	0	0	0	No
Airport Heights	52	0	0	0	No
Airport Road Addition	108	0	0	0	No
Alamo	18658	326	0.017472398	1.986384394	No
Alamo Heights	7247	0	0	0	No
Alba	817	0	0	0	No
Albany	2265	40	0.017660044	2.007717333	Yes
Aldine	14893	120	0.008057477	0.916030301	No
Aledo	2770	0	0	0	No
Alfred	114	0	0	0	No
Alice	19325	196	0.010142303	1.153047908	No
Alice Acres	240	0	0	0	No
Allen	87213	94	0.001077821	0.122534226	No
Alma	325	0	0	0	No

### **County Data**

County name	County population	All County Units	All Units Per Capita Cnty	Cnty Units Per Cap/ TX Units Per Cap	Cnty > 2x Per Capita
Anderson	58262	637	0.01093337	1.242981963	No
Andrews	15554	24	0.001543011	0.175420333	No
Angelina	87042	765	0.008788861	0.999179136	No
Aransas	23627	104	0.004401744	0.500421017	No
Archer	8853	0	0	0	No
Armstrong	1773	0	0	0	No
Atascosa	45714	112	0.002450015	0.278534876	No
Austin	28573	150	0.005249711	0.596823893	No
Bailey	7121	0	0	0	No
Bandera	20533	76	0.003701359	0.420796354	No
Bastrop	74730	298	0.003987689	0.453348377	No
Baylor	3678	0	0	0	No
Bee	32281	130	0.004027137	0.457833066	No
Bell	316144	1623	0.005133737	0.583639073	No
Bexar	1753238	16261	0.009274839	1.054428554	No
Blanco	10562	20	0.001893581	0.215275505	No
Borden	649	0	0	0	No
Bosque	18094	56	0.003094949	0.351855403	No
Bowie	92851	976	0.010511465	1.195016813	No
Brazoria	319493	2066	0.006466495	0.735156418	No
Brazos	197642	1419	0.007179648	0.816232605	No
Brewster	9244	92	0.009952402	1.131458616	No
Briscoe	1615	0	0	0	No

Edinburg	77415	892	0.011522315	1.309937333	No
Edmonson	98	0	0	0	No
Edna	5550	48	0.008648649	0.983238867	No
Edom	374	0:	0	0	No
Edroy	245	0	0	0	No
Eidson Road	10140	0	0	0	No
El Brazil	22	0	0	0	No
El Camino Angosto	269	0	0	0:	No
El Campo	11554	141	0.012203566	1.387386719	No
El Castillo	256	0	0	0	No
El Cenizo	256	0	0	0:	No
El Cenizo	3296	0	0	0	No
El Chaparral	87	0	0	0	No
El Indio	217	0	0	0	No
El Lago	2744	0	0	0	No
El Mesquite	0	0		3	No
El Paso	660795	7518	0.011377205	1.293440206	No
El Quiote	125	0	0	0	No
El Rancho Vela	188	0	0	0	No
El Refugio	265	0	0	0	No
El Socio	239	0:	0	0	No
Elbert	74	0	0	0	No
Eldorado	1966	32	0.016276704	1.850449546	No
Electra	2773	54	0.019473494	2.213883041	Yes
Elgin	7882	160	0.020299416	2.307779629	Yes
Elias-Fela Solis	19	0	0	0	No
Elkhart	1419	54	0.038054968	4.32635495	Yes
Elm Creek	2090	0	0	0	No
Elmendorf	1406	0	0	0	No
Elmo	605	0	0	0	No
Elsa	6042	154	0.025488249	2.897682402	Yes
Emerald Bay	841	0	0	0	No
Emhouse	124	0	0	0	No
Emory	1340	50	0.037313433	4.242052013	Yes
Encantada-Ranchito-El					
Calaboz	1987	0	0:	0	No
Enchanted Oaks	295	0	0	0)	No

Loma Grande	18	0	0	0	No
Loma Linda	35	0	0	0	No
Loma Linda East (Jim Wells					
County)	373	0	0	0	No
Loma Linda East (Starr		0			
County)	0	0			No
Loma Linda West	130	0	0	0	No
Loma Vista	38	0	0	0	No
Lometa	781	0	0	0	No
Lone Oak	670	0	0	0	No
Lone Star	1595	47	0.029467085	3.350024273	Yes
Longoria	0	0			No
Longview	81435	643	0.007895868	0.897657483	No
Loop	326	0	0	0	No
Lopeño	0	0			No
Lopezville	3590	0	0	0	No
Loraine	702	0	0	0	No
Lorena	1686	48	0.028469751	3.236640397	Yes
Lorenzo	1044	0	0	0	No
Los Altos	31	0	0	0	No
Los Alvarez	238	0	0	0	No
Los Angeles	114	0	0	0	No
Los Arcos	42	0	0	.0	No
Los Arrieros	66	0	0	0	No
Los Barreras	201	0	0	0	No
Los Centenarios	0	0			No
Los Corralitos	47	0	0	0	No
Los Ebanos (Hidalgo					
County)	166	0	0	0	No
Los Ebanos (Starr County)	579	0	0	0	No
Los Fresnos	5966	187	0.031344284	3.563437457	Yes
Los Fresnos	196	187	0.954081633	108.4666728	Yes
Los Huisaches	28	0	0	0	No
Los Indios	953	0	0	0	No
Los Lobos	19	0	0	0	No
Los Minerales	0	0			No
Los Nopalitos	40	0	0	0	No



March 28, 2016

Sharon Gamble Housing Tax Credit Program Administrator Texas Department of Housing and Community Affairs 221 East 11<sup>th</sup> Street Austin, Texas 78701-2410

RE: Request for Third Party Administrative Deficiency TDHCA # 16380 Sierra Vista

Dear Sharon,

We are submitting herewith our request for staff to consider an Administrative Deficiency regarding 11.9 (c) (6) (C) Underserved Area. The request is based upon the following:

#### Incorrect Place location

The applicant incorrectly claims that the site location is in Lopezville, a CDP, and that therefore under §11.9(c)(6)(c) the site is eligible for two points for a Place that has never received a competitive tax credit allocation. The applicant relies on Census block maps from the 2010 Census as evidence but such maps are obsolete and based on boundaries prior to the annexation of the site location into the City of Edinburg. The correct boundaries for "Underserved Place" are those in affect as of March 1 2016, not from the year 2010.

There is a small portion of Lopezville CDP that remains unincorporated as of March 1, 2016 in the ETJ of Edinburg and the ETJ of Pharr. The only way an application would be eligible for Lopezville as an Underserved Area is if the site were located within either of these ETJ areas. The Sierra Vista site location is not in either ETJ area.

The site for Sierra Vista is clearly located within the full City limits of Edinburg therefore the jurisdictional "Place" for the purposes of 11.9 (c) (6) (C) can only be the City of Edinburg. This is verifiable by Edinburg annexation maps from 2013 (Exhibit 1); property tax statements showing property taxes payable to the City of Edinburg (Exhibit 2) and official City of Edinburg Zoning and City limits maps (Exhibit 3). Accordingly, payments of property taxes to the City of Edinburg could not be collected if the site was outside the City of Edinburg and even the applicant's own request to rezone the property from Edinburg only supports and documents without any doubt the correct Place is Edinburg.

### The site location is not eligible for any points for Underserved Area

Not only is the site located in the City of Edinburg which eliminates a "Place" from two point consideration of underserved same Target population, but is also located in census tract 48215023801 which has existing general population developments. There were two general population allocations awarded within the same census tract in 2015, application numbers 15264 and 15173. Either one of these developments eliminates census tract 48215023801 from one point possibility.

Thank you for your consideration of this request.

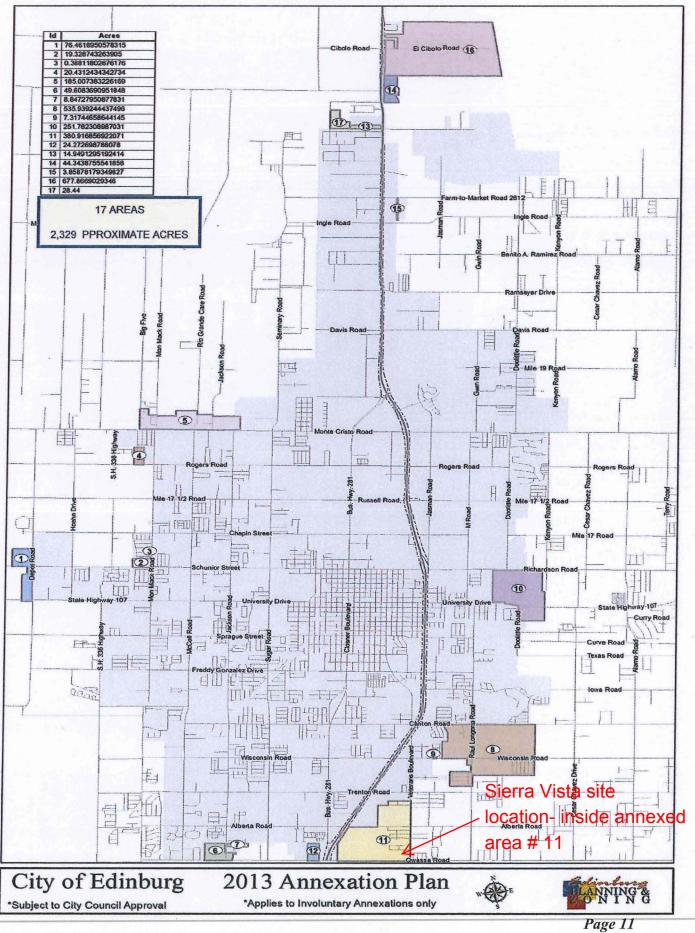
Sincerely,

MGROUP HOLDINGS, INC.

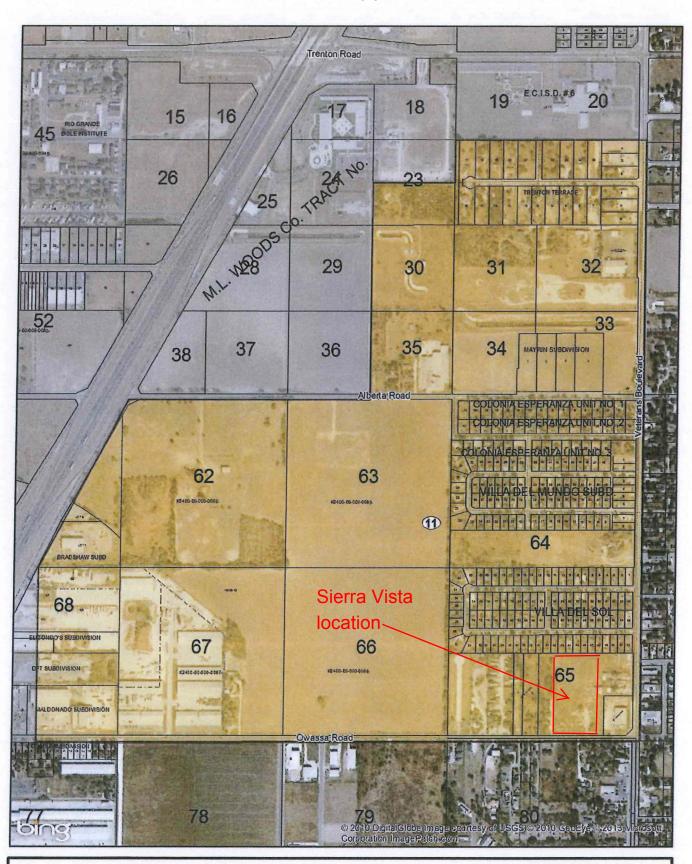
Mark Musemeche, Vice-President

/MM

### Exhibit 1



### Exhibit 1



City of Edinburg

2013 Annexation Plan

\*Subject to City Council Approval

\*Applies to Involuntary Annexations only





### Property Search Results > 202040 AYALA RAUL for Year 2016



Details



Exhibit 2

Click on a title bar to expand or collapse the information.

Expand All

### **▼** Property

### Account

Property ID:

202040

Legal Description: KELLY PHARR TRACT LOT 65-R/S-S1/2-TR 3,4,& 5 6.0 AC 5.829 AC NE

Geographic ID:

K2400-00-000-0065-06 Real

Type: Property Use Code:

Property Use Description:

Location

Address:

**OWASSA RD** 

Mapsco:

Agent Code:

Neighborhood:

Map ID:

Neighborhood CD:

Owner

Name:

AYALA RAUL

Owner ID:

345124

Mailing Address:

2616 JAMES AVE

% Ownership:

100.0000000000%

\$1,364

EDINBURG, TX 78539-7726

Exemptions:

### **Values**

(+) Improvement Homesite Value: \$0 (+) Improvement Non-Homesite Value: + \$5,138 (+) Land Homesite Value: \$0 (+) Land Non-Homesite Value: \$0 Ag / Timber Use Value (+) Agricultural Market Valuation: \$119,515 (+) Timber Market Valuation: \$0 (=) Market Value: \$124,653 (-) Ag or Timber Use Value Reduction: -\$118,151 (=) Appraised Value: \$6,502 (-) HS Cap: \$0 (=) Assessed Value: \$6,502

City of Edinburg has taxing jurisdiction over site. Not possible unless in full city limits of Edinburg

### ▼ Taxing Jurisdiction

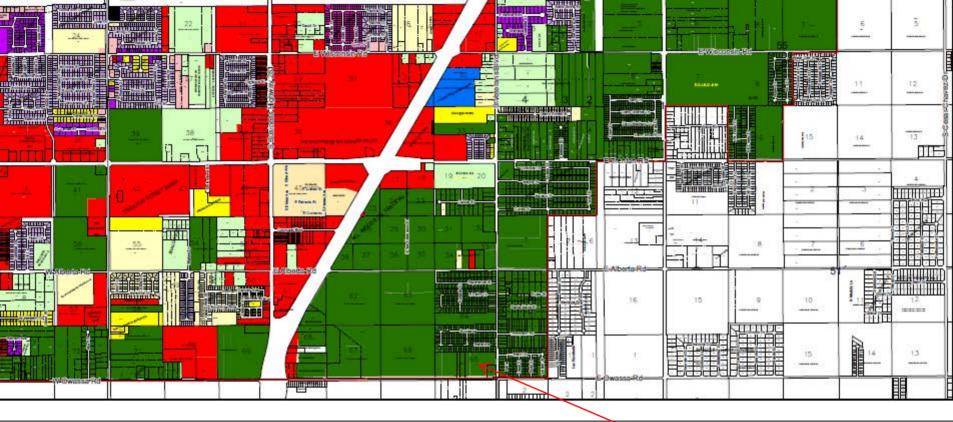
Owner:

AYALA RAUL

% Ownership: 100.000000000%

Total Value: \$124,653

Entity	Description	Tax Rate Appra	aised Value	Taxable Value	<b>Estimated Tax</b>
CAD	APPRAISAL DISTRICT	0.000000	\$6,502	\$6,502	\$0.00
CEB	CITY OF EDINBURG	0.635000	\$6,502	\$6,502	\$41.29
DR1	DRAINAGE DISTRICT #1	0.095100	\$6,502	\$6,502	\$6.18
GHD	HIDALGO COUNTY	0.590000	\$6,502	\$6,502	\$38.36
JCC	SOUTH TEXAS COLLEGE	0.185000	\$6,502	\$6,502	\$12.03
R17	ROAD DIST 17	0.000000	\$6,502	\$6,502	\$0.00
SEB	EDINBURG ISD	1.239800	\$6,502	\$6,502	\$80.61



## Official Zoning Map

neral Neighborhood Conservation 5 Urban Center
ghborhood Neighborhood Conservation 7.1 Urban Residential
t Neighborhood Conservation MH Urban University
Suburban Residential

Sierra Vista site location



Date: 6/16/2015 1 inch = 1,100 feet

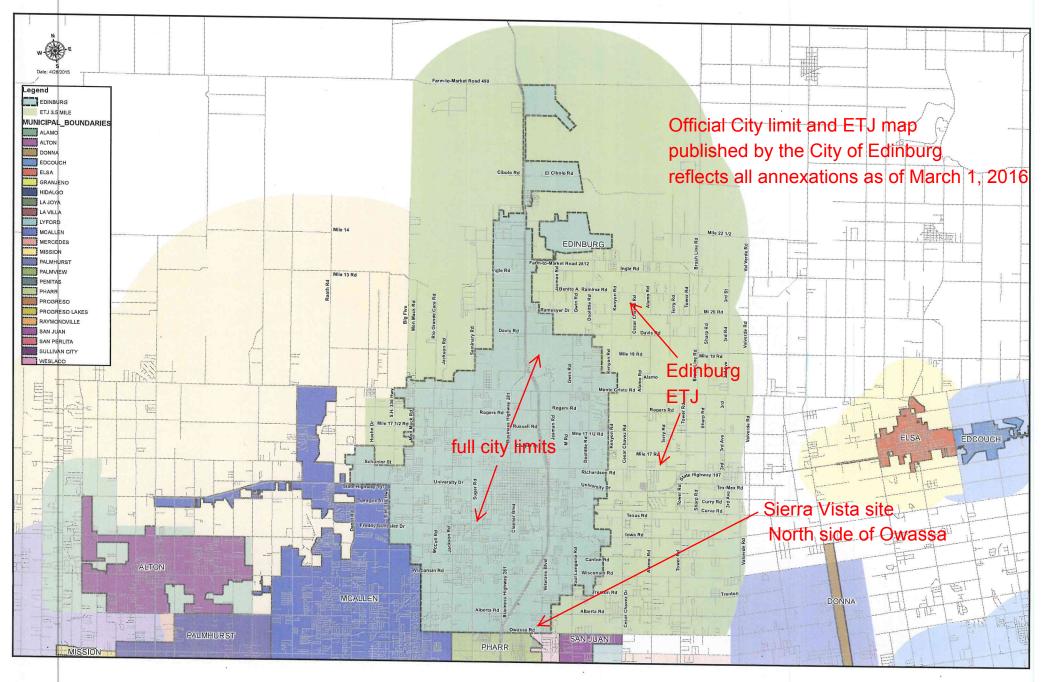


Exhibit 3

From: Sharon Gamble

To: "hflores@madhousedevelopment.net"; "twilliams@madhousedevelopment.net"

Subject: 16380 - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Date: Monday, April 18, 2016 7:56:00 AM
Attachments: Request for 3rd party Admin Def #16380.pdf

Attachments: Request for 3rd party Admin Del # 1

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 §10.3(a)(2) and described in §10.201(7)(A) and/or §10.201(7)(B) of the 2016 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.

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application #16380, Sierra Vista Apartments. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued.

The requester questions whether the Development Site is located within the Lopezville ETJ. The provided information appears to indicate that the Development Site is within an area that has been annexed by the City of Edinburg.

Please review the attached and provide a response that justifies the points requested in the Application under \$11.9(c)(6)(C) of the QAP.

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 CST on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(A) of the 2016 Uniform Multifamily Rules.

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

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-

U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at <a href="mailto:liz.cline@tdhca.state.tx.us">liz.cline@tdhca.state.tx.us</a> or by phone at (512)475-3227. You may also contact Jason Burr at <a href="mailto:jason.burr@tdhca.state.tx.us">jason.burr@tdhca.state.tx.us</a> or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 2016 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 on April 25, 2016. Please respond to this email as confirmation of receipt.\*\*

Regards,

Sharon D. Gamble MSW, PMP Competitive Housing Tax Credit Program Administrator Texas Department of Housing and Community Affairs (512) 936-7834

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

### About TDHCA

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



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

April 25, 2016

Ms. Sharon Gamble Texas Department of Housing and **Community Affairs** 221 East 11th Street Austin, TX 78711-3941

> Re: Sierra Vista Apartments, TDHCA No. 16380

Dear Ms. Gamble:

We represent MDS Housing Owassa, Ltd., which has submitted the above-referenced Application for low-income housing tax credits. On April 18, our client received notice of a Third Party Request for Administrative Deficiency, and this letter constitutes the Applicant's response. In the notice, the requester questions whether the Development Site is located within the Lopezville ETJ. Please note that the Applicant has not made any suggestion that the Development Site is located within the ETJ; rather, the Applicant maintains that the location is within the City limits of Edinburg and the Lopezville CDP.

As a follow up to the third party request, TDHCA asked the Applicant to justify its qualification for points under § 11.9(c)(6)(C) of the QAP, which has nothing to do with being in an ETJ. Rather, § 11.9(c)(6)(C) awards points for a Development Site located in a Place, which includes a "census designated place" ("CDP"):

that has never received a competitive tax credit application or a 4 percent non-competitive tax credit allocation serving the same Target Population.

The Lopezville CDP meets the criteria for awarding two (2) points.

The Applicant has provided documentation in its Application to the effect that the Development Site is located in the Lopezville CDP. See Attachment A appended, with reference to TDHCA's Site Demographic Database and two maps, produced from the US Census Bureau, showing the Development Site in the Lopezville CDP.

Ms. Sharon Gamble April 25, 2016 Page2

The fact that the Development site is also located in the City of Edinburg is irrelevant. While it may seem incongruous to have a site location in both a CDP and the City limits, this kind of overlap does happen. A CDP is established in the decennial census, for statistical purposes. It is possible that, once established, the location is annexed into the City limits. This is exactly what happened with the Lopezville CDP. It was designated as such by the 2010 US Census and then some portion of it (including the Development Site) was annexed into the City limits in 2013. Nonetheless, the Lopezville CDP still exists, according to the US Census Bureau. For similar examples, see Covedale, Ohio, a CDP that was annexed into a city but retained its CDP status. Further, the US Census Bureau treats townships as unincorporated for purposes of establishing CDPs, even when the townships are incorporated under state law. See North Amherst, Massachusetts, a CDP within the town of Amherst.

The Applicant's selection of the points under § 11.9(c)(6)(C) of the QAP is fully justified. § 11.9(c)(6)(C) of the QAP awards points for a Development Site in a <u>Place</u>. A Place is defined to include "an incorporated city, town or village, as well as unincorporated areas know [sic] as census designated places." The Development Site is located in a census designated place. The Applicant has complied with the QAP by using US Census Bureau data as follows:

(d) Census Data. Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded. For Rural Area and Urban Area designations, the Department shall use in establishing the designations, the U.S. Census Bureau's Topographically Integrated Geographic Encoding and Referencing ("TIGER") shape files applicable for the population dataset used in making such designations.

The maps appended as <u>Attachment A</u>, showing the Development Site in a census designated place comply with these requirements. For further reference, note the maps appended as <u>Attachment B</u>. As stated above, the Development Site was annexed into the City limits in 2013. Yet, the 2013 Boundary and Annexation Survey ("BAS") from the US Census Bureau and the 2015 BAS from the US Census Bureau have exactly the same boundaries for the Lopezville CDP. In addition, the Census Bureau maintains a list on its website that displays any and all changes in entities recognized by the Census Bureau from 2010-2015. A copy of that list is attached as <u>Attachment C</u>. There is no reference to any change in the status or configuration of the Lopezville CDP in this attachment. The fact that there is no change from the 2013 BAS to the 2015 BAS, combined with the fact that Lopezville is not referenced in the attachment as a "changed entity" verify that the geographic boundaries of the Lopezville CDP have not been impacted by the annexation of a portion of the CDP into the City of Edinburg in 2013 and validates that the site is located both in the City of Edinburg and the Lopezville CDP.

TDHCA's rules do not define a "Place" as an "either/or" situation. The definition of "Place" is inclusive of both incorporated and unincorporated designations, with no indication that a Development Site can only be in one or the other. This is similar to a colonia that can be located within the city limits or in unincorporated areas. A colonia will receive points under § 11.9(c)(6)(A) of the QAP, even if the colonia

Ms. Sharon Gamble April 25, 2016 Page3

is within city limits. Similarly, a CDP should receive points under § 11.9(c)(6)(C) of the QAP, even if the CDP is within the city limits.

Recognizing the impact of the viewpoints of elected officials, please find attached as Attachment D correspondence from Edinburg Mayor Richard Garcia where he states his "personal support for the Sierra Vista apartment community" and indicates "We have confirmed that the site is located within the City of Edinburg. In addition, we have reviewed the most current mapping information from the U.S. Census Bureau and confirmed that the location is also within Lopezville, a Census Designated Place". A letter from State Representative Terry Canales declares that "My staff has carefully researched the location of this proposed development using information provided by the Census Bureau's website and concluded that the site is within both the Lopezville CDP and the City of Edinburg". Lastly, correspondence from State Senator Juan "Chuy" Hinojosa states that "Based on information we researched, the contemplated site for Sierra Vista, is currently located both within the City of Edinburg and Lopezville, which is a Census Designated Place ("CDP"). This will hold true until the next scheduled update of census information to occur after the completion of the 2020 census process."

In summary, Sierra Vista qualifies for two (2) points under § 11.9(c)(6)(C) of the QAP. Please let me know if you have any questions or require additional information. Thank you.

Sincerely,

Cynthia L. Bast

Cynthia L Bast

CLB/bsh

cc:

Attachment A – Excerpts from Application

Attachment B - 2013 and 2015 BAS from US Census Bureau

Attachment C – US Census Bureau List of Changed Entities

Attachment D -- Letters from Public Officials

Madhouse Development Services, Inc.

### Attachment A

**Excerpts from Application** 

### MDS Housing Owassa, Ltd.

February 10, 2016

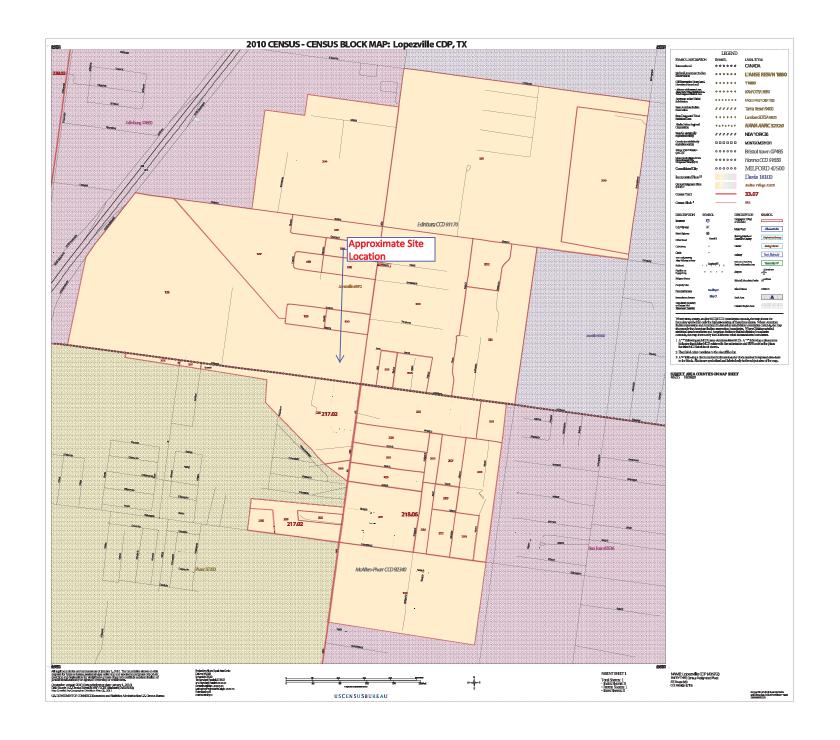
To whom it may concern,

Sierra Vista will be a General Development located within the boundaries of Lopezville CDP. Lopezville CDP does not have an existing HTC property serving any population. Please see the information below from the 2016 TDHCA Site Demographics Database. We have also attached a map generated by the U.S. Census Bureau's TIGERweb software to illuminate the location of the proposed development within Lopezville CDP.

Place Name	Place population	All Place Units	All Unit Per Cap Pl	All Units Place/TX Per Cap	Place > 2x Per Capita
Lopezville	3590	0	0	0	No

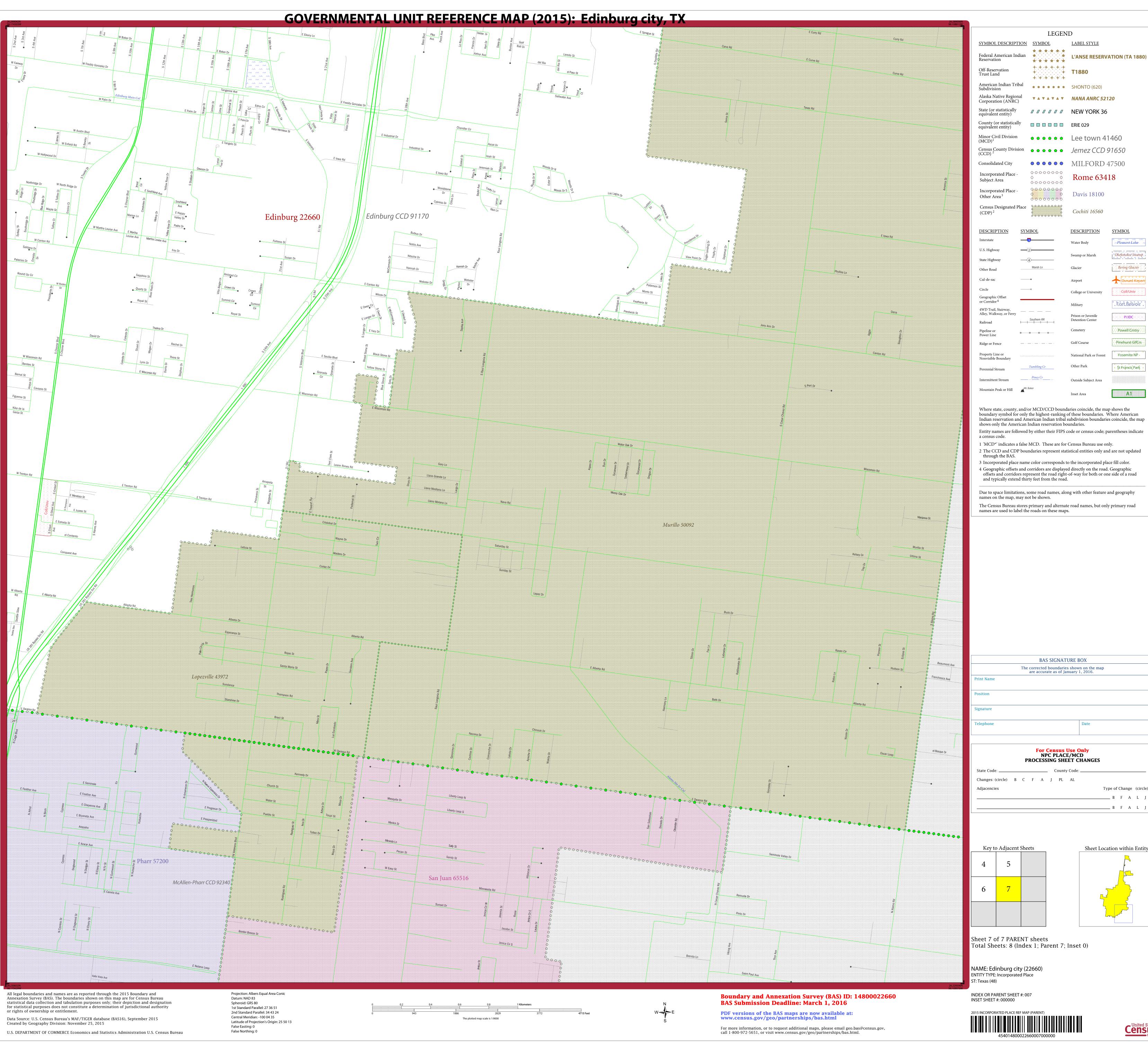
### Evidence Of Undeserved Area Map





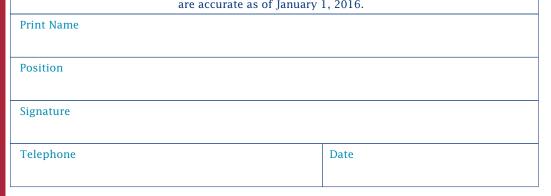
### Attachment B

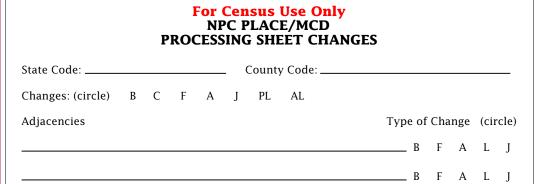
2013 and 2015 BAS from US Census Bureau

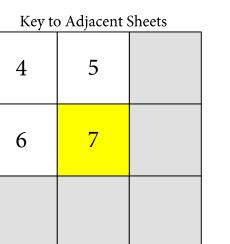


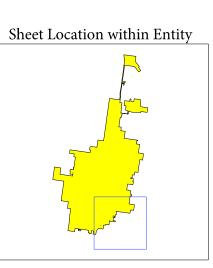
Alaska Native Regional Corporation (ANRC) ▼ ▲ ▼ ▲ ▼ ▲ ▼ NANA ANRC 52120 County (or statistically • • • • • Lee town 41460 • • • • • • Jemez CCD 91650 • • • • • MILFORD 47500 Incorporated Place -Rome 63418 ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · Incorporated Place -Davis 18100 Cochiti 16560 <u>SYMBOL</u> ~Pleasant-Lake \*Okeferiokee Swamp Bering Glacier Oxnard Airport Coll/Univ Fort Belvoir Prison or Juvenile ×>P/JDC×× Powell Cmtry ·Pinehurst GlfCrs Yosemite NP • Şt Francis Park Mountain Peak or Hill A1 boundary symbol for only the highest-ranking of these boundaries. Where American Indian reservation and American Indian tribal subdivision boundaries coincide, the map shows only the American Indian reservation boundaries. Entity names are followed by either their FIPS code or census code; parentheses indicate a census code. 1 'MCD\*' indicates a false MCD. These are for Census Bureau use only. 2 The CCD and CDP boundaries represent statistical entities only and are not updated through the BAS. 3 Incorporated place name color corresponds to the incorporated place fill color. 4 Geographic offsets and corridors are displayed directly on the road. Geographic offsets and corridors represent the road right-of-way for both or one side of a road and typically extend thirty feet from the road. Due to space limitations, some road names, along with other feature and geography names on the map, may not be shown. The Census Bureau stores primary and alternate road names, but only primary road names are used to label the roads on these maps. **BAS SIGNATURE BOX** The corrected boundaries shown on the map are accurate as of January 1, 2016.

LEGEND









Census Bureau

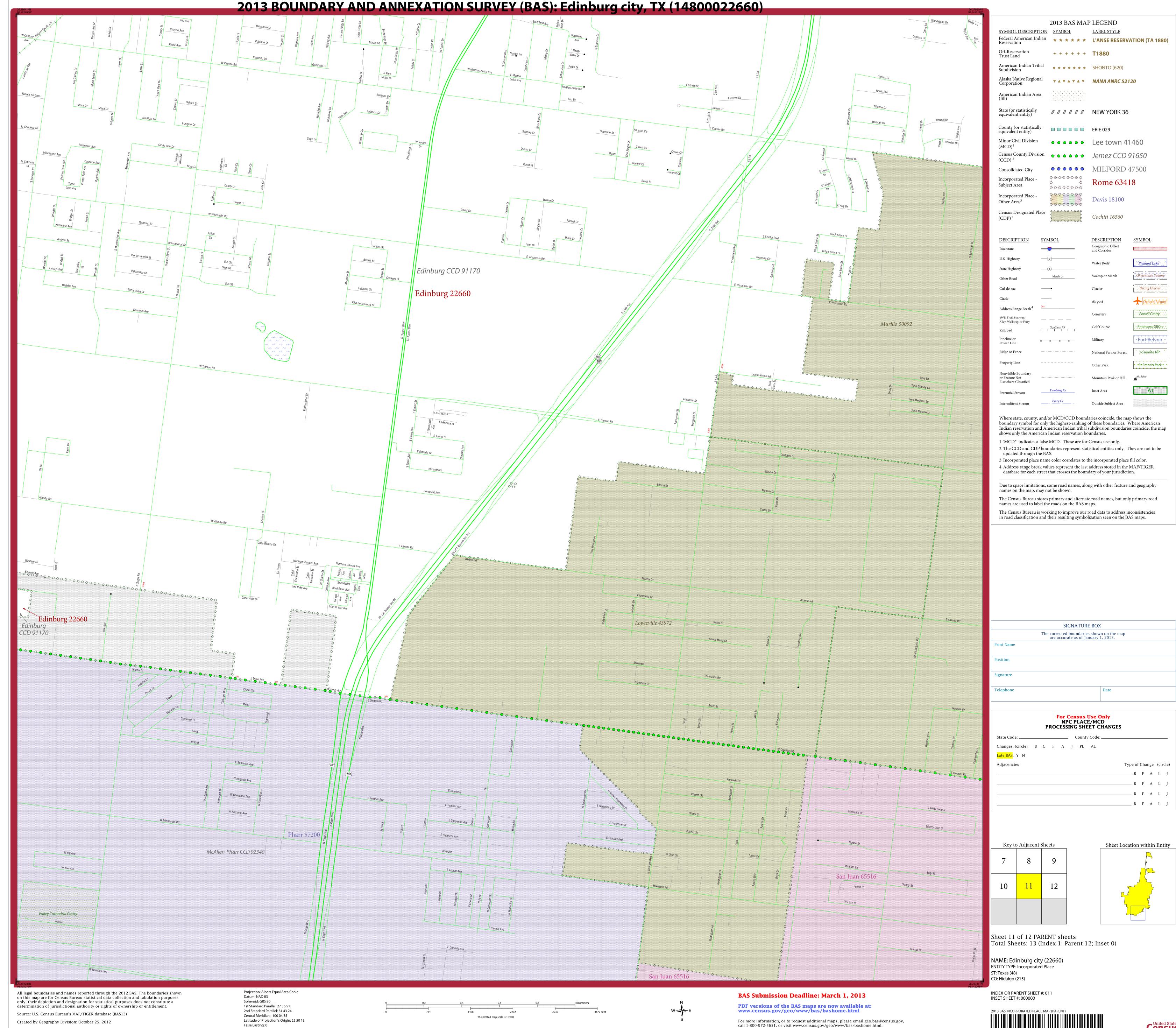
Sheet 7 of 7 PARENT sheets Total Sheets: 8 (Index 1; Parent 7; Inset 0)

NAME: Edinburg city (22660) ENTITY TYPE: Incorporated Place

INDEX OR PARENT SHEET #: 007







False Northing: 0

U.S. DEPARTMENT OF COMMERCE Economics and Statistics Administration U.S. Census Bureau

Census Bureau

### Attachment C

US Census Bureau List of Changed Entities

State St	State		Place	Place		County			
(FIPS) (U	USPS)	Entity Name and Description	(FIPS)	(ANSI)	County Name(s) in which Entity Formed	(FIPS)	Effective Date	Date Reported	Notes and Comments
01	AL	Semmes city	69240	02680031 I	Mobile County	097	5/2/2011	11/4/2010	
02	AK	Edna Bay city	20970	02770983 I	Prince of Wales-Hyder Census Area	198	10/02/2014	04/08/2015	Was a CDP for 2010
02	AK	Petersburg Borough	99195	02516404 I	Petersburg Borough	195	1/3/2013	6/27/2013	Formed from the predominant part of Petersburg Census Area (195) and part of Hoonah-Angoon Census Area (105)
04	ΑZ	Tusayan town	74480	02663676	Coconino County	005	3/26/2010	5/25/2010	Was a CDP for 2010; FIPS code changed to 77490 in 2011
05		Southside city	65630	02771128 I	Independence County	063	10/24/2014	04/24/2015	
06	CA	Eastvale city	21230	02650584 I	Riverside County	065	10/1/2010	10/2/2010	Was a CDP for 2010
06	CA	Jurupa city	37692	02702867 I	Riverside County	065	7/1/2011	4/26/2011	Includes all of deleted Crestmore Heights (10537), Glen Avon (29644), Mira Loma (47976), Pedley (56350, Rubidoux (63260), and Sunnyside (76022) CDPs
12	FL	Estero village	21150	02771501 I	Lee County	071	01/01/2015	05/19/2015	Was a CDP for 2010
13	GA	Brookhaven city	10944	02746306	DeKalb County	089	12/17/2012	2/27/2013	Includes all of deleted North Atlanta CDP (56000)
13	GA	Peachtree Corners city	57935	02710337	Gwinnett County	135	7/1/2012	1/3/2012	
20	KS	Greeley County unified government	28410	02664357	Greeley County	071	1/1/2009	3/9/2011	Formed from all of Greeley County excluding Horace city (33150); Errata correction for the 2010 Census
		Greeley County unified government							
20	KS	(balance)	28412	02664358	Greeley County	071	1/1/2009	3/9/2011	Balance place formed from all of Greeley County excluding Horace (33150) and Tribune (71450) cities; Errata correction for the 2010 Census
23 I	ME	Sanford city	65725	02377953	York County	031	1/1/2013	8/15/2013	Formed from all of Sanford town (65760); Includes all deleted Sanford (65725), South Sanford (72200), and Springdale (73285) CDPs
28 I	MS	Diamondhead city	19100	02745894 I	Hancock County	045	2/6/2012	2/25/2013	Was a CDP for 2010
29 1	MO	Charmwood town	13390	02748236 I	Franklin County	071	2/23/2011	5/29/2013	
29 1	MO	Jane village	36422	02741106 I	McDonald County	119	4/13/2005	9/18/2012	Errata correction for the 2010 Census
35 1	NM	Anthony city	03820	02678944 I	Doña Ana County	013	1/5/2010	5/6/2011	Was a CDP for 2010
35 N	NM	Rio Communities city	63145	02771703	Valencia County	061	05/16/2013		Was a CDP for 2010
36	NY	Mastic Beach village	46085	02680279	Suffolk County	103	8/31/2011	2/24/2011	Was a CDP for 2010
37	NC	Fontana Dam town	23980	02749514	Graham County	075	6/8/2011	8/16/2013	
40	OK	Carlton Landing town	11990	02747316 I	Pittsburg County	121	10/08/2013	5/27/2014	
45	SC	James Island town	36430	02743869	Charleston County	019	5/17/2012	1/30/2013	
48	TX	Coupland city	17312	02761637	Williamson County	491	11/19/2012	5/27/2014	
48	TX	Coyote Flats city	17429	02663677	Johnson County	251	5/9/2010	5/13/2010	Was a CDP for 2010
48	TX	Providence Village town	59748	02703983 I	Denton County	121	5/8/2010	9/12/2011	Was a CDP named Providence (59726) for 2010
48	TX	San Elizario city			El Paso County	141	11/18/2013	04/03/2015	Was a CDP for 2010
48	TX	Sandy Oaks city	65344	02771704 I	Bexar County	029	05/10/2014	07/10/2015	
48	TX	Sandy Point city	65345	02711396 I	Brazoria County	039	11/12/2012	1/3/2012	
55	WI	Bloomfield village	08265	02711667	Walworth County	127	12/20/2011	1/19/2012	Includes deleted Pell Lake CDP (61725) and part of Powers Lake CDP (64825); Formed from part of Bloomfield town (08275)
55	WI	Harrison village	32790		Calumet County Outagamie County	015 087	3/8/2013	3/28/2013	Formed from part of Harrison town (32800), Calumet County and part of Buchanan town (10750), Outagamie County
55	WI	Somers village	74625	02772244 I	Kenosha County	059	04/24/2015	08/28/2015	Formed from part of Somers town (74650).
55	WI	Summit village	78375	01584250	Waukesha County	133	7/29/2010	1/27/2011	Incorporated from all of Summit town (78375)

### Attachment D

### **Letters from Public Officials**



April 22, 2016

Tim Irvine, Executive Director Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701

Re: Sierra Vista (TDHCA #16380)

Edinburg, Hidalgo County, TX 78589

Dear Mr. Irvine:

Please accept his correspondence as a statement of my personal support for the Sierra Vista affordable housing community to be located near the intersection of Owassa Road and North Veteran's Boulevard. In addition, this proposed affordable housing community for working families has the support of the entire Edinburg City Council.

MDS Housing Owassa, Ltd. has asked that we review the designated location of Sierra Vista. We have confirmed that the site is located within the City of Edinburg. In addition, we have reviewed the most current mapping information from the U.S. Census Bureau and confirmed that the location is also within Lopezville, a Census Designated Place (please see attached maps).

Please let me know if you have any questions regarding this matter. I would respectfully request the funding of the Sierra Vista application to ensure the availability of affordable housing for my constituents. Thank you.

Sincerely,

Richard H. Garcia

Mayor





### TEXAS HOUSE OF REPRESENTATIVES



April 18, 2016

Tim Irvine, Executive Director Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701

Re: Sierra Vista (TDHCA #16380)

Edinburg, Hidalgo County, TX 78589

Dear Mr. Irvine:

As you may know, I previously forwarded a letter of support for the Sierra Vista affordable apartment community. I want to reiterate that support and for their application for housing tax credits. This project is located in Hidalgo County and is in my district, on approximately 5 acres near the northwest corner of Owassa Road and N. Veterans Boulevard.

My staff has carefully researched the location of this proposed development using information provided by the Census Bureau's website and concluded that the site is within both the Lopezville CDP and the City of Edinburg.

This development would greatly benefit the Lopezville community by providing quality affordable housing to those living on low to moderate incomes. Our understanding of the situation is that the boundaries of the Lopezville CDP remain in place until the completion of the next census in 2020 even though this area of Hidalgo County was annexed into the City of Edinburg in 2013.

If I can be of further assistance, please do not hesitate to contact my office.

Very truly yours,

**Terry Canales** 

Texas State Representative, District 40





COMMITTEES FINANCE Vice Chair SUNSET ADVISORY COMMISSION CRIMINAL JUSTICE

# THE SENATE OF TEXAS JUAN "CHUY" HINOJOSA

DISTRICT 20

COMMITTEES

NATURAL RESOURCES &
ECONOMIC DEVELOPMENT

AGRICULTURE, WATER&
RURAL AFFAIRS

April 19, 2016

Tim Irvine, Executive Director Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701

Re:

Sierra Vista (TDHCA #16380)

Edinburg, Hidalgo County, TX 78589

Dear Mr. Irvine:

My office has reviewed the location of Sierra Vista, the referenced affordable housing community proposed for funding by Federal Housing Tax Credits.

Based on information we researched, the contemplated site for Sierra Vista, is currently located both within the City of Edinburg and Lopezville, which is a Census Designated Place ("CDP"). This will hold true until the next scheduled update of census information to occur after the completion of the 2020 census process.

Please let me know if you have any questions or require any clarification of this matter. Thank you.

Sincerely,

Juan "Chuy" Hinojosa

State Senator, District 20



### TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdbca.state.tx.us

Greg Abbott Governor BOARD MEMBERS
J. Paul Oxer, Chair
Juan S. Muñoz, PhD, Vice Chair
Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

June 21, 2016

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

Mr. Mark Musemeche Vice President MGroup Holdings, Inc. 1013 Van Buren Houston, Texas 77019

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16380 SIERRA VISTA

#### Dear Mr. Musemeche:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the Request for Administrative Deficiency you submitted regarding the application referenced above. The request asked the Department to review whether the Application identified the correct Place for the location of the proposed development site as required to score two (2) points under §11.9(c)(6)(c) Underserved Area, of the 2016 Qualified Allocation Plan. The Department performed its review and initially determined that an Administrative Deficiency should be issued. Staff issued such a deficiency and, upon review of the response, determined that since the proposed site was annexed by the City of Edinburg in 2013, the Application was not eligible for the requested points. A scoring notice was issued to the Applicant, and the Applicant appealed the loss of points to the Department's executive Director. In his review, the Executive Director determined the following regarding the appeal:

- The Application identified the Lopezville Census Designated Place ("CDP") as the location of the proposed development site;
- The portion of the Lopezville CDP that contains the proposed development site was annexed by the City of Edinburg in 2013;
- In the period since the annexation, the U.S. Census has not updated its official records to redesignate the proposed site as being within the Edinburg municipal boundaries and to reflect adjustments to the map showing the boundaries for the Lopezville CDP;
- §10.3(93) does not indicate that a Development Site can only be in an incorporated city or in an unincorporated CDP;
- A plain reading of §10.3(93) would indicate that the definition turns upon the Census Bureau's characterization of an area, and according to the Census Bureau the site is in the Lopezville CDP.

Per §10.2(d), Census Data, "Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded." For this issue, the most current data available as of October 1, 2015, is that included in the 2016 HTC Site Demographic Characteristics Report posted on the Department's website, which includes the Lopezville CDP, and the boundary map of the Lopezville CDP found on the website of the U.S. Census Bureau, which shows that the development site is located in the Lopezville CDP.



THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY June 21, 2016
Page 2

Based on these determinations, the Department has awarded the requested points to the Application and has issued a revised scoring notice. If you have questions or require further information, please contact me.

Sincerely,

Marni Holloway

Multifamily Division Director

# 6f

### **BOARD ACTION REQUEST**

### **MULTIFAMILY FINANCE DIVISION**

### **JULY 14, 2016**

Presentation, Discussion and Possible Action on the draft 2016 State of Texas National Housing Trust Fund Allocation Plan and directing that it be published in the *Texas Register* 

### RECOMMENDED ACTION

**WHEREAS,** on January 30, 2015, the U.S. Department of Housing and Urban Development ("HUD") published an interim rule for the National Housing Trust Fund ("NHTF") for states to implement the program;

**WHEREAS**, on March 12, 2015, Governor Abbott designated the Department as the state agency responsible for the administration of funds provided through NHTF;

**WHEREAS,** on May 5, 2016, HUD published the formula allocation amounts for NHTF, followed by guidance on how to submit the Allocation Plan;

WHEREAS, HUD requires the Allocation Plan to be a part of the State of Texas' One Year Action Plan and Consolidated Plan as amendments to both documents; and

WHEREAS, the Department has developed the draft 2016 State of Texas NHTF Allocation Plan, which reports on the intended use of funds received by the State of Texas from HUD for Program Year ("PY") 2016, beginning on February 1, 2016, and ending on January 31, 2017;

NOW, therefore, it is hereby

**RESOLVED,** that the draft 2016 State of Texas NHTF Allocation Plan, in the form presented to this meeting, is hereby approved for release for public comment, and

**FURTHER RESOLVED,** that the Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to cause notice of the draft 2016 State of Texas NHTF Allocation Plan to be published in the Texas Register and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

### **BACKGROUND**

The Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") prepared the draft 2016 State of Texas NHTF Allocation Plan ("Plan") in accordance with 24 CFR §91.320. The Plan was developed after conducting two roundtables in Austin and Houston and after receiving a significant amount of comment via letters and emails.

The Plan reflects the intended uses of funds received by the State of Texas from HUD for Program Year 2016. The Program Year began on February 1, 2016, and ends on January 31, 2017. The Plan also illustrates the State's strategies in addressing the priority needs and specific goals and objectives identified in the 2015-2019 State of Texas Consolidated Plan.

A draft of the Plan to be approved by the Board for release for public comment can be found online http://www.tdhca.state.tx.us/housingon Housing Resource Center website at center/pubs.htm%20 TDHCA's Multifamily Direct Loan website or on http://www.tdhca.state.tx.us/multifamily/home/index.htm.

Upon approval by the Board, the Plan will be available for public comment on the TDHCA Public Comment Center at http://www.tdhca.state.tx.us/public-comment.htm. The public comment period will be open from July 15, 2016, through August 15, 2016, and a public hearing will be held in Austin on August 4, 2016. Public comment will only be considered if it is relevant to the sections of the Plan that are being revised as a result of the Department receiving this allocation of NHTF.

Per 24 CFR §91.15(a)(1), HUD has established a deadline for submission of the Plan on August 16, 2016. Due to the delay in publication of the Allocation Plan guidance, in addition to providing a 30-day public comment period within the Board schedule, the Department is requesting extension of the submission date from HUD.

The final version of the Plan, including all public comment received an staff's reasoned response, is intended to be presented to the Board for approval in September and will be submitted to HUD after final approval

### II. GRANTEE INFORMATION

State: Texas

### **FY 2016 HTF Allocation Amount:**

\$4,778,364

### III. CONSOLIDATED PLAN REQUIREMENTS

### Citizen Participation Plan

The consolidated plan regulation at § 91.115 requires the State to include HTF in its citizen participation plan. Essentially, before adopting a consolidated plan, the State is required to adopt a citizen participation plan that describes the process for providing and encouraging citizens to participate in the development of the consolidated plan, the amendments to the consolidated plan and the performance report (CAPERS). For the purposes of HTF, the State is required to make the following information available to the public:

- the amount of HTF assistance the State expects to receive,
- the range of activities the State may undertake, including the estimated amount that will benefit extremely low-income households, and
- the State's plans to minimize displacement of persons and to assist any persons displaced.

If the State already conducted its citizen participation and included HTF in any citizen participation it performed for the other HUD formula grant programs, then the State does not need to conduct additional citizen participation for HTF. If the State has not yet conducted citizen participation or did not include HTF in the citizen participation it performed for other HUD formula grant programs, then it must conduct citizen participation to include HTF as part of its consolidated plan.

### Consolidated Plan Screen(s) To Revise

The following screen in the eCon Planning Suite consolidated plan template in IDIS must be revised to include HTF.

**ES-05** / **AP-05** Executive Summary: § 91.320(b)- The Executive Summary includes seven narratives: (1) Introduction; (2) Summary of Objectives and Outcomes; (3) Evaluation of Past Performance; (4) Summary of the Citizen Participation and Consultation Process; (5) Summary of Public Comments; (6) Summary of Comments Not Accepted; (7) Summary.

PR-15 Citizen Participation: § 91.115 and § 91.300(c)- revise this screen to provide a summary of the citizen participation efforts made for HTF, including efforts to broaden public participation, a summary of citizen comments or views on the plan, and a written explanation of comments not accepted and the reasons why these comments were not accepted.

### IV. STRATEGIC PLAN REQUIREMENTS

The State must <u>amend</u> the affordable housing section of the strategic plan to include specific objectives that describe proposed accomplishments the State hopes to achieve and must specify the number of extremely low-income families to which the State will provide affordable housing to (homeownership- § 93.302; rental- § 93.304) over a specific period of time. The State can complete this requirement by including HTF on the **SP-45 Goals screen**.

### Note: Directions on how to amend a plan are included at the end of this document.

**Reminder:** 100 percent of FY 2016 HTF funds must benefit extremely low-income households; a minimum of 80 percent must be used for rental housing; up to 10 percent may be used for homeownership housing; up to 10 percent may be used for administrative costs.

### Strategic Plan Screen(s) To Revise

In addition to updating the affordable housing section of the strategic plan, the following screens in the eCon Planning Suite consolidated plan template in IDIS must be revised to include HTF.

- SP-10 Geographic Priorities: § 91.315(a)(1)- revise this screen to discuss how investments are allocated geographically.
- SP-25 Priority Needs: § 91.315(a)(2)- revise this screen to indicate the general priorities for allocating investment of available resources among different needs.
- SP-30 Influence of Market Conditions: § 93.315(b)- revise this screen to describe how the characteristics of the housing market influenced the State's decisions regarding allocation priorities among the types of housing assistance.
- SP-35 Anticipated Resources: § 91.315(a)(4); § 91.320(c)(1) and (2)- revise this screen to identify the federal, state, local, and private resources expected to be available to the State to address priority needs and specific objectives identified in the strategic plan. Specifically, the State should add a program to this screen by

**Resource** screen. The State should select "Other" in the *Anticipated Resource* field and enter "Housing Trust Fund" in the *Other Funding Source* field. The State should also select the "public - federal" radio button in the "Source" field and complete the rest of the fields on this screen for its HTF program.

SP-45 Goals: § 91.315(a)(4) and § 91.315 (b)(2)- revise this screen to summarize the State's priorities and the specific goals it intends to initiate and/or complete within the term of the strategic plan. The State must also ensure its five year goals include any accomplishments due to HTF funds and must also enter the number of extremely low-income families to which the State will provide assistance with its HTF funds.

### V. ANNUAL ACTION PLAN REQUIREMENTS

The State must include HTF in its annual action plan or <u>amend</u> the plan to include HTF information as required in § 93.320(k)(5). The action plan must include an HTF allocation plan that describes the distribution of HTF funds, and establishes the application requirements and selection criteria of applications submitted by eligible recipients that meet the State's priority housing needs.

### Annual Action Plan Screen(s) To Revise

The following screens in the eCon Planning Suite consolidated plan template in IDIS must be revised to include HTF.

- AP-15 Expected Resources: § 91.320(c)(1) and (2)- revise this screen to provide a concise summary of the federal resources expected to be available. The HTF resources added to the SP-35 Anticipated Resources screen will carry over to this screen.
- AP-20 Annual Goals and Objectives: § 91.320(c)(3) and (e)- revise this screen to summarize the specific goals the State intends to initiate and/or complete within the term of the program year. Any HTF related goals and objectives entered on the SP-45 Goals screen will carry over to this screen.
- AP-25 Allocation Priorities: § 91.320(d)- revise this screen to describe the reasons for the State's allocation priorities and how the proposed distribution of funds will address the priority needs and goals of the strategic plan.

- AP-30 Method of Distribution: § 91.320(d) and (k5)- revise this screen to include a description of its method(s) for distribution for the "Other Housing Trust Fund" selection based on the entry made on the SP-35 Anticipated Resources screen.
- AP-50 Geographic Distribution: § 91.320(f)- revise this screen to describe the geographic areas of the state in which it will direct assistance during the ensuing program year and provide rationale for its priorities in allocating investment geographically.
- AP-55 Affordable Housing: § 91.320(g)- revise this screen to specify goals for the number of homeless, non-homeless, and special needs households to be provided affordable housing within the program year.
- AP-65 Homeless and Other Special Needs Activities: § 91.320(h)- revise this screen to describe how HTF will help to address the State's one-year goals and actions for reducing and ending homelessness, if applicable.
- AP-75 Barriers to Affordable Housing: § 91.320(i)- revise this screen to describe how HTF will help with any actions the State's will take during the next year to reduce barriers to affordable housing, if applicable.
- AP-85 Other Actions: § 91.320(j)- revise this screen to describe how HTF will help with any actions the State will take during the next year to carry out the following strategies outlined in the consolidated plan:
  - Foster and maintain affordable housing;
  - Evaluate and reduce lead-based paint hazards;
  - Reduce the number of poverty-level families;
  - Develop institutional structure; and
  - Enhance coordination.

In addition, the State must identify obstacles to meeting underserved needs and propose actions to overcome those obstacles using HTF funds, if applicable.

# HTF Funding Priorities-§ 91.320(k)(5)(i)

The State is responsible for distributing HTF funds throughout the State according to its housing priority needs. In addition to revising the **AP- 30 Method of Distribution** screen in IDIS, the State must respond to the following questions.

1. Will the State distribute HTF funds through grants to subgrantees? If yes, describe the method for distributing HTF funds through grants to subgrantees and how the State will make those funds available to units of general local governments. If no, state N/A. Please attach response if you need additional space.

N/A

2. Will the State distribute HTF funds by selecting applications submitted by eligible recipients? If yes, describe the eligibility requirements for applicants as defined in § 93.2- definition of recipient. If no, state N/A. Please attach response if you need additional space.

The state will distribute NHTF funds to eligible recipients as described in applicable sections of the Texas Department of Housing and Community Affairs ("TDHCA" or "Department") rules at Chapter 10 of the Texas Administrative Code, Subchapter C, Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applicants (10 TAC §10.201through 207), as amended and in effect at application, which sets forth the minimum requirements for applicant eligibility to participate in TDHCA Multifamily programs.

The Department will require evidence of experience and capacity through the Experience Requirement at 10 TAC §10.204(6), as amended and in effect at application.

- 3. Will the State distribute HTF funds by selecting application submitted by eligible recipients? If yes, describe all the criteria that will be used to select applications and the relative importance of these criteria. At a minimum, as required in § 91.320(k)(5)(i), the selection criteria must include:
  - Priority based upon geographic diversity
  - Applicant's ability to obligate HTF funds
  - Applicant's ability to undertake eligible activities in a timely manner
  - For rental housing, the extent to which the project has Federal, State or local project-based rental assistance so rents are affordable to extremely lowincome families
  - For rental housing, the duration of the units' affordability period
  - The merits of the application in meeting the State's priority housing needs (please describe)
  - The extent to which application makes use of non-federal funding sources
  - Other (please describe). Please attach response if you need additional space.

### Priority based upon geographic diversity

As described in SP-10 Geographic Priorities The Texas NHTF will distribute NHTF funds through a competitive NOFA process. The funds will initially be available geographically, based on the proportion of Extremely Low Income Renter households to the total population of Renter Households in each of thirteen State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by thirteen, and available competitively within each region prior to collapse into a statewide competition.

# Applicant's ability to obligate HTF funds

The applicant's experience in completion of similar projects, as evidence by TDHCA's Experience Requirement, along with the ability to present a complete application package are threshold requirements that indicate the ability to timely obligate NHTF funds.

Applicant's ability to undertake eligible activities in a timely manner

Application criteria including readiness to proceed as evidenced by site control, appropriate zoning, architectural plans, and evidence of financing will be considered.

For rental housing, the extent to which the project has Federal, State or local project-based rental assistance so rents are affordable to extremely low-income families

Of highest priority in the evaluation of applications will be the creation of new units serving ELI households that would not otherwise exist. While the availability of project-based rental assistance will be considered, only applications that demonstrate the ability to meet Underwriting requirements will be funded.

For rental housing, the duration of the units' affordability period

The minimum 30-year affordability period will be secured with a Land Use Restriction Agreement ("LURA") as a threshold requirement. While Applications that propose a longer affordability period could have a scoring advantage, they still must provide evidence of feasibility for the entire affordability period.

(continued on page 13)

-

The merits of the application in meeting the State's priority housing needs
The TX NHTF will prioritize housing needs of Extremely Low Income Households in accordance with the
Analysis of Impediments and the high opportunity measures of the Texas Qualified Allocation Plan.

The extent to which application makes use of non-federal funding sources
The proportion of leveraged of non-federal fund sources in relation to the NHTF funds requested will be part
of the scoring criteria for competitive applications. Applications with the highest proportionate leverage will
have an advantage in scoring.

# **Recipient Application Requirements**- § 91.320(k)(5)(ii)

1.		State require that all recipient applications contain a description of the tivities to be conducted with HTF funds as required in § 93.200- Eligible			
	Yes 🗵	No □			
2.	2. Will the State require that each eligible recipient certify that housing assisted HTF funds will comply with HTF requirements?				
	Yes ⊠	No 🗆			
rfo	formance Goals and Benchmarks- § 91.320(k)(5)(iii)				

# Pei

The plan must include performance goals and benchmarks against which the State will measure its progress, consistent with the State's goals established at § 91.315(b)(2). To comply with this requirement, the State will include HTF housing goals in the housing table on the SP-45 Goals and AP-20 Annual Goals and Objectives screens in the eCon Planning Suite consolidated plan template in IDIS.

# VI. OTHER REQUIREMENTS

# Maximum Per-unit Development Subsidy Amount- § 91.320(k)(5) and § 93.300(a)

The State must establish its own maximum limitations on the total amount of HTF funds that can be invested per-unit for development of non-luxury housing. The limits must be reasonable, based on actual costs, and adjusted for the number of bedrooms and geographic location of the project. The State may choose to develop its own limits or adopt limits used in other federal programs such as HOME or Low-Income Housing Tax Credit and must submit them with its HTF allocation plan. The State must submit a description of how the HTF maximum per-unit development subsidy amounts were established or a description of how existing limits developed for another program and being adopted for HTF meet the HTF requirements.

Indicate below what maximum per-unit development subsidy limits the State will use for its FY 2016 HTF program.

- ☐ State developed its own maximum per-unit development subsidy limits and the limits are attached.
- ☑ State adopted limits used in other federal programs and the limits are attached.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** Comments Due Date: January 19, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at Colette.Pollard@hud.gov for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the tollfree Federal Relay Service at (800) 877-8339.

#### FOR FURTHER INFORMATION CONTACT:

Thann Young, Office of Rural Housing and Economic Development,
Department of Housing and Urban
Development, 451 7th Street SW., Room 7240, Washington, DC 20410; email
Thann Young at *Thann.Young@hud.gov* or telephone 202–708–2290. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

#### A. Overview of Information Collection

Title of Information Collection: Indian Community Capital Initiative.

OMB Approval Number: 2506—New. Type of Request: New Collection. Form Numbers: SF 424; HUD 424CB; HUD 424—CBW; SF–LLL; HUD 2880; HUD 2990; HUD 2991; HUD 2993; HUD 2994A; HUD 27061; and HUD 27300.

Description of the need for the information and proposed use: The Indian Community Capital Initiative

(ICCI) is a collaborative effort among three federal agencies—the Department of Housing and Urban Development (HUD), the Department of the Treasury—Community Development Financial Institutions Fund (CDFI Fund), and the Department of Agriculture—Rural Development (USDA–RD). The ICCI's goal is to increase access to capital for business lending and economic development and entrepreneurship for Federally recognized Indian tribes.

Federally recognized Indian tribe means any tribal entity eligible to apply for funding and services from the Bureau of Indian Affairs by virtue of its status as an Indian tribe. The list of Federally recognized Indian tribes can be found in the notice published by the Department of the Interior on January 14, 2015 (Federal Register/Vol. 80, No. 9/Wednesday, January 14, 2015/Notices).

Respondents (i.e. affected public): Public.

 ${\it Estimated\ Number\ of\ Respondents:}\\ 566.$ 

Estimated Number of Responses: 566. Frequency of Response: 1. Average Hours per Response: 7211. Total Estimated Burdens:

	Respondents	Annual responses	Total responses	Burden per response	Total annual hours	Burden cost per instrument
HUD-424CB	566	1	566	3.12	1,766	44,150
HUD-424CBW	566	1	566	3.12	1,766	44,150
HUD-2880	566	1	566	2.0	1,132	28,300
HUD-2990	566	1	566	0	0	0
HUD-2991	566	1	566	0	0	0
HUD-2993	566	1	566	0	0	0
HUD-2994A	566	1	566	.5	283	7,075
HUD-27061	566	1	566	1.0	566	14,150
HUD-27300	566	1	566	3.0	1,698	42,450
Total	5,094		5,094		7,211	180,275

# **B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who are to respond; including through

the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 4, 2015.

#### Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development. [FR Doc. 2015–29461 Filed 11–17–15; 8:45 am]

BILLING CODE 4210-67-P

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5886-N-01]

#### Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

**SUMMARY:** In accordance with Section 206A of the National Housing Act, HUD has adjusted the Basic Statutory Mortgage Limits for Multifamily Housing Programs for Calendar Year 2015.

DATES: Effective date: January 1, 2015.

#### FOR FURTHER INFORMATION CONTACT:

Daniel J. Sullivan, Deputy Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000, telephone (202) 402–6130 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The FHA Down Payment Simplification Act of 2002 (Pub. L. 107–326, approved December 4, 2002) amended the National Housing Act by adding a new Section 206A (12 U.S.C. 1712a). Under Section 206A, the following are affected:

- I. Section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));
- II. Section 213(b)(2)(A) (12 U.S.C. 1715e (b)(2)(A));
- III. Section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k (d)(3)(B)(iii)(I));
- IV. Section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));
- V. Section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and
- VI. Section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

The Dollar Amounts in these sections are the base per unit statutory limits for FHA's multifamily mortgage programs collectively referred to as the 'Dollar Amounts,' they are adjusted annually (commencing in 2004) on the effective date of the Consumer Financial Protection Bureau's adjustment of the \$400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA) (Pub. L. 103-325, approved September 23, 1994). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Bureau of Consumer Financial Protection for purposes of the above-described HOEPA adjustment.

HUD has been notified of the percentage change in the CPI–U used for the HOEPA adjustment and the effective date of the HOEPA adjustment. The percentage change in the CPI–U is 2.0% and the effective date of the HOEPA adjustment is January 1, 2014. The Dollar Amounts have been adjusted correspondingly and have an effective date of January 1, 2015.

The adjusted Dollar Amounts for Calendar Year 2015 are shown below:

#### BASIC STATUTORY MORTGAGE LIMITS FOR CALENDAR YEAR 2015

Multifamily Loan Program

- ☐ Section 207—Multifamily Housing
- ☐ Section 220—Housing in Urban Renewal Areas

Bedrooms	Non-Elevator	Elevator
0	\$50,164	\$57,886
1	\$55,569	\$64,832
2	\$66,376	\$79,497
3	\$81,813	\$99,566
4+	\$92,622	\$112,581

□□ Section 213—Cooperatives

Non-Elevator	Elevator
\$54,364	\$57,886
\$62,683	\$65,583
\$75,598	\$79,749
\$96,766	\$103,170
\$107,803	\$113,251
	\$54,364 \$62,683 \$75,598 \$96,766

□□ Section 234—Condominium Housing

Bedrooms	Non-Elevator	Elevator
0	\$55,474	\$58,378
1	\$63,962	\$66,923
2	\$77,140	\$81,377
3	\$98,742	\$105,276
4+	\$110,002	\$115,560

□□ Section 221(d)(4)—Moderate Income Housing

Bedrooms	Non-Elevator	Elevator
0	\$49,924	\$53,928
1	\$56,671	\$61,822
2	\$68,501	\$75,176
3	\$85,980	\$97,251
4+	\$97,156	\$106,754

 $\square\square$  Section 231—Housing for the Elderly

Bedrooms	Non-Elevator	Elevator
0	\$47,465	\$53,928
1	\$53,062	\$61,822
2	\$63,364	\$75,176
3	\$76,255	\$97,251
4+	\$89,650	\$106,754

□□ Section 207—Manufactured Home Parks per Space—\$23,030

Dated: November 9, 2015.

#### Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

[FR Doc. 2015–29469 Filed 11–17–15; 8:45 am]

BILLING CODE 4210–67–P

#### **DEPARTMENT OF THE INTERIOR**

Fish and Wildlife Service

[FWS-R8-FHC-2015-N217: FXFR1334088TWG0W4-123-FF08EACT00]

# Trinity River Adaptive Management Working Group; Public Meeting

AGENCY: Fish and Wildlife Service,

Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Trinity River Adaptive Management Working Group (TAMWG). The TAMWG is a Federal advisory committee that affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

DATES: Public meeting: TAMWG will meet from 9:30 a.m. to 4:30 p.m. Pacific Time on Thursday, December 10, 2015. Deadlines: For deadlines on submitting written material, please see "Public Input" under SUPPLEMENTARY INFORMATION.

**ADDRESSES:** The meeting will be held at the Trinity River Restoration Program Office, 1313 South Main Street, Weaverville, CA 96093.

#### FOR FURTHER INFORMATION CONTACT:

Joseph C. Polos, by mail at U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; by telephone at 707–822–7201 or by email at *joe\_polos@fws.gov* or Elizabeth W. Hadley, Redding Electric Utility, by mail at 777 Cypress Avenue, Redding, CA 96001; by telephone at 530–339–7308 or by email at *ehadley@reupower.com*. Individuals with a disability may request an accommodation by sending an email to either point of contact.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Trinity River Adaptive Management Working Group will hold a meeting.

#### **Background**

The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the TMC. The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

#### U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT



November 18, 2015

ASSISTANT SECRETARY FOR HOUSING-FEDERAL HOUSING COMMISSIONER

MORTGAGEE LETTER 2015-28

TO: ALL FHA APPROVED MULTIFAMILY MORTGAGEES

Annual Base City High Cost Percentage and High Cost Area Revisions SUBJECT: for 2015

Maximum mortgage amounts were revised by the Consolidated Appropriations Act, 2008 (Public Law 110-161, approved December 26, 2007) (FY 2008 Appropriations Act). Section 221 of the General Provisions of Title II of Division K of the FY 2008 Appropriations Act revises the statutory exceptions to maximum mortgage amounts for the FHA Multifamily Housing Programs, listed in Section 221 of the FY 2008 Appropriations Act, by (1) substituting 170 percent for the 140 percent exception of any geographical area, and (2) substituting 215 percent for 170 percent as the maximum exception allowed for a specific project. Accordingly, the statutory revision allows the Secretary to grant exceptions to maximum mortgage limits for certain Multifamily Housing Programs by (1) up to 170 percent, (equivalent to a 270 percent multiplier) in geographical areas where cost levels so require or (2) up to 170 percent, or 215 percent in High Cost Areas, (equivalent to a 315 percent multiplier) where necessary on a project-by-project basis.

The law does not determine which areas are to be considered "High Cost Areas." Accordingly, the Office of Multifamily Production has developed a list of High Cost Areas for 2015. The threshold for a High Cost Area has been set for all areas (Special Limit Areas excepted) with a "calculated" High Cost Percentage (HCP) of 281.70 or greater, but because of the statutory cap of 170% or 270 multiplier, some localities have a higher HCP but still have the 270 multiplier.

The attached designated Annual Base City High Cost Percentages and High Cost Areas are effective January 1, 2015.

# SPECIAL LIMIT AREAS

Guam, the U.S. Virgin Islands, and the states of Alaska and Hawaii are Special Limit areas. Care should be taken to ensure that the appropriate limits are used for corresponding programs. The HCP for Special Limit Areas is 405%.

# **Paperwork Reduction Act**

There are no information collection requirements in this Notice and therefore the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) does not apply. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Edward L. Golding
Principal Deputy Assistant Secretary

Attachment

# FHA MULTIFAMILY STATUTORY MORTGAGE PROGRAMS

BASE CITY HIGH COST PERCENTAGES

Effective January 1, 2015

Doctor MA Hub	270%	Detroit MI Hub	270%
Boston MA Hub Hartford CT	270%	Grand Rapids MI	246%
		Ofalid Kapids Wi	240/0
Bangor ME	270%	Minnoanolia MN Hub	270%
Manchester NH	270%	Minneapolis MN Hub	
Providence RI	270%	Milwaukee WI	270%
Burlington VT	270%	T	0170/
		Fort Worth TX Hub	217%
New York NY Hub	270%	Little Rock AR	217%
Buffalo NY	270%	New Orleans LA	221%
Albany NY	270%	Shreveport LA	216%
		Albuquerque NM	247%
Philadelphia PA Hub	270%	Dallas TX	217%
Charlestown WV	270%	Houston TX	213%
Camden NJ	270%	Lubbock TX	209%
Newark NJ	270%	San Antonio TX	193%
Pittsburg PA	270%		
Wilmington DE	270%	Kansas City MO Hub	270%
,,		Des Moines IA	217%
Baltimore MD Hub	270%	Topeka KS	238%
Washington DC	270%	St. Louis MO	270%
Richmond VA	265%	Omaha NE	228%
Richmond VII	20370	Oklahoma City OK	230%
Greensboro NC Hub	239%	Tulsa OK	226%
Columbia SC	244%	Tuisa OK	22070
Columbia SC	244 %	Denver CO Hub	270%
Adlanda CA Harb	2590/	Helena MT	251%
Atlanta GA Hub	258%		
Louisville KY	245%	Fargo ND	248%
Knoxville TN	227%	Sioux Falls SD	234%
Memphis TN	219%	Salt Lake City UT	266%
Nashville TN	223%	Casper WY	261%
San Juan PR	270%		
US Virgin Isl. (spec limit)	405%	Los Angeles CA Hub	270%
		Santa Ana CA (LA)	270%
Jacksonville FL Hub	250%	San Diego CA	270%
Birmingham AL	221%		
Jackson MS	217%	San Francisco CA Hub	270%
Miami FL	256%	Phoenix AZ	254%
Tampa FL	268%	Sacramento CA	270%
1		Honolulu HI (spec limit)	405%
Chicago IL Hub	270%	Las Vegas NV	270%
Springfield IL	270%	C	
Indianapolis IN	251%	Seattle WA Hub	270%
		Anchorage AK (spec limit)	405%
Columbus OH Hub	256%	Boise ID	270%
Cleveland OH	270%	Portland OR	270%
Cincinnati OH	245%	Spokane WA	270%
Cincinnau OH	<b>∠</b> ¬J /∪	Spokule W11	270/0

**Note:** Offices with a "calculated" HCP of 281.70 (before the statutory cap of 270) or higher are designated "High Cost Areas" and are shaded. The Multifamily for Tomorrow (MFT) Transformation will be effective for all Hubs after Wave 5 is complete for the Western Region in approximately Summer of 2016. The next Mortgagee Letter on this topic will reflect the MFT changes with respect to the new organizational structure.

# **Rehabilitation Standards** - § 91.320(k)(5)(iv) and § 93.301(b)

If the State intends to use its HTF funds for housing being rehabilitated, it must establish rehabilitation standards that all HTF-assisted housing undergoing rehabilitation must meet at the time of project completion in accordance with § 93.301(b). The standards must provide enough details on what work is required, how that work should be performed and what materials should be used. The State's standards may refer to applicable codes or may establish requirements that exceed the minimum requirements of the codes. At a minimum, the rehabilitation standards must address:

- Health and safety;
- Major systems;
- Lead-Based Paint;
- Accessibility;
- Disaster Mitigation;
- State and local Codes, Ordinances, and Zoning Requirements; and
- Inspectable Areas and Observable Deficiencies from HUD's Uniform Physical Condition Standards identified by HUD as applicable to HTF-assisted housing.

Indicate below if the State will use HTF funds for rehabilitation of housing.

- ☑ The State plans to use HTF funds for the rehabilitation of housing and has attached its rehabilitation standards.
- ☐ The State will not use HTF funds for rehabilitation of housing.

# Resale and/or Recapture Provisions- § 91.320(k)(5)(v) and § 93.304(f)

If the State intends to use HTF funds to assist first-time homebuyers, it must set forth the guidelines for resale or recapture and obtain HUD specific, written approval, as required in § 93.304(f). Approval of the consolidated plan or annual action plan under § 91.500 or the failure to disapprove the consolidated plan or annual action plan does not satisfy the requirement for specific HUD approval for resale or recapture guidelines.

Indicate below if the State intends to use HTF funds for first-time homebuyers.

- ☐ The State will use HTF funds to assist first-time homebuyers and has attached the applicable resale/recapture provisions.
- ☑ The State will not use HTF funds to assist first-time homebuyers.

TDHCA may develop a first-time homebuyer program for NHTF in future, but that use is not contemplated immediately. If there is sufficient funding and demand in the future to implement an NHTF Homebuyer program, the State will develop the required specific provisions at that time and submit them for approval.

# Subchapter B - Site and Development Requirements and Restrictions

# §10.101. Site and Development Requirements and Restrictions.

- **(b) Development Requirements and Restrictions.** The purpose of this section is to identify specific restrictions on a proposed Development submitted for multifamily funding by the Department.
  - **(3) Rehabilitation Costs.** Developments involving Rehabilitation must establish a scope of work that will substantially improve the interiors of all units and exterior deferred maintenance. The following minimum Rehabilitation amounts must be maintained through the issuance of IRS Forms 8609 or at the time of the close-out documentation, as applicable:
    - (D) Rehabilitation Developments financed with Direct Loans provided through the HOME program (or any other program subject to 24 CFR 92) that triggers the rehabilitation requirements of 24 CFR 92 will be required to meet all applicable state and local codes, ordinances, and standards; the 2012 International Existing Building Code ("IEBC"); and the requirements in clauses (i) (iv) of this subparagraph.
      - (i) recommendations made in the Environmental Assessment and Physical Conditions Assessment with respect to health and safety issues, major systems (structural support; roofing; cladding and weatherproofing; plumbing; electrical; and heating, ventilation, and air conditioning), and lead based paint must be implemented;
      - (ii) all accessibility requirements pursuant to 10 TAC §1.206 (relating to Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973) and §1.209 (relating to Substantial Alteration of Multifamily Developments) must be met;
      - (iii) properties located in the designated catastrophe areas specified in 28 TAC §5.4008 must comply with 28 TAC §5.4011 (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2008); and
      - (iv) should IEBC be more restrictive than local codes, or should local codes not exist, then the Development must meet the requirements imposed by IEBC.

# **HTF Affordable Homeownership Limits**- § 91.320(k)(5)(vi) and § 93.305

HTF funds may only be invested for the provision of modest housing for homeownership. This means the housing has a purchase price for the type of single family housing that does not exceed 95 percent of the median purchase price for the area for newly constructed or standard housing. If the State plans to use HTF funds for homebuyer assistance, and does not use the HTF affordable homeownership limits established by HUD, it must determine 95 percent of the median purchase price for single family housing for designated areas across the State. If the State will determine its own affordable homeownership limits, it must determine the limits using the methodology described in § 93.305(a)(2).

Indicate below if the State will use HTF funds for homeownership housing and what affordable homeownership limits it will use.

- ☐ The State will use HTF funds for homeownership housing and will use the HUD issued limits.
- ☐ The State will use HTF funds for homeownership housing and has determined its own affordable homeownership limits and the limits are attached.
- ☑ The State will not use HTF funds for homeownership housing.

# State Limited Beneficiaries or Preferences- § 91.320(k)(5)(vii)

The State may limit the beneficiaries or give preferences to a particular segment of the extremely low-income population only if described in the action plan. Any limitation or preference must not violate non-discrimination requirements at § 93.350 and the State must not limit or give preferences to students. The State may also allow rental housing owners to limit tenants or give a preference in accordance with § 93.303(d)(3), only if such limitation or preference is described in the action plan.

Indicate below if the State will limit beneficiaries or give preferences to a particular segment of the extremely low-income population.

- The State will limit beneficiaries and/or give preferences to the following segments of the extremely low-income population. The groups listed have also been identified in the action plan.
- The State will not limit beneficiaries and/or give preferences to any segments of the extremely low-income population.

In accordance with AP-25 of 2016 One Year Action Plan

# **Refinancing of Existing Debt-** § 91.320(k)(5)(viii) and § 93.201(b)

If the State will use HTF funds for refinancing of existing debt, it must establish refinancing guidelines and include them in its consolidated plan. The State's refinancing guidelines must describe the conditions under which it will refinance existing debt. At a minimum, the guidelines must demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing. Refinancing of existing debt is only eligible if it is necessary to reduce the overall housing costs and to make the housing more affordable.

Indicate below if the State will permit the refinancing of existing debt.

- The State will permit the refinancing of existing debt and the conditions under which the State will refinance existing debt are attached. (Please see the next page)
- ☐ The State will not permit the refinancing of existing debt.

### VII. GRANTEE CERTIFICATIONS

In addition to submitting an HTF allocation plan, the State must submit all the required certifications identified at § 91.225 (for new action plans). If the State is amending the action plan to include HTF, it must resubmit the following certification to include HTF:

Consistency with plan- The jurisdiction must submit a certification that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan. Where the HOPWA funds are to be received by a city that is the most populous unit of general local government in an EMSA, it must obtain and keep on file certifications of consistency from the authorized public officials for each other locality in the EMSA in which housing assistance is provided. HTF must be included in this certification.

# VIII. REQUIRED FORMS

In addition to submitting an HTF allocation plan, the State must submit and/or complete the following standard forms for its HTF program.

- Standard form- 424: <u>Application for Federal Assistance</u> (§ 91.320(a))
- Standard form- 1199 A : <u>Direct Deposit Sign up Form</u>

TDHCA may use HTF funds to refinance existing debt secured by multifamily housing that is being rehabilitated with HTF funds as described in 24 CFR §93.201(b). TDHCA shall use its underwriting and evaluation standards, site and development requirements, and application and submission requirements found in the Uniform Multifamily Rules, for refinanced properties in accordance with its administrative rules. At a minimum, these rules require the following:

- that rehabilitation is the primary eligible activity for developments involving refinancing of existing debt;
- that a minimum funding level is set for rehabilitation on a per unit basis;
- that a review of management practices is required to demonstrate that disinvestments in the property has not occurred;
- that long-term needs of the project can be met;
- that the financial feasibility of the development will be maintained over an extended affordability period;
- that whether new investment is being made to maintain current affordable units and/or creates additional affordable units is stated;
- that the required period of affordability is specified;
- that the HTF funds may be used throughout the entire jurisdiction (except as TDHCA may be limited by the Texas Government Code) is specified; and
- that HTF funds cannot be used to refinance multifamily loans made or insured by any Federal program, including CDBG, is stated.

# **2016 OYAP sections for NHTF updates**

# **Executive Summary**

# AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

#### 1. Introduction

The 2016 One-Year Action Plan ("OYAP") applies to the combined actions of the Texas Department of Housing and Community Affairs ("TDHCA"), the Texas Department of Agriculture ("TDA"), and the Texas Department of State Health Services ("DSHS"), being the three state agencies that administer ongoing HUD programs and referred to collectively herein as the "State." The OYAP reports on the intended use of funds received by the State of Texas from the U.S. Department of Housing and Urban Development ("HUD") for Program Year ("PY") 2016. This OYAP is for the HOME Investment Partnerships ("HOME") Program, the Emergency Solutions Grant ("ESG") Program, the Community Development Block Grant ("CDBG") Program, and the Housing Opportunities for Persons with AIDS ("HOPWA") Program, and the National Housing Trust Fund ("NHTF"). It does not apply to CDBG Disaster Recovery funding, administered by the Texas General Land Office. The 2016 PY begins on February 1, 2016, and ends on January 31, 2017. The performance report on PY 2014 funds was made available July 2015.

# 2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

#### The 2016 OYAP:

- 1. Reports on the intended use of funds received by the State from HUD for PY 2016;
- Explains the State's method for distributing CDBG, ESG, HOME, and HOPWA, and NHTF program funds; and
- 3. Provides opportunity for public input on the development of the annual plan.

The State's progress in achieving the goals put forth in the OYAP will be measured according to HUD guidelines (24 CFR §91.520) and outlined in the Annual Performance Report released yearly in May. In accordance with the guidelines from HUD, the State complies with the Community Planning and Development ("CPD") Outcome Performance Measurement System. Program activities are categorized into the objectives and outcomes listed in the CPD Outcome Performance Measurement System table below.

The objectives and outcomes as they apply to each of the four programs are listed below. The estimated performance figures are based on planned performance during the PY (February 1st through January 31st) of contracts committed and projected households to be served based on estimated availability of funds. In contrast, the performance measures reported to the Texas Legislative Budget Board for the

State Fiscal Year ("SFY" - September 1st through August 31st) are based on anticipated units and households at time of award.

OBJECTIVES	OUTCOME 1 Accessibility	OUTCOME 2	OUTCOME 3
OBJECTIVES	OUTCOINE TACCESSIBILITY	Affordability	Sustainability
OBJECTIVE #1	Enhance Suitable Living	Enhance Suitable Living	Enhance Suitable Living
Suitable Living	Environment Through	Environment Through	Environment Through
Environment	Improved/New	Improved/New	Improved/New
Environment	Accessibility (SL-1)	Affordability (SL-2)	Sustainability (SL-3)
OBJECTIVE #2	Create Decent Housing	Create Decent Housing	Create Decent Housing
Decent Housing	with Improved/New	with Improved/New	with Improved/New
Decent nousing	Availability (DH-1)	Affordability (DH-2)	Sustainability (DH-3)
OBJECTIVE #3	Provide Economic	Provide Economic	Provide Economic
Economic	Opportunity Through	Opportunity Through	Opportunity Through
	Improved/New	Improved/New	Improved/New
Opportunity	Accessibility (EO-1)	Affordability (EO-2)	Sustainability (EO-3)

Table 1a - CPD Outcome Performance Measurement System

Outcomes and	HOME Performance Indicators	Expected
Objectives		Number
DH-2	No. of rental units assisted through new construction and	172
	rehabilitation	
DH-2	No. of tenant-based rental assistance	363
DH-2	No. of existing homeowners assisted through owner-	58
	occupied assistance	
DH-2	No. of homeowners assisted through homebuyer	54
	assistance	

Table 2b - HOME Program Performance Measures, PY 2016

Outcomes	and	ESG Performance Indicators	Expected
Objectives			Number
SL-1		Provide funding to support the provision of emergency and/or	11,500
		transitional shelter to homeless persons.	
DH-2		Provide non-residential services including homelessness	4740
		prevention assistance.	

Table 3c - ESG Performance Measures, PY 2016

Objectives and Outcomes	CDBG Performance Indicators	<b>Expected Number</b>
SL-1	Infrastructure Improvements	220
SL-2	Infrastructure Improvements	10

SL-3	Infrastructure Improvements	65
SL-1	Residential Rehabilitation	50
DH-3	Residential Rehabilitation	2
DH-2	Homeownership Assistance	0
SL-1	Community Facilities	8
SL-1	Public Service	0
SL-1	Clearance Demolition Activities	5
EO-1	Direct Financial Assistance	32
EO-2	Direct Financial Assistance	5
EO-3	Infrastructure Improvements to Assist Businesses	30

Table 4d - CDBG Performance Measures, PY 2016

Outcomes and	HOPWA Performance Indicators	Expected
Objectives		Number
DH-2	TBRA housing assistance	468
DH-2	Short-term rent, mortgage, and utility	426
DH-2	Supportive Services (restricted to housing case mgt., smoke	823
	detectors, and phone service)	
DH-1	Permanent Housing Placement (security deposits, application	16
	fees, and credit checks)	

Table 5e - HOPWA Performance Measures, PY 2016

Outcomes and	NHTF Performance Indicators	Expected
Objectives		Number
DH-2	No. of rental units assisted through new construction and rehabilitation	0
DH-2	No. of homeowners assisted through homebuyer assistance	0

**Table 6e - NHTF Performance Measures, PY 2016** 

# 3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects. The information below is for HOME, ESG, CDBG, and HOPWA for PY 2014 (February 1, 2014 to January 31, 2015). Because NHTF is a new program for PY 2016, past performance data is not available.

## **HOME Evaluation of Past Performance**

TDHCA's HOME program committed \$30,437,477.99 in program funds through seven different types of HOME Program activities in PY 2014, representing assistance to 1,008 households. Details on the amount committed in each activity type are included in the chart below.

#### **ESG** Evaluation of Past Performance

ESG is expended by Federal Fiscal Year (10/1-9/30). TDHCA evaluated ESG funds committed versus funds expended by activity for PY 2014, a time period that consists of half of Federal Fiscal Year 2013 (2/1/2013-9/30/2014) and Federal Fiscal Year 2014 (10/1/2014-1/31/2015). Based on TDHCA's ESG analysis, expenditures had limited disparities and were well within the expected range of state funding for activities, based on goals in the 2014 OYAP. Disparities were found in Homelessness Prevention, where the State committed 23% of the overall budget and the activity accounted for 26% of expenditures, and in Rapid Re-Housing, where the State committed 32% of the total budget and the activity accounted for 30% of expenditures. This indicates that the State effectively programmed and expended funds consistent with its desired goals.

#### CDBG Evaluation of Past Performance

During PY 2014, the Texas CDBG Program committed a total of \$73,970,187 through 255 awarded contracts. For contracts that were awarded in PY 2014, 394,390 persons were anticipated to receive service. The Colonia Self Help Centers awarded \$1,564,167 in contracts outside the PY2014 reported below. Distribution of the funds by activity is described in the table below.

#### **HOPWA** Evaluation of Past Performance

In PY 2014, the DSHS HOPWA program served 455 households with TBRA (113% of the OYAP goal), 369 households with STRMU assistance (86% of the OYAP goal), and 12 households with Permanent Housing Placement ("PHP") assistance (80% of the OYAP goal) for a total of 818 unduplicated households. Of the total households served, 755 also received HOPWA-funded Supportive Services (91% of the OYAP goal). All HOPWA clients receive housing supportive services at some level, but some costs were leveraged with other funding sources. Client outcome goals for housing stability, reducing homelessness risk, and improving access to care were also achieved. (Subtotaled and/or totaled dollar amounts may not be exact due to all expenses are reported to two decimal points but are rounded to nearest whole dollar for the HOPWA chart.)

HOME Activity	<b>Total Committed</b>
Homebuyer Assistance	\$1,598,283.94
Homeowner Rehabilitation	\$17,715,798.05
Tenant-Based Rental Assistance	\$3,147,580
CHDO Rental Development	\$0
CHDO Single Family Development	\$875,816
CHDO Operating Expenses	\$50,000
Rental Housing Development	\$7,050,000

Table 1-7 - HOME Commitments by Activity, PY 2014

ESG Activity	Total Funds Expended
Street Outreach	\$574,172
Emergency Shelter	\$2,942,981

Homelessness Prevention	\$1,733,495
Rapid Re-Housing	\$3,008,287
Homeless Management Information Systems	\$505,803
Administration	\$321,800
Total	\$9,086,538.09

Table 4-8 - ESG Fund Expenditures by Activity, PY 2014

CDBG Fund	Total Obligation
Community Development Fund	\$36,923,015
Texas Capital Fund	\$8,861,714
Colonia Planning and Construction Fund	\$3,948,986
Colonia Economically Distressed Areas Program Fund	\$2,034,326
Colonia Self-Help Centers ("SHC")*	\$1,495,828
Planning / Capacity Building	\$540,640
Disaster Relief/ Urgent Need	\$2,446,820
STEP Fund	\$1,866,793
Administration (including TA) 3%	\$1,794,993
Admin - \$100k (in addition to the 3%)	\$100,000
Total	\$59,833,115
*The Colonia Self Help Centers allocated \$1,495,828 in PY2014	

Table 4-9 - CDBG Funds Committed, PY 2014

HOPWA Activity	Amount
Expenditures for Housing Information Services	\$0
Expenditures for Resource Identification	\$0
Expenditures for Housing Assistance (equals the sum of all	\$2,060,888
sites and scattered-site Housing Assistance)	
Expenditures for Supportive Services	\$375,629
Grantee Administrative Costs expended	\$70,639
Project Sponsor(s) Administrative Costs expended	\$161,006

Table 1-10 - HOPWA Program Expenditures, PY 2014

# 4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The State is committed to collaboration with a diverse cross-section of the public in order to meet the various affordable housing needs of Texans. The State also collaborates with governmental bodies, nonprofits, and community and faith-based groups. Following the release of the Draft 2016 One Year Action Plan, a 30-day public comment period was open from October 19, 2015, through November 19, 2015. During this time, a public hearing was held in Austin. Public comment solicited in person at the public hearing, in writing by email, fax, or mail. More information on the citizen participation,

consultation, and public comment are included in the Consultation and Participation sections of the Plan. A separate 30-day public comment period was open from July 15, 2016 through August 15, 2016 for the NHTF, as information regarding this program was not available during the earlier comment period for the OYAP. A public hearing regarding the NHTF was held in Austin on August 4, 2016, and public comment was solicited in person at the public hearing, in writing by email, fax, or mail.

The 2015-2019 Consolidated Plan, as adopted, substantial amendments, the OYAP, and the Consolidated Plan Annual Performance and Evaluation Report ("CAPER") will be available to the public online at http://www.tdhca.state.tx.us and will have materials accessible to persons with disabilities, upon request.

The State recognizes that citizen participation and consultation are ongoing processes. During the development of the 2015-2019 Consolidated Plan, comprehensive outreach was conducted to gather input. This outreach continues through the development of each Annual Action Plan, within the 5-year consolidated planning process. Following the release of HUD's Final Rule to Affirmatively Further Fair Housing, the State is making efforts to update the Citizen Participation Plan and Language Access Plan, as the State works towards the development of the Assessment of Fair Housing, anticipated to be due to HUD in approximately May 2019.

## 5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

During the development of the 2016 OYAP, two public comment periods were held. Following the release of the Draft 2016 OYAP, the Public Comment period was open from October 19, 2015, through November 19, 2015 and a public hearing was held on November 16, 2015 in Austin, TX. The State received 18 total comments from the following 4 organizations: Amazing Grants, Inc., MET, Inc., SafePlace, and Lifeworks. A summary of the comments received and reasoned responses during the first public comment period are provided in Attachment A: Public Comment on the 2016 One Year Action Plan and Staff's Reasoned Responses.

Following HUD's release of FY 2016 formula allocations on February 16, 2016, an Amended 2016 OYAP was available for 30 days of public comment between March 7, 2016, and April 5, 2016. No comments were received during the second public comment period.

Following HUD's release of NHTF formula allocations on May 5, 2016, an Amended 2016 OYAP was available for 30 days of public comment between July 15, 2016, and August 15, 2016. [a description of public comment received during the public comment period will be included here for the final draft]

### 6. Summary of comments or views not accepted and the reasons for not accepting them

The comments or views not accepted have been included in Attachment A: Public Comment on the 2016 One Year Action Plan and Staff's Reasoned Responses. Because of the flexible nature of the Plan development, all comments are considered for revisions.

## 7. Summary

The consolidated planning process occurs once every five years, so creating a comprehensive 2015-2019 Consolidated Plan was vital for CDBG, HOME, ESG, and HOPWA, and NHTF. Because of the Consolidated Plan's authority to govern these programs, research from multiple sources, including other government plans, peer-reviewed journals, news sources, and fact sheets were used; valuable public input was gathered through roundtable meetings, council/workgroup meetings, public hearings, online surveys, and an online forum; and an expansive public input process was included in the development of the Consolidated Plan. Similarly, roundtables and meetings were held to discuss the NHTF, and written input was considered prior to Amendment of the Consolidated Plan for this new fund source. Topics at the roundtables included the geographic distribution of HTF, threshold requirements for HTF-funded developments, cross cutting requirements applicable to HTF, and the forms of HTF assistance. TDHCA also received several emails and letters from disability advocates, nonprofit developers, supportive housing advocates, and fair housing advocates. The 2015-2019 Consolidated Plan is now carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.

# **AP-12 Participation - 91.115, 91.300(c)**

# 1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

#### **Encouragement of Public Participation**

To reach minorities and non-English speaking residents, the Plan outreach follows TDHCA's Language Access Plan. Also, the notices are available in Spanish and English, per Texas Government Code Chapter 2105. Translators will be made available at public meetings, if requested.

The State encourages the involvement of individuals of low incomes and persons with disabilities in the allocation of funds and planning process through regular meetings, including community-based institutions, consumer workgroups, and councils (many of these meetings are listed in the Strategic Plan Section 35 of the 2015-2019 Consolidated Plan). All public hearing locations are accessible to all who choose to attend. Comments can be submitted either at a public hearing or in writing via mail, fax, or email.

The State notifies residents in areas where CDBG funds are proposed for use by distributing information on public hearings through the CDBG email list from TDA. Information related to the Plan and opportunities for feedback were provided through webinars and web discussions that allowed participation by residents of rural areas without requiring travel to a central location. Regional public hearings held as part of the Regional Review Committee process also encouraged participation by CDBG stakeholders.

#### **Public hearings**

The Draft 2016 OYAP was released for a 30-day public comment period from October 19, 2015, to November 19, 2015. A public hearing was held in Austin on November 16, 2015. Constituents were encouraged to provide input regarding all programs in writing or at the public hearing. The public hearing schedule is published in the Texas Register and on TDHCA's website at http://www.tdhca.state.tx.us, and is advertised during various workgroups and committee meetings. During the public comment period, printed copies of the draft Plan were be available from TDHCA, and electronic copies may be available for download from TDHCA's website.

The draft NHTF Amendment to the 2016 OYAP was released for a 30-day public comment period from July 15, 2016, to August 15, 2016. A public hearing was held in Austin on August 4, 2016 during the public comment period.

#### Criteria for Amendment to the Consolidated Plan

Substantial amendments will be considered if a new activity is developed for any of the funding sources or there is a change in method of distribution. If a substantial amendment is needed, reasonable notice by publication on TDHCA's website at http://www.tdhca.state.tx.us will be given, and comments will be received for no less than 30 days after notice is given. A public hearing will be optional.

#### Performance Report

The 2017 CAPER will analyze the results of the 2016 OYAP. Due to the short 90-day turnaround time of the CAPER between the end of HUD's Program Year (1/31) and the due date, the public will be given reasonable notice by publication on TDHCA's website at http://www.tdhca.state.tx.us. Comment will be accepted for a minimum of 15 days. A public hearing will be optional.

#### One Year Action Plan

If a draft One Year Action Plan ("OYAP") is released for public comment prior to HUD's release of actual annual allocation amounts, the draft OYAP will reflect estimated allocation amounts. Once HUD releases actual annual allocation amounts, proposed activities' budgets will be increased or decreased from the estimated funding levels to match actual allocation amounts, prior to submission to HUD. If actual allocation amounts increase or decrease more than 20% from the estimated allocation amounts, the State will release a revised OYAP public comment. Reasonable notice by publication on TDHCA's website at http://www.tdhca.state.tx.us will be given, and comments will be received for no less than 30 days after notice is given. A public hearing will be optional.

# 2. Summary citizen participation process and efforts made to broaden citizen participation in Colonias

There are two main methods in which TDHCA coordinates its work with other colonia-serving entities. One relates to the Colonia Self Help Center Program which funds specific Texas-border county governments with four-year contracts. Awards and funding associated with this program are reviewed and recommended by a Colonia Resident Advisory Group ("C-RAC"), which is a group of colonia residents who live in the specific colonias served by the centers. The other coordination effort relates to a cross-agency effort organized by the Texas Secretary of State that generates structured communications and data collection in conjunction with other state agencies serving colonias with their respective programs.

On a very frequent basis—weekly or more often—TDHCA provides guidance and oversight to the county governments with which TDHCA has executed SHC contracts. Somewhat less often, TDHCA provides guidance and technical assistance to the housing subgrantees with whom the respective counties have contracted to achieve specific deliverables per their individualized SHC subcontracts. Every one to two years, TDHCA organizes and implements a workshop for all eligible counties and their subgrantees to review rules, best practices, and exchange other program updates. Periodically, TDHCA convenes a meeting with C-RAC. This grass-roots-style committee approves contracts, evaluates county recommendations, and provides TDHCA and the counties guidance on programming and activities in the colonias. Lastly, approximately every two years, TDHCA updates its SHC Program rules, and initiates this process by first soliciting comment from the public at large for critiques of the current rules and suggestions for changes.

As a part of the process discussed above, TDA met with elected officials from counties serving colonia areas. The local leaders discussed funding priorities for the Community Development Fund, including projects that could serve colonia areas.

On a quarterly basis, TDHCA and TDA convene with several other state agencies that directly serve colonia residents in the areas of utilities infrastructure, transportation infrastructure, water/water water, health services, housing, and consumer issues. This group is called the Colonia Interagency Infrastructure Coordination Work Group and is organized by the Texas Office of the Secretary of State's Colonia Initiatives Program. This group has been meeting regularly since approximately 2007 when Texas passed legislation requiring the systematic identification and classification of Texas colonias, and the tracking of colonia-serving state-funded projects. The overarching goal of the workgroup is to stop the proliferation of colonias and improve the health, safety, and quality of life for colonia residents in the Texas-Mexico border region. By classifying colonias based on their level of infrastructure and access to public health services, various state agencies, and the Texas Legislature are able to prioritize funding and target colonias with critical needs (Texas Office of the Secretary of State, 2010). Besides TDHCA and TDA, other agency members of this work group include the Texas Water Development Board ("TWDB"), the Texas Commission on Environmental Quality, the Texas Department of Transportation, HHSC, and DSHS.

## **Citizen Participation Outreach**

Sort Order	Mode of O utreach	Target of Outreach	Summary of response/attend ance	Summary of comments rec eived	Summary of comments not accepted and reasons	URL (If applicable)
1	Public Hearing	Non- targeted/ broad community	The State held a public hearing on November 12, 2015 to receive comments on the 2016 OYAP. Three individuals attended and no public comment was provided.	No public comments were received at the public hearing.		

Sort Order	Mode of O utreach	Target of Outreach	Summary of response/attend ance	Summary of comments rec eived	Summary of comments not accepted and reasons	URL (If applicable)
2	Internet Outreach	Non- targeted/ broad community	TDHCA has a centralized webpage for public comment on all plans, reports, and program rules.	All public comments and reasoned responses are provided in the Public Comment Attachment.		http://www .tdhca.state .tx.us/public - comment.ht m
3	Public Meeting	Non- targeted/ broad community	Rural Health and Economic Development Advisory Council met Sept. 16, 2015 and discussed draft Method of Distribution for CDBG	Public and Advisory Council discussed proposed changes.		

Table 4-11 – Citizen Participation Outreach

# **Expected Resources**

# **AP-15 Expected Resources – 91.320(c)(1,2)**

#### Introduction

CPD funding is governed by this Consolidated Plan, but the State also works to collaborate, coordinate, and layer non-CPD funding sources in order to reach more Texans and more efficiently use available funds. Programs listed in the anticipated resources narrative sections below could be used to leverage CPD funds. These include:

- 4% Housing Tax Credit ("HTC")/Private Activity Bond ("PAB") Program;
- 9% HTC Program;
- Homeless and Housing Services Program ("HHSP");
- Housing Trust Fund Program;
- Mortgage Credit Certificate ("MCC") Program;
- First time homebuyer loan programs, including the My First Texas Home Program;
- Neighborhood Stabilization Program Program Income ("NSP PI");
- Section 8 Housing Choice Voucher ("HCV") Program;
- Section 811 Project Rental Assistance ("PRA") Program; and
- Tax Credit Assistance Program ("TCAP") Loan Repayments.

For the programs above, the expected future funding amounts, to the extent known, are in the planning documents governing those programs. These documents can be found online at http://www.tdhca.state.tx.us/. The anticipated resources below are focused on CPD Programs.

TDHCA participates in numerous committees, workgroups, and councils which help TDHCA stay apprised of other potential resources to address affordable housing needs. Relationships with other federal and state agencies and local governments are extremely valuable, helping Texas agencies to coordinate housing and services and serve all Texans efficiently and effectively. TDHCA's involvement in these committees promotes identifying opportunities to proactively pursue federal funding opportunities. TDHCA actively seeks engagement and input from community advocates, funding recipients, potential applicants for funding, and others to obtain input regarding the development of effective policies, programs and rules. Changes to funding plans are made periodically based on feedback received through these avenues.

TDHCA is the lead agency for the following workgroups:

C-RAC: C-RAC is a committee of colonia residents appointed by the TDHCA Governing Board. It advises TDHCA regarding the needs of colonia residents and the types of programs and activities which should be undertaken by the Colonia SHCs. The Colonia SHCs funds are provided to seven specific predetermined counties which, in turn, procure organizations to operate their SHCs.

Disability Advisory Workgroup ("DAW"): The DAW augments TDHCA's formal public comment process,

affording staff the opportunity to interact more informally and in greater detail with various stakeholders and to get feedback on designing more successful programs, with a specific focus on gaining insight on issues impacting persons with disabilities.

Housing and Health Services Coordination Council ("HHSCC"): HHSCC is established by Texas Government Code §2306.1091. Its duties include promoting coordination of efforts to offer Service-Enriched Housing and focusing on other cross-agency efforts.

Texas Interagency Council for the Homeless ("TICH"): The TICH was statutorily created in 1989 to coordinate the State's homeless resources and services. The TICH consists of representatives from eleven state agencies. TDHCA, as the primary source for state homelessness funding, provides administrative and planning support to the TICH.

Weatherization Assistance Program Planning Advisory Committee ("WAP PAC"): The WAP PAC is comprised of a broad representation of organizations and agencies and provides balance and background related to the weatherization and energy conservation programs at TDHCA.

The descriptions of the collaborations for DSHS and TDA are in the Discussion question of this section below.

# **Anticipated Resources**

Program	Source	Uses of Funds	es of Funds Expected Amount Available Year 1 Expecte	Expected	Narrative Description			
	of		Annual	Program	Prior Year	Total:	Amount	
	Funds		Allocation:	Income: \$	Resources:	\$	Available	
			\$		\$		Reminder of	
							ConPlan \$	
CDBG	public -	Acquisition						TDA's CDBG Program funds community and
	federal	Admin and						economic development, including program income
		Planning						collected by the state, and program income
		Economic						retained by local subgrantees, excluding the
		Development						colonia set-aside. Communities may also
		Housing						coordinate CDBG funding with U.S. Department of
		Public						Agriculture's ("USDA") Rural Development funds or
		Improvements						Texas Water Development Board's ("TWDB") State
		Public Services	53,357,295	5,675,933	10,283,931	69,317,159	199,931,856	Revolving Fund.
CDBG	public -	Acquisition						The Colonia Set-Aside is used both by TDA and
Colonias	federal	Admin and						TDHCA for goals described in the Strategic Plan
Set-aside		Planning						Section 45. The Colonia Economically Distressed
		Homebuyer						Areas Program ("CEDAP") Legislative Set - Aside
		assistance						leverages funding from the TWDB's Economically
		Homeowner						Distressed Areas Program. TDHCA's Office of
		rehab						Colonia Initiatives ("OCI") administers a portion of
		Public						the CDBG Colonia Set-Aside through its Colonia
		Improvements						SHCs.
		Public Services	7,622,471	0	0	7,622,471	22,294,089	

Program	Source	Uses of Funds	Expected Am	ected Amount Available Year 1			Expected	Narrative Description
	of Funds		Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$	Amount Available Reminder of ConPlan	, and the second
HOME	public - federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction Multifamily rental rehab New construction for ownership TBRA					\$	TDHCA's HOME Program goals are described in the Strategic Plan Section 45 for multifamily and single family activities. Single family HOME homebuyer activity may be coordinated with TDHCA's My First Texas Home Program, which can supplement down payment assistance, and the MCC Program, which provides a yearly tax credit of up to \$2,000 annually that reduced the homebuyers' federal income tax liability. HOME Multifamily Development funds can be layered with 4% HTCs and 9% HTCs. In addition, TDHCA's Section 811 PRA, a project-based supportive housing program for persons with disabilities, and TDHCA's Section 8 HCV may be used within HOME developments.
			23,248,302	10,000,000	0	33,248,302	99,744,906	Starting in 2015, TDHCA's TCAP loan repayments and NSP PI may be used to supplement or support multifamily and single-family HOME. TDHCA develops rules that govern all HOME activities, including the Uniform Multifamily Rules, Single Family Umbrella Rule, Single Family HOME Program Rule, and other rules that are administrative in nature found under 10 Texas Administrative Code.

Program	Source	Uses of Funds	Expected Amount Available Year 1				Expected	Narrative Description
	of Funds		Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$	Amount Available Reminder of ConPlan \$	
HOPWA	public -	Permanent						DSHS' HOPWA state formula funds the following
	federal	housing in						activities: TBRA; STRMU; PHP; and Supportive
		facilities						Services. Project Sponsors leverage available funds
		Permanent						from Ryan White and State Services grants to assist
		housing						clients with housing needs, medical and non-
		placement						medical case management, emergency utility
		Short term or						assistance, mental health, transportation, and
		transitional						nutritional services to address the needs of eligible
		housing						clients.
		facilities						
		STRMU						
		Supportive						
		services						
		TBRA	3,032,825	0	2,947,262	5,980,087	8,756,223	

Program	Source	Uses of Funds	Expected Amount Available Year 1				Expected	Narrative Description
	of		Annual	Program	Prior Year	Total:	Amount	
	Funds		Allocation:	Income: \$	Resources:	\$	Available	
			\$		\$		Reminder of ConPlan	
							\$	
ESG	public -	Conversion and						TDHCA's ESG funds are awarded via contract to
	federal	rehab for						Subrecipient agencies that provide emergency
		transitional						shelter, homelessness prevention, rapid rehousing,
		housing						and Homeless Management Information Systems
		Financial						("HMIS") activities. HHSP is Texas state general
		Assistance						revenue funding for the largest cities to provide
		Overnight						flexibility to undertake activities that complement
		shelter						ESG activities. Note that not all ESG direct
		Rapid re-						recipients in Texas are HHSP grantees. Use of funds
		housing (rental						also includes Administration.
		assistance)						
		Rental						
		Assistance						
		Services						
		Transitional						
		housing	8,817,205	0	0	8,817,205	35,268,820	

Program	Source	Uses of Funds	Expected Amount Available Year 1				Expected	Narrative Description
	of		Annual	Program	Prior Year	Total:	Amount	
	Funds		Allocation:	Income: \$	Resources:	\$	Available	
			\$		\$		Reminder of ConPlan	
							\$	
<u>NHTF</u>	<u>public-</u>							TDHCA's NHTF Program goals are described in the
	<u>federal</u>							Strategic Plan Section 45 for multifamily and single
								family activities. NHTF Multifamily Development
								Funds can be layered with 4% HTCs and 9% HTCs,
								and TDHCA Multifamily Direct Loan funds, including
								HOME, HOME-CHDO, and TCAP Loan Repayment. In
								addition, TDHCA's Section 811 PRA, a project-based
								supportive housing program for persons with
								disabilities, and TDHCA's Section 8 HCV may be used
								within NHTF developments. In addition, TDHCA also
								develops rules that govern all multifamily programs,
								including the HOME Multifamily Direct Loan
								Program, known as the Uniform Multifamily Rules. If
								implemented, Single family NHTF homebuyer
		Acquisition,						activity may be coordinated with TDHCA's My First
		<u>rehabilitation</u>						Texas Home Program, which can supplement down
		and new						payment assistance, and the MCC Program, which
		construction of						provides a yearly tax credit of up to \$2,000 annually
		housing for						that reduced the homebuyers' federal income tax
		extremely low-						liability. NHTF Single family development would be
		<u>income</u>						governed by requirements in TDHCAs Single Family
		<u>households</u>	<u>4,778,364</u>			<u>4,778,364</u>	<u>19,113,456</u>	<u>Umbrella Rule.</u>

Table 5-12 - Expected Resources – Priority Table

# Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

#### **HOME**

HOME multifamily development is often used to leverage with the HTC Program, which authorizes 9% low-income housing tax credits of \$2.30 per capita for each state, and 4% HTC in amounts linked to the usage of the state's cap for issuance of tax exempt PABs to finance affordable housing development. In Texas, this equates to approximately \$61,400,000 in 9% tax credits available to be awarded annually. These credits may be claimed each year for ten years and represents potential tax credit value on the magnitude of \$610,000,000. The credits are syndicated to limited partner investors to yield cash for use in eligible development activities. Currently typical syndication rates range between 92% and 95%. TDHCA's Qualified Allocation Plan ("QAP") identifies the criteria used for selection of eligible developments to provide housing for low-income tenants. HOME provides increased leverage, allowing property owners to utilize fewer tax credits and less private debt and local funding, thus providing more efficient use of resources. Other leveraging sources may include United States Department of Agriculture ("USDA") operating subsidies and loans, and conventional and FHA-insured loans. Match requirements for the HOME Multifamily Development Program Multifamily Direct Loan Program will in part be met through Rules that establish awardees' minimum amount of match as 5% of the award amount. TDHCA increased match requirements for single family activities to more effectively use limited funding. TDHCA has also requested for HUD to approve a waiver that its state-funded Bootstrap program be eligible as match and is responding to HUD requests for additional detail.

#### **ESG**

In 2011, the Texas Legislature created the HHSP statute and funded it with General Revenue funds. Through HHSP, the State allocates funds to cities in Texas with a population of 285,500 or greater to support services to homeless individuals and families. These funds are sometimes used as match for either State or local ESG funding. To meet the ESG match requirement, TDHCA includes the provision of evidence of proposed match as part of the application process. Subrecipients are required to provide 100% limited to budget categories for which the Subrecipient was funded. A Subrecipient that is unable to match the award is eligible to apply to TDHCA for a match waiver up to \$100,000. However, these requests have been quite rare. In the FFY 2015 application process, TDHCA received no requests and will continue to actively determine which organization(s) will benefit from the match waiver.

#### **HOPWA**

Texas HOPWA does not have program income but leverages funds whenever possible. Project Sponsors leverage available funds from Ryan White and State Services grants, private funding sources, foundations, and local assistance to help clients. AAs do not receive administrative funds from DSHS, so those costs are leveraged from other funding sources. Texas is not required to match the HOPWA formula award.

#### **CDBG**

Nearly 80% of TX CDBG grants include local match fund commitments. Matching funds are required for

certain grants, while other grants award points to encourage local match; a sliding scale allows smaller communities to contribute less match funding than larger communities. Match funds may be provided by the applicant, or by a water or sewer utility benefiting from the project. Economic development (ED) projects benefiting private business require 1-for-1 match commitment, with the business most often providing this substantial match. Recent updates to the Colonia SHC Program rules have capped program assistance at \$50,000 per household for reconstruction and new construction, and \$40,000 per household for rehabilitation. These limits encourage administrators to leverage funds with other resources as well as assist more households than in prior years.

#### **NHTF Program Leverages**

NHTF multifamily development may be used to leverage with the HTC Program, which was created by the Tax Reform Act of 1986 and authorizes 9% low-income housing tax credits in the amount of \$2.35 per capita for each state, and 4% low-income housing tax credits in amounts linked to the usage of the state's cap for issuance of tax exempt bond to finance affordable housing development. In Texas, this equates to approximately \$61,400,000 in 9% tax credits available to be awarded by TDHCA annually. These credits may be claimed each year for ten years and this represents potential tax credit value on the magnitude of \$610,000,000. The tax credits are syndicated to limited partner investors to yield cash for use in eligible development activities. Currently typical syndication rates range between 92% and 95%. TDHCA must develop a Qualified Allocation Plan ("QAP") for the selection of eligible developments to provide housing for the low-income tenants. NHTF provides increased leverage, allowing the property owners to utilize fewer tax credits and less private debt and local funding, therefore providing more efficient use of resources.

# If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

The Texas General Land Office manages state owned lands and mineral rights totaling approximately 13 million acres. Much of this is leased for the benefit of the Permanent School Fund, an endowment fund established in 1876 for the benefit of Texas public school education. There is currently no plan to use state owned land for affordable housing or community development goals; however, local jurisdictions occasionally donate land or property in support of activities designed to address the needs identified in the plan as part of their contribution to locally administered programs.

#### Discussion

HOPWA: Continuing with the discussion of collaboration begun in the Introduction of this section, DSHS is the lead for several HIV-related councils and workgroups which provide opportunities for collaboration and resource sharing across agencies, providers, and other pertinent stakeholders to assist PLWH in Texas. Some of the initiatives are Inter-Agency Council on HIV & Hepatitis, the Texas Black Women's Initiative, the Texas Coalition, and the Texas HIV Syndicate. The Texas HIV Syndicate is an integrated HIV prevention and care planning body made up of roughly 100 organizational leaders representing the full continuum of HIV engagement. The Texas HIV Syndicate uses the Texas HIV Plan as

a framework to develop strategies that enhance and expand on prevention and care activities across the State. Texas HIV Syndicate members develop policy recommendations, best practice models, coordination strategies, and promote innovation in HIV prevention and treatment. DSHS also holds a biennial HIV/Sexually Transmitted Disease ("STD") conference, attended by all DSHS contractors and subrecipients in addition to community leaders, health and HIV professionals, and many other essential stakeholders. Many of the DSHS contractors are also HOPWA providers. The next conference will be held in 2016. The goal of the Texas HIV/STD Conference is to enhance the responsiveness of people and systems supporting the spectrum of HIV/STD prevention and treatment services in Texas, including: Awareness; Targeted Prevention; Diagnosis; Linkage to Care; Maintenance in Care; and Suppression of Disease.

DSHS' Epidemiology and Surveillance Branch is responsible for reporting HIV/AIDS, STD, and tuberculosis ("TB") surveillance and epidemiologic data for the State of Texas, which includes data submission to the Centers for Disease Control and Prevention ("CDC"). This data is subsequently used by HUD to determine HOPWA formula allocations. This data is also leveraged to provide support to planning, development, implementation, and evaluation of HIV/AIDS, STD, and TB prevention and services programs, including HOPWA.

Finally, TDA participates in the following workgroups:

Texas Water Infrastructure Coordination Committee ("TWICC"): TWICC is a voluntary organization of federal and state funding agencies and technical assistance providers that address water and wastewater needs throughout the State. TDA participates in TWICC to coordinate efforts to leverage funds.

Secretary of State's Colonia Workgroup: The Colonia Workgroup consists of federal and state funding agencies and the Texas Secretary of State's colonia ombudsmen. The group addresses current and future infrastructure improvements in colonias, focusing on coordination of resources and information. TDHCA is also a member of this workgroup.

Drought Preparedness Council: The Council was authorized and established by the 76th Texas Legislature in 1999, and is responsible for assessment and public reporting of drought monitoring and water supply conditions, along with other duties.

These workgroups, committees, and councils help to strengthen communication between state agencies as well as provide opportunities to layer or combine funding sources.

With the block grants and the layering resources listed above, there are also CDBG Disaster Recovery ("DR") funds for Hurricanes Rita, Dolly, and Ike, and Wildfires. Hurricane Rita Disaster Recovery for housing and non-housing recovery is in 29 counties. Ike Disaster Recovery for housing and non-housing recovery is in 62 counties. Wildfire Recovery non-housing recovery is in 65 counties. More details can be found at http://www.glo.texas.gov/GLO/disaster-recovery/actionplans

Annual Action Plan 2016

# **Annual Goals and Objectives**

# AP-20 Annual Goals and Objectives – 91.320(c)(3)&(e)

#### **Goals Summary Information**

Sort	Goal Name	Start Year	End Year	Category	Geographic	Needs	Funding	Goal Outcome
Order					Area	Addressed		Indicator
1	Homeless Goals	2015	2016	Homeless	State of	Emergency	ESG:	Tenant-based
					Texas	shelter and	\$8,817,205	rental
						transitional		assistance /
						housing		Rapid
						Rapid Re-		Rehousing:
						housing		1108
						Homelessness		Households
						Prevention		Assisted
								Homeless
								Person
								Overnight
								Shelter: 22798
								Persons
								Assisted
								Homelessness
								Prevention:
								3800 Persons
								Assisted
2	Construction of single family	2015	2019	Affordable Housing	State of	Production of	HOME: \$0	Homeowner
	housing			Non-Homeless Special Needs	Texas	new units		Housing
								Added: 0
								Household
								Housing Unit

Sort	Goal Name	Start Year	End Year	Category	Geographic	Needs	Funding	Goal Outcome
Order	Bullioti in the control of the contr	2045	2040	Afficial all and a state	Area	Addressed	110145	Indicator
3	Rehabilitation of single family	2015	2019	Affordable Housing	State of	Rehabilitation	HOME:	Homeowner
	housing			Non-Homeless Special Needs	Texas	of housing	\$5,916,734	Housing
								Rehabilitated:
								70 Household
								Housing Unit
4	Homebuyer assistance with	2015	2019	Affordable Housing	State of	Rehabilitation	HOME:	Direct
	possible rehabilitation			Non-Homeless Special Needs	Texas	of housing	\$3,476,783	Financial
						Acquisition of		Assistance to
						existing units		Homebuyers:
								58 Households
								Assisted
5	Tenant-Based Rental	2015	2019	Affordable Housing	State of	Rental	HOME:	Tenant-based
	Assistance with HOME			Non-Homeless Special Needs	Texas	Assistance	\$4,812,569	rental
	funding							assistance /
								Rapid
								Rehousing:
								438
								Households
								Assisted
6	Households in	2015	2019	Affordable Housing	State of	Production of	HOME:	Rental units
	new/rehabilitated			Non-Homeless Special Needs	Texas	new units	\$15,713,359	constructed:
	multifamily units					Rehabilitation		110
						of housing		Household
'								Housing Unit
								Rental units
								rehabilitated:
								47 Household
								Housing Unit

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
<u>7</u>	Households in	<u>2015</u>	<u>2019</u>	Affordable Housing	State of	Production of	NHTF:	Rental units
	new/rehabilitated			Non-Homeless Special Needs	<u>Texas</u>	new units	<u>\$4,300,528</u>	constructed: 0
	multifamily units					<u>Rehabilitation</u>		<u>Household</u>
						of housing		Housing Units
								Rental units
								<u>rehabilitated:</u>
								<u>0 Household</u>
								<u>Housing Units</u>
<del>7</del> 8	HOPWA Tenant-Based Rental	2015	2019	Affordable Housing	State of	Supportive	HOPWA:	Tenant-based
	Assistance			Non-Homeless Special Needs	Texas	Services for	\$1,939,097	rental
						Persons with		assistance /
						HIV/AIDS		Rapid
								Rehousing:
								468
								Households
								Assisted
<u>89</u>	HOPWA Short-Term Rent,	2015	2019	Affordable Housing	State of	Supportive	HOPWA:	Homelessness
	Mortgage, & Utilities Asst			Non-Homeless Special Needs	Texas	Services for	\$366,034	Prevention:
						Persons with		426 Persons
						HIV/AIDS		Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
<u>910</u>	HOPWA Permanent Housing	2015	2019	Affordable Housing	State of	Supportive	HOPWA:	Public service
- '	Placement Assistance			Non-Homeless Special Needs	Texas	Services for	\$7,055	activities other
						Persons with		than
						HIV/AIDS		Low/Moderate
								Income
								Housing
								Benefit: 16
								Persons
								Assisted
<del>10</del> 11	HOPWA-Funded Supportive	2015	2019	Affordable Housing	State of	Supportive	HOPWA:	Public service
	Services			Non-Homeless Special Needs	Texas	Services for	\$463,493	activities other
						Persons with		than
						HIV/AIDS		Low/Moderate
								Income
								Housing
								Benefit: 823
								Persons
								Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1112	CDBG Other Construction	2015	2019	Non-Housing Community	State of	Public facilities	CDBG:	Public Facility
==	obbo other construction	2013	2013	Development	Texas	Public	\$39,533,182	or
				Bevelopment	Texas	Improvements	γ33,333,102	Infrastructure
						and		Activities
						Infrastructure		other than
						Public services		Low/Moderate
								Income
								Housing
								Benefit:
								227843
								Persons
								Assisted
1 <u>3</u> 2	CDBG Economic	2015	2019	Non-Housing Community	State of	Public facilities	CDBG:	Public Facility
,	Development			Development	Texas	Public	\$8,848,164	or
				Economic Development		Improvements		Infrastructure
						and		Activities
						Infrastructure		other than
						Public services		Low/Moderate
						Economic		Income
						development		Housing
								Benefit: 14122
								Persons
								Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1 <u>4</u> 3	CDBG Planning / Capacity	2015	2019	Non-Housing Community	State of	Public facilities	CDBG:	Other: 37412
	Building			Development	Texas	Public	\$548,818	Other
						Improvements		
						and		
						Infrastructure		
						Public services		
1 <u>5</u> 4	CDBG Disaster Relief / Urgent	2015	2019	Non-Housing Community	State of	Public facilities	CDBG:	Public Facility
	Need			Development	Texas	Public	\$2,497,738	or
						Improvements		Infrastructure
						and		Activities
						Infrastructure		other than
								Low/Moderate
								Income
								Housing
								Benefit:
								132248
								Persons
								Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1 <u>6</u> 5	CDBG Colonia Set-Aside	2015	2019	Affordable Housing	State of	Production of	CDBG Colonias	Public Facility
1 -00	ebbd colonia set Aside	2013	2013	Non-Housing Community	Texas	new units	Set-aside:	or
				,	TEXAS			
				Development		Rehabilitation	\$6,097,977	Infrastructure
						of housing		Activities
						Acquisition of		other than
						existing units		Low/Moderate
						Public facilities		Income
						Public		Housing
						Improvements		Benefit: 3348
						and		Persons
						Infrastructure		Assisted
						Public services		
1 <u>7</u> 6	CDBG Colonia Self-Help	2015	2019	Self-Help Centers	State of	Public services	CDBG:	Other: 14491
'	Centers				Texas		\$1,524,494	Other
<del>17</del> 18	CDBG Administration	2015	2015	Administration/Technical	State of	Rehabilitation	CDBG:	Other: 0 Other
				Assistance	Texas	of housing	\$1,929,393	
						Public facilities		
						Public		
						Improvements		
						and		
						Infrastructure		
						Public services		
						Economic		
						development		

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
<del>18</del> 19	HOME Administration	2015	2015	HOME Administration	State of	Rental	HOME:	Other: 0 Other
					Texas	Assistance	\$3,328,857	
						Production of		
						new units		
						Rehabilitation		
						of housing		
						Acquisition of		
						existing units		
<u>20<del>19</del></u>	NHTF Administration	2016 <del>2015</del>	2019 <del>2019</del>	NHTF Administration	State of	Production of	NHTF:	Other: 0 Other
					<u>Texas</u>	new units	<u>\$477,836</u>	
						Rehabilitation		
						of housing		
						Acquisition of		
						existing units		

Table 6-13 – Goals Summary

# **Goal Descriptions**

1	Goal Name	Homeless Goals
	Goal	Goals for the 2016 ESG program are to provide 22,798 homeless persons with emergency shelter, 1,108 households with
	Description	emergency housing assistance through rapid re-housing, and 3,800 persons with housing assistance, including
		homelessness prevention assistance. After reducing the award amount by 7.5% for administrative funds (which will be
		divided between TDHCA and its Subrecipients), the remaining funding for program activities is approximately allocated
		among the following categories: 32% for rapid re-housing; 21% for homelessness prevention; 34% for emergency
		shelters, 7% for street outreach and 6% for the Homeless Management Information System (HMIS) activities. The
		percentages of funding for each activity have been adjusted from the 2015 One Year Action Plan partly because of the
		addition of street outreach and HMIS. With the new percentages estimates, TDHCA is still under the federal requirement
		to spend equal or less than 60% of its funding on emergency shelter and street outreach activities.
		The persons/households expected to be served by each activity have been adjusted from the 2015 One Year Action Plan
		because of a change in projection methodology. The 2015 projections were based on funding planned to be spent on
		each activity. The 2016 projections are based on funding spent per person per activity from previous ESG awards. Rapid
		Re-housing has historically cost almost double the amount per person than Homelessness Prevention, and almost ten
		times the amount per person than emergency shelter or street outreach. To account for the amount of funding per
		person for rapid re-housing, the total projected number of households served by rapid re-housing decreased.
		Finally, the amount of administration is estimated at 7.5%, which is the amount allowed by HUD. The administrative
		funds will be divided between TDHCA and its subrecipients. TDHCA plans to use a portion of the administrative funds for
		Continuum of Care (CoC) lead agencies that will be running a local competition in their respective CoC regions for
		TDHCA's ESG funding.
		The funding targets and numbers served may fluctuate depending on the amount in the HUD award letter. The amounts
		targeted for each ESG activity will be dependent on the final HUD allocation and the percentages (as limited by federal
		rules) will depend on local CoC or Subrecipient decisions.

2	Goal Name	Construction of single family housing							
	Goal	TDHCA does not plan to have a 2016 HOME Program goal for single family development activities performed by a							
	Description	Community Housing Development Organization ("CHDO") for the construction of new single family housing. The original							
		2015 goal of providing assistance to a minimum of 7 eligible households was reduced based on HUD's final allocation							
		amounts. PY 2016 CHDO set aside funding is initially targeted for multifamily development activities as reflected under							
		the Households in new/rehabilitated multifamily units strategic plan goal, but may be revised to program some funding							
		for Single Family Development activities if TDHCA identifies future interest in the program. Single family development							
		activities will remain an eligible activity that may be funded in the event future CHDO funding becomes available.							
3	Goal Name	Rehabilitation of single family housing							
	Goal	The 2016 goal for HOME Program rehabilitation and reconstruction activities is to provide assistance to a minimum of 70							
	Description	households through a statewide network of units of general local governments, and non-profit organizations. These							
		entities qualify applicants to receive assistance for the repairs and reconstruction necessary to make their homes decent,							
		safe, sanitary, and accessible.							
4	Goal Name	Homebuyer assistance with possible rehabilitation							
	Goal	The 2016 goals for HOME Program acquisition activities is to provide assistance to a minimum of 58 households with							
	Description	downpayment and closing costs assistance, contract for deed conversion assistance to promote the conversion of							
		contract for deed arrangements to traditional mortgages, as well as downpayment with possible rehabilitation assistance							
		for households with a member with a disability.							
5	Goal Name	Tenant-Based Rental Assistance with HOME funding							
	Goal	The 2016 goal for HOME Program TBRA activity is to provide rental assistance to approximately 438 households through a							
	Description	statewide network of units of general local governments, public housing agencies, Local Mental Health Authorities							
		("LMHAs"), and other non-profit organizations. These entities qualify applicants to receive assistance and may extend							
		assistance if the household continues to meet eligibility requirements.							
6	Goal Name	Households in new/rehabilitated multifamily units							
	Goal	The 2016 goal for HOME Multifamily Program is creating/rehabilitating over 157 multifamily rental units. TDHCA's HOME							
	Description	Multifamily <u>Development</u> Programs awards HOME_funds as low-interest loans to CHDOs, for-profit, and nonprofit							
		developers. These loans leverage other public and private financing including housing tax credits, United States							
		Department of Agriculture ("USDA") operating subsidies and loans, and conventional and Federal Housing							
		Administration-insured loans. The end result is safe, decent, and affordable multifamily rental housing.							

7	Goal Name	Households in new/rehabilitated multifamily units						
_	Goal	The 2016 goal for Housing Trust Fund is creating/rehabilitating 0 multifamily rental units based on the performance						
	Description	period of February 1, 2016 through January 31, 2017. Funds are anticipated to be awarded after January 31, 2017.						
<del>7</del> 8	Goal Name	HOPWA Tenant-Based Rental Assistance						
	Goal	HOPWA TBRA provides tenant-based rental assistance to eligible households until they are able to secure other						
	Description	affordable and stable housing. The annual goal includes 468 households assisted. The estimated funding and number of						
		individuals served may fluctuate depending on HUD's final allocation amounts and based on the target percentages						
		identified in Action Plan Section 25.						
<u>89</u>	<b>Goal Name</b>	HOPWA Short-Term Rent, Mortgage, & Utilities Asst						
	Goal	STRMU provides short-term rent, mortgage, and utility assistance to eligible households for a maximum of 21 weeks of						
	Description	assistance in a 52-week period. The annual goal is to assist 426 persons. The estimated funding and number of individuals						
		served may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in						
		Action Plan Section 25.						
<u>910</u>	<b>Goal Name</b>	HOPWA Permanent Housing Placement Assistance						
	Goal	PHP provides assistance for housing placement costs which may include application fees, related credit checks, and						
	Description	reasonable security deposits necessary to move persons into permanent housing. The annual goal is to assist 16 persons.						
		The estimated funding and number of persons served may fluctuate depending on HUD's final allocation amounts and						
		based on the target percentages identified in Action Plan Section 25.						
<del>10</del> 11	<b>Goal Name</b>	HOPWA-Funded Supportive Services						
	Goal	Supportive Services include case management, basic telephone service and assistance to purchase smoke detectors to						
	Description	eligible households. The annual goal is to assist 823 persons. The estimated funding and number of households served						
		may fluctuate depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan						
		Section 25.						

1 <u>2</u> 1	Goal Name	CDBG Other Construction							
	Goal	The Texas CDBG encourages the use of funds not only to improve existing locations but to provide facilities in other areas							
	Description	to accommodate residential opportunities that will benefit low and moderate income persons. Applicants are encouraged							
	-	to provide for infrastructure and housing activities that will improve opportunities for low and moderate income persons.							
When considering projects and designing projects, applicants must continue to consider affirmatively									
		housing, which includes providing basic infrastructure, such as water, sewer, and roads that benefit residential housing							
		and other housing activities. Funding allocated includes annual allocation in addition to previously deobligated funds. The							
		annual goal includes 227,843 persons assisted. The estimated funding and number of persons served may fluctuate							
		depending on HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 2							
1 <u>3</u> 2	132 Goal Name CDBG Economic Development								
	Goal	This economic development funding is used for projects that will create or retain permanent employment opportunities,							
	Description	primarily for low to moderate income persons and for county economic and management development activities.							
		Funding allocated includes annual allocation in addition to previously deobligated funds. The annual goal is to assist							
		14,122 persons. The estimated funding and number of persons served may fluctuate depending on HUD's final allocation							
		amounts and based on the target percentages identified in Action Plan Section 25.							
1 <u>4</u> 3	Goal Name	CDBG Planning / Capacity Building							
	Goal	This fund is available to assist eligible cities and counties in conducting planning activities that assess local needs, develop							
	Description	strategies to address local needs, build or improve local capacity, or that include other needed planning elements							
		(including telecommunications and broadband needs). Funding allocated includes annual allocation in addition to							
		previously deobligated funds. The annual goal is 37,412 persons benefiting from community planning projects (this may							
		show as "other" in the chart above"). The estimated funding and number of persons served may fluctuate depending on							
		HUD's final allocation amounts and based on the target percentages identified in Action Plan Section 25.							

1 <u>5</u> 4	Goal Name	CDBG Disaster Relief / Urgent Need
	Goal	Disaster Relief ("DR") assistance is available through this fund as needed for eligible activities in relief of disaster
	Description	situations where either the governor has proclaimed a state disaster declaration, drought disaster declaration, or the
		president has issued a federal disaster declaration. CDBG may prioritize throughout the program year the use of DR
		assistance funds based on the type of assistance or activity under consideration and may allocate funding throughout the
		program year based on assistance categories. Funding allocated includes annual allocation in addition to previously
		deobligated funds. The annual goal is to assist 132,248 persons. The estimated funding and number of persons served
		may fluctuate depending on HUD's final allocation amounts and based on the target percentages indentified in Action
		Plan Section 25.
1 <u>6</u> 5	Goal Name	CDBG Colonia Set-Aside
	Goal	This fund is available to eligible county applicants for projects in severely distressed unincorporated areas which meet the
	Description	definition of a "colonia" under this fund. Funding allocated includes annual allocation in addition to previously
		deobligated funds. The annual goal is to assist 3,348 benefiting from public facility or infrastructure activities (other than
		low/moderate income housing benefit) and 14,491 "other", which equates to the number of colonia residents receiving
		direct assistance. The estimated funding and number of persons served may fluctuate depending on HUD's final
		allocation amounts and based on the target percentages identified in Action Plan Section 25.
1 <u>7</u> 6	<b>Goal Name</b>	CDBG Colonia Self-Help Centers
	Goal	Colonia residents receiving direct assistance through Self-Help centers.
	Description	
1 <u>8</u> 7	<b>Goal Name</b>	CDBG Administration
	Goal	CDBG Administrative costs including Technical Assistance
	Description	
1 <u>9</u> 8	<b>Goal Name</b>	HOME Administration
	Goal	HOME Administrative expenses based on HOME allocation and projected program income.
	Description	
<del>18</del> 20	<b>Goal Name</b>	NHTF Administration
	Goal	NHTF Administrative funds for PY 2016.
	Description	

#### AP-25 Allocation Priorities – 91.320(d)

#### Introduction

The CPD Programs serve special needs populations and meet the 13 Priority Needs found in Strategic Plan 25 of the 2015-2019 Consolidated Plan. These Needs in Strategic Plan 25 are correlated with Goals in Action Plan 20 to show which activities will serve which priority needs. The goals from Action Plan 20 are listed below with allocation percentages. Percentages in the chart below are estimated and may change depending on funding received from HUD, legislative priorities, and funding requests from administrators or subrecipients. Due to software restrictions, allocations are rounded to the nearest whole number and do not reflect precise percentages.

Also, for the other programs listed in the anticipated resources (Action Plan 15) that could be used to leverage funds, including 4% HTC, 9% HTC, HHSP, Housing Trust Fund, MCC, and My First Texas Home Program, NSP PI, Section 8 HCV programs, Section 811 PRA, and TCAP Loan Repayments, goals are tailored to each program in the planning documents governing those programs. These documents can be found at http://www.tdhca.state.tx.us. In addition to meeting the priority needs, the CPD Program works to serve special needs populations as described in this section. HOME and ESG's special needs populations are discussed in the introduction, and HOPWA and CDBG are included in the discussion below.

#### **HOME Serves Special Needs**

TDHCA has determined that programs may target assistance to the following special needs populations: persons with disabilities, persons with alcohol or other drug addiction, persons living with HIV/AIDS ("PLWH"), persons with Violence Against Woman Act ("VAWA") protections, colonia residents, farmworkers, homeless populations, veterans, wounded warriors (as defined by the Caring for Wounded Warriors Act of 2008), and public housing residents. Preferences may also include programs designed to assist single parents, persons transitioning out of incarceration, and persons transitioning out of foster homes and nursing facilities.

For Administrators who have programs that are designed to limit assistance to certain populations, TDHCA will only approve program designs

Annual Action Plan

35

2016

that limit assistance to households that include a member within the following populations if necessary to provide as effective housing, aid, benefit, or services as those provided to others in accordance with 24 CFR §8.4(b)(1)(iv): PLWH, mental illness, alcohol or other drug addiction, or households that would qualify under the TDHCA's Project Access program as defined in 10 TAC §5.801. Otherwise, Administrators may only give preference to populations described in the special needs section.

For <u>HOME or NHTF</u> rental housing, TDHCA will allow development of housing that meets requirements under the Housing for Older Persons Act. TDHCA may also consider permitting rental housing owners to give a preference or limitation as indicated in this section and may allow a preference or limitation that is not described in this section to encourage leveraging of federal or state funding, provided that another federal or state funding source for the rental housing requires a limitation or preference. TDHCA may put further guidelines on development of specific types of rental housing by rule or NOFA.

#### **ESG Serves Special Needs**

ESG does not have funding allocation priorities for special needs populations. However, the 2016 ESG NOFA includes points for applicants that propose to serve persons with higher barriers to housing, including persons with serious mental illness, persons recently released from institutions, persons with substance abuse disorders, veterans, survivors of domestic violence, or youth aging out of foster care. The 2016 ESG NOFA also includes points for applicants that use the Housing First approach to ending homelessness, which is often used for people with substance use/abuse and mental illness.

## **Funding Allocation Priorities**

	Homeless Goals (%)	Construction of single family housing (%)	Rehabilitation of single family housing (%)	Homebuyer assistance with possible rehabilitation (%)	Tenant-Based Rental Assistance with HOME funding (%)	Households in new/rehabilitated multifamily units (%)	HOPWA Tenant-Based Rental Assistance (%)	HOPWA Short-Term Rent, Mortgage, & Utilities Asst (%)	HOPWA Permanent Housing Placement Assistance (%)	HOPWA-Funded Supportive Services (%)	CDBG Other Construction (%)	CDBG Economic Development (%)	CDBG Planning / Capacity Building (%)	CDBG Disaster Relief / Urgent Need (%)	CDBG Colonia Set-Aside (%)	CDBG Colonia Self-Help Centers (%)	CDBG Administration (%)	HOME Administration (%)	Colonias Set-Aside (%)	Total (%)
CDBG	0	0	0	0	0	0	0	0	0	0	65	15	1	4	10	2	3	0	0	100
CDBG Colonias Set-aside	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	100	100
HOME	0	0	20	12	16	52	0	0	0	0	0	0	0	0	0	0	0	0	0	100
HOPWA	0	0	0	0	0	0	70	13	1	16	0	0	0	0	0	0	0	0	0	100
		_			0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	100
ESG	100	0	0	0	0	U	U	0	U	U	٦	U	0	U	U	0	0	0	0	100

Table 8-15 – Funding Allocation Priorities

#### **Reason for Allocation Priorities**

#### **HOME Allocation Priorities**

TDHCA prioritizes HOME funding for multifamily, single-family, and Set-Aside activities. Multifamily activities were historically allocated a higher percent of funds to address the priority needs of Rental Assistance and Production of New Units, promote tax credit leveraging, and because they account for a large portion of HOME's program income. However, TDHCA now has access to TCAP Loan Repayments, so these priorities will continue to have funds directed toward them, while likely reducing the allocation of HOME funds directed towards multifamily activities.

Although the 2015 HOME allocation to TDHCA was reduced from 2014 funding levels, funding for single family activities actually increased overall as TDHCA begins to access TCAP loan repayments for multifamily activities and by directing deobligated funding and program income resources to single family activities. Funding for single family activities from the 2016 annual allocation is anticipated to be awarded based on TDHCA's Regional Allocation Formula, with residual funding available through the Reservation System, allowing local administrators to prioritize single family activities on a household-by-household basis for:

- Homebuyer Assistance, (including contract-for-deed conversions) which addresses Acquisition
  of Existing Units and Rehabilitation of Existing Units priority needs;
- Homeowner Rehabilitation Assistance, which addresses Rehabilitation of Existing Units priority need; and
- TBRA, which addresses Rental Assistance priority need.

These priorities are a result of the consolidated planning process and significant public input.

#### **ESG Allocation Priorities**

ESG does not have allocation priorities for priority needs. ESG funds can be utilized for all eligible purposes within limitations set by ESG regulations and guided by local Continuum of Care ("CoC") direction, including:

- Homeless outreach;
- Emergency shelter;
- Rapid re-housing; and
- Homelessness prevention.

Persons experiencing homelessness and resources for persons experiencing homelessness are often concentrated in urban areas. While the need in urban areas for resources is great, there are large areas of Texas without direct access to ESG funds. The 2016 ESG NOFA established a system of scoring in which applicants receive more points for clients they serve in rural areas.

#### **HOPWA Allocation Priorities**

HOPWA provides the following activities in line with priority needs:

- TBRA, which addresses Rental Assistance priority needs;
- STRMU, which addresses Homelessness Prevention priority needs;
- Supportive Services Program, which addresses Supportive Services for PLWH priority needs; and

Annual Action Plan

PHP, which addresses Homelessness Prevention priority needs.

#### **CDBG Allocation Priorities**

The CDBG Program offers the following activities, which relate to the corresponding priority needs. The majority of CDBG funds are used to meet basic human needs. These projects, in addition to being among the most critical needs in the state, are prioritized locally by regional review committees and local communities. Colonia funding allocation is reflected in "Colonias Set-Aside" column.

- The majority of funds are awarded to address basic human needs, including improvements to water and sewer systems and roads for low and moderate income ("LMI") communities.
- Economic development activities are funded to create and retain jobs primarily for LMI persons.
- Public facilities such as community centers and public safety facilities are less common activities, but are very valuable to LMI communities.
- Colonias SHC activities provide public services and housing funds for colonia residents living along the Texas-Mexico border.

#### NHTF Allocation Priorites Priorities

The NHTF Program activities for PY 2016 will be limited to acquisition, construction or rehabilitation of multifamily housing to address the priority needs of Rental Assistance and Production of New Units, promote leveraging of other fund sources. Particularly as this is a new fund source and a new program, the administrative burden of implementation is mitigated by using the funds within the well established multifamily finance structure.

# How will the proposed distribution of funds will address the priority needs and specific objectives described in the Consolidated Plan?

The special needs populations for HOME and ESG are described in the Introduction. HOPWA and CDBG discuss special needs populations below.

#### **HOPWA Serves Special Needs**

Texas HOPWA serves PLWH and their family members, all of whom are at or below 80% of the AMI, and most of whom fall into the extremely-low-income category. As previously noted, allocations generally mirror the Ryan White Program allocation formula, which takes into account population of PLWH, HIV incidence, number of PLWH accessing Ryan White services, percent of PLWH eligible for Medicaid and other considerations. The allocations are then adjusted based on unmet need, prior performance and expenditures, geographic-specific data provided by Project Sponsors, and any other relevant factors. After allocations to each HIV Service Delivery Area (HSDA) are determined, it is then up to the Project Sponsor to allocate between activities of TBRA, STRMU, PHP, Supportive Services, and administrative expenses (not to exceed 7% of their allocation) and submit those to their Administrative Agents ("AAs") and the Department of State Health Services ("DSHS") for approval. Project Sponsors base allocations on many factors, including but not limited to, number of clients projected to continue into the next year, area unmet need, rental costs, prior number of clients served, average expenditures per client, and changes in HIV population living in poverty, etc. Funds are also reallocated during the year

Annual Action Plan

within HSDAs under each AA as needed.

#### **CDBG Serves Special Needs**

CDBG provides over 90% of available funds for projects that primarily benefit low-to moderate-income persons through basic infrastructure, housing, job creation and other activities as identified at the local level. Among those projects, CDBG sets aside 12.5% of funds to specifically benefit colonia residents through planning activities, infrastructure and housing construction, self-help center services, construction activities, and public services. Funding for community development projects in colonias and other LMI communities is a critical element in the well-being of these communities.

In 1996, in an effort to place more emphasis on addressing the needs of colonias, the OCI at TDCHA was created and charged with the responsibility of coordinating all TDHCA's and legislative initiatives involving border and colonia issues and managing a portion of TDHCA's existing programs targeted at colonias. The fundamental goal of the OCI is to improve the living conditions and lives of border and colonia residents and to educate the public regarding the services that the Department has to offer. As part of its plan to improve the living conditions in colonias, the OCI offers Border Field Offices. The three OCI Border Field Offices are located in Pharr, Laredo, and El Paso to provide technical assistance to border counties, Colonia SHCs, and Bootstrap Program participants.

### AP-30 Methods of Distribution – 91.320(d)&(k)

#### Introduction

Given that Texas is the second largest state in the nation by total area, the method of distribution of its funds has to take into account a very large area. To serve this large area it is necessary for the State to use subrecipients to administer the programs funded under CPD. The selection processes for these entities are generally described below.

#### **Distribution Methods**

Table 9-16 - Distribution Methods by State Program

1	State Program Name:	Colonias Set-Aside: Colonia Economically Distressed Areas Program Legislative Set-
		Aside
	Funding Sources:	CDBG
		CDBG Colonias Set-aside
	Describe the state	Colonia Economically Distressed Areas Program ("CEDAP") Legislative Set-Aside fund
	program addressed by the	provides funding to eligible cities and counties to assist colonia residents that cannot
	Method of Distribution.	afford the cost of service lines, service connections, and plumbing improvements
		associated with being connected to a TWDB Economically Distressed Area Program
		or similar water or sewer system improvement project.
	Describe all of the criteria	The TDA will evaluate the following factors prior to awarding CEDAP funds:
	that will be used to select	The proposed use of the CDBG funds including the eligibility of the proposed
	applications and the	activities and the effective use of the funds to provide water or sewer
	relative importance of	connections/yard lines to water/sewer systems funded through
	these criteria.	Economically Distressed Area Program or similar program;
		The ability of the applicant to utilize the grant funds in a timely manner;
		<ul> <li>The availability of funds to the applicant for project financing from other sources;</li> </ul>
		The applicant's past performance on previously awarded CDBG contracts;
		Cost per beneficiary; and
		<ul> <li>Proximity of project site to entitlement cities or metropolitan statistical areas ("MSAs").</li> </ul>
	If only summary criteria	Guidelines, applications and additional program documentation can be found on
	were described, how can	TDA's website at www.texasagriculture.gov.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
	criteria? (CDBG only)	

	Describe how resources	The allocation is distributed on an as-needed basis.
	will be allocated among	
	funding categories.	
	Describe threshold factors	Maximum \$1,000,000/Minimum \$75,000
	and grant size limits.	
	What are the outcome	Activities Benefiting LMI Persons
	measures expected as a	
	result of the method of	
	distribution?	
2	State Program Name:	Colonias Set-Aside: Colonia Planning and Construction Funds
	Funding Sources:	CDBG
		CDBG Colonias Set-aside
	Describe the state	The Colonia Planning Fund ("CPF") funds planning activities that either targets a
	program addressed by the	specific colonia(s) (Colonia Area Planning) or that provides a countywide
	Method of Distribution.	comprehensive plan (Colonia Comprehensive Planning). In order to qualify for the
		Colonia Area Planning activities, the county applicant must have completed a Colonia
		Comprehensive Plan that prioritizes problems and colonias for future action. The
		targeted colonia must be included in the Colonia Comprehensive Plan.
		The goal of the Colonia Fund Construction ("CFC") fund is to develop viable
		communities by providing decent housing, viable public infrastructure, and a suitable
		living environment, principally for persons residing within a community or area that
		meets the definition of a colonia. An eligible county applicant may submit an
		application for the following eligible construction activities:
		Assessments for Public Improvements - The payment of assessments (including any
		charge made as a condition of obtaining access) levied against properties owned and
		occupied by persons of low and moderate income to recover the capital cost for a public improvement.
		Other Improvements - Other activities eligible under 42 USC Section 5305 designed to meet the needs of colonia residents.

Describe all of the criteria that will be used to select applications and the relative importance of these criteria.

Colonia Fund: Construction. The selection criteria for the Colonia Fund: Construction will focus upon the following factors: community distress; percentage of people living in poverty; per capita income; percentage of housing units without complete plumbing; unemployment rate; benefit to LMI persons; project priorities; project design; matching funds; and past performance.

Colonia Fund: Planning (Area). The selection criteria for the Colonia Fund: Planning will focus upon the following factors: community distress; percentage of people living in poverty; per capita income; percentage of housing units without complete plumbing; unemployment rate; project design; the severity of need within the colonia area(s) and how clearly the proposed planning effort will remove barriers to the provision of public facilities to the colonia area(s) and result in the development of an implementable strategy to resolve the identified needs; the planning activities proposed in the application; whether each proposed planning activity will be conducted on a colonia-wide basis; the extent to which any previous planning efforts for colonia area(s) have been accomplished; the CDBG cost per LMI beneficiary; the availability of funds to the applicant for project financing from other sources; the applicant's past performance on previously awarded CDBG contracts; benefit to LMI persons; and matching funds.

Colonia Fund: Planning (Comprehensive). The selection criteria for the Colonia Fund: Planning will focus upon the following factors: community distress; percentage of people living in poverty; per capita income; percentage of housing units without complete plumbing; unemployment rate; project design; the severity of need for the comprehensive colonia planning effort and how effectively the proposed comprehensive planning effort will result in a useful assessment of colonia populations, locations, infrastructure conditions, housing conditions, and the development of short-term and long term strategies to resolve the identified needs; the extent to which any previous planning efforts for colonia area(s) have been accomplished; whether the applicant has provided any local matching funds for the planning or preliminary engineering activities; the applicant's past performance on previously awarded CDBG contracts; and award history (an applicant that has previously received a CDBG comprehensive planning award would receive lower priority for funding).

If only summary criteria were described, how can potential applicants access application manuals or other state publications describing the application criteria? (CDBG only)

Guidelines, applications and additional program documentation can be found on TDA's website at www.texasagriculture.gov.

		TI OLI ODDO III III G TECCO
	Describe how resources	The State CDBG allocation 6.75% (approximately) is allocated to the Colonia Fund. Of
	will be allocated among	the yearly CDBG allocation to the Colonia Construction and Planning Fund, 97.5%
	funding categories.	(approximately) of those funds are to award grants through the CFC and 2.5%
		(approximately) are to award grants through the CFP. Subsequent to awarding funds,
		any portion of the CFC allocation that is unable to be awarded (i.e., fund an
		application in the minimum amount of \$75,000, etc.) may be used to fund additional
		eligible CFP applications, and conversely, any portion of the CFP allocation that is
	Describe threshold factors	unable to be awarded may be used to fund additional eligible CFC applications.  CFP Maximum \$100,000/Minimum \$0
		CFC Maximum \$500,000/Minimum \$75,000
	and grant size limits.	
	What are the outcome	Activities Benefiting LMI Persons
	measures expected as a	
	result of the method of	
	distribution?	
3	State Program Name:	Colonias Set-Aside: Colonia SHC Legislative Set-Aside (administered by TDHCA)
	Funding Sources:	CDBG
		CDBG Colonias Set-aside
	Describe the state	Administered by TDHCA and funded through CDBG, the Colonia SHC Program serves
	program addressed by the	colonias along the Texas-Mexico border. Colonia SHCs provide concentrated on-site
	Method of Distribution.	technical assistance to low- and very low-income individuals and families in a variety
		of ways including housing, community development activities, infrastructure
		improvements, outreach and education. Key services include: housing rehabilitation;
		new construction; surveying and platting; construction skills training; tool library
		access for self-help construction; housing finance; credit and debt counseling; grant
		writing; infrastructure construction and access; contract-for-deed conversions; and capital access for mortgages.
	Describe all of the criteria	Approximately 42,000 residents live in the targeted colonias served by the colonia
	that will be used to select	SHC Program. The SHCs process applications from income eligible households on a
		first come, first served basis. Eligible households must reside in one of the targeted
	applications and the	colonias, which have been preselected by each recipient and county and confirmed
	relative importance of	by C-RAC. Households must earn less than 80% of AMI.
	these criteria.	·
	If only summary criteria	Colonia SHCs are limited statutorily and serve seven targeted colonias within their
	were described, how can	associated participating county. The SHCs and TDHCA's Border Field Offices both
	potential applicants	conduct outreach activities throughout the contract period to inform colonia
	access application	residents of program benefits and eligibility criteria and to provide application
	manuals or other	assistance.
	state publications	
	describing the application	
	criteria? (CDBG only)	

	Describe how resources	Of the State CDBG allocation, 2.5% (approximately) is allocated to this fund. Counties
	will be allocated among	that are statutorily designated to participate in the Colonia SHC Program propose
	funding categories.	which target colonias should receive concentrated attention and through what scope
		of program activities and funding. Each SHC designs a proposal unique to the needs
		of a specific community and based on a needs assessment. After a C-RAC, composed
		of residents from previously participating colonias, reviews and approves the
		proposals from the counties, the proposals are then reviewed and approved by the
		TDHCA's Board of Directors for implementation. Resources are allocated based on
		analysis and input from each community.
	Describe threshold factors	Maximum \$1,000,000/Minimum \$500,000
	and grant size limits.	For the colonia SHC, program rules limit the assistance to up to \$1,000,000 per
		colonia SHC per contract period. Each program activity, such as new construction,
		rehabilitation, and small repairs for housing, for example, are limited to specific
		dollar amounts.
	What are the outcome	For the Colonia SHC Program, outcomes include: colonia residents assisted, housing
	measures expected as a	units assisted or created, instances of technical assistance provided, and instances of
	result of the method of	information delivered. In general, this is Activities Benefiting LMI Persons.
	distribution?	
4	State Program Name:	Colonias Set-Aside: Colonias to Cities Initiative Program
	Funding Sources:	CDBG
		CDBG Colonias Set-aside
	Describe the state	The Colonia to Cities Initiative ("CCIP")provides funding for basic infrastructure
	program addressed by the	considered necessary for a colonia area to be annexed by an adjoining city. Priority is
	Method of Distribution.	given to colonias that have received prior CDBG funding. Both the county and city
		must submit a multi-jurisdictional pre-application for the project that includes a
		resolution from each jurisdiction. The city's resolution must include a firm
		commitment to annex the colonia upon completion of the project. Failure to annex
		the colonia may result in a requirement to repay the CDBG funding to TDA.

Describe all of the criteria	The TDA will evaluate the following factors prior to awarding CCIP funds:
that will be used to select	• the proposed use of the TxCDBG funds including the eligibility of the proposed
applications and the	activities;
relative importance of	• the ability of the community to utilize the grant funds in a timely manner;
these criteria.	• the availability of funds to the community for project financing from other sources;
	• the community's past performance on previously awarded TxCDBG contracts, if
	applicable;
	cost per beneficiary; and
	commitment by the city to annex the colonia area within one year of project
	completion.
	If applications exceed the available funding, the Department may use the scoring
	factors established for the Colonia Fund-Construction component.
If only summary criteria	Eligible applicants will be notified if funds become available.
were described, how can	
potential applicants	
access application	
manuals or other	
state publications	
describing the application	
criteria? (CDBG only)	
Describe how resources	If there are an insufficient number of projects ready for CEDAP funding, the CEDAP
will be allocated among	funds may be transferred to the Colonias to Cities Initiative.
funding categories.	
Describe threshold factors	Minimum \$100,000/Maximum \$1,000,000
and grant size limits.	
What are the outcome	Activities Benefiting Low and Moderate Income ("LMI") Persons
measures expected as a	
result of the method of	
distribution?	
State Program Name:	Community Development Fund
Funding Sources:	CDBG
	I .

# Describe the state program addressed by the Method of Distribution.

The Community Development ("CD") Fund is available on a biennial basis through a competition in each of the State's 24 planning regions. The goal of the CD Fund is to develop viable communities by providing decent housing, viable public infrastructure, and a suitable living environment, principally for persons of low to moderate income.

Applicants are encouraged to provide for infrastructure and housing activities that will improve opportunities for LMI persons. When considering and designing projects, applicants must continue to consider project activities that will affirmatively further fair housing, which includes project activities that provide basic infrastructure (such as water, sewer, and roads) that will benefit residential housing and other housing activities.

# Describe all of the criteria that will be used to select applications and the relative importance of these criteria.

CD applicants are scored using a shared system with 90% of the scoring criteria established by Regional Review Committees ("RRC") and 10% established by the state's scoring criteria. There is a Regional Review Committee in each of the 24 State planning regions. Each RRC will be comprised of 12 members appointed at the pleasure of the Texas Commissioner of Agriculture. A quorum of seven members is required for all public hearings. Each RRC is responsible for determining local project priorities and objective scoring criteria for its region for the CD Fund in accordance with the requirements in this Action Plan. Additionally, the RRC shall establish the numerical value of the points assigned to each scoring factor and determine the total combined points for all RRC scoring criteria. The Regional Review Committees are responsible for convening public hearings to discuss and select the objective scoring criteria that will be used to score and rank applications at the regional level. The public must be given an opportunity to comment on the priorities and the scoring criteria considered. The final selection of the scoring criteria is the responsibility of each RRC and must be consistent with the requirements in this Action Plan. The RRC may not adopt scoring factors that directly negate or offset the State's scoring factors. Each RRC shall develop a RRC Guidebook, in the format provided by TDA, to notify eligible applicants of the objective scoring criteria and other RRC procedures for the region. The Guidebook must be submitted to TDA and approved at least ninety days prior to the application deadline.

The state scoring will be based on the following:

- 1. Past selection 4% of Maximum Possible RRC Score for each region.
- 2. Past Performance- 4% of Maximum Possible RRC Score for each region.
- 3. All project activities within the application would provide basic infrastructure or housing activities 2% of Maximum Possible RRC Score for each region. (Basic infrastructure the basic physical shared facilities serving a community's population consisting of water, sewage, roads and flood drainage. Housing activities as defined in 24 Code of Federal Regulations ("CFR") Part 570.)

	If only a common oritoria	Guidelines, applications and additional program documentation can be found on
	If only summary criteria	TDA's website at www.texasagriculture.gov.
	were described, how can	TDA's website at www.texasagriculture.gov.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
	criteria? (CDBG only)	
	Describe how resources	64.83% (approximately) of the State CDBG allocation is allocated to this fund.
	will be allocated among	
	funding categories.	
	Describe threshold factors	Minimum \$75,000/Maximum \$800,000, regions may establish additional grant
	and grant size limits.	amount limits.
	What are the outcome	Activities Benefiting LMI Persons
	measures expected as a	
	result of the method of	
	distribution?	
6	State Program Name:	Community Enhancement Fund
	Funding Sources:	CDBG
	Describe the state	The Community Enhancement ("CEF") Fund provides a source of funds (when
	program addressed by the	available) not available through other CDBG programs to stimulate a community's
	Method of Distribution.	economic development efforts and improve self-sufficiency. The project must have
		the potential to benefit all citizens within a jurisdiction. The community project must
		provide a benefit that will enhance the overall quality of life in the rural community.
	Describe all of the criteria	The selection criteria for the Community Enhancement Fund will focus on the
	that will be used to select	following factors:
	applications and the	a. LMI percentage of the applicant;
	relative importance of	b. Partnerships;
	these criteria.	c. Multi-Purpose Facility or Public Safety Equipment;
		d. Sustainability; and
		e. Match.

	If and a common and and a	Cuidalines applications and additional program decumentation can be found an
	If only summary criteria	Guidelines, applications and additional program documentation can be found on
	were described, how can	TDA's website at www.texasagriculture.gov.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
	criteria? (CDBG only)	
	Describe how resources	Deobligated funds up to \$3,000,000 are made available for the CE Fund on the first
	will be allocated among	day of a program year.
	funding categories.	
	Describe threshold factors	Minimum \$50,000/Maximum \$500,000
	and grant size limits.	
	What are the outcome	Activities Benefiting LMI Persons
	measures expected as a	
	result of the method of	
	distribution?	
7	State Program Name:	Disaster Relief Funds
	Funding Sources:	CDBG
	Describe the state	Disaster Relief ("DR") Fund assistance is available as needed for eligible activities in
	program addressed by the	relief of disaster situations where either a state or federal disaster declaration has
	Method of Distribution.	been issued.
		Declaration other than Drought: Priority for the use of these funds is for repair and
		restoration activities that meet basic human needs (such as water and sewer
		facilities, housing, and roads), and may not include funding to construct public
		facilities that did not exist prior to the occurrence of the disaster.
		Declaration for Drought: Funding in response to a Governor's drought disaster
		declaration covering the area that would benefit from project activities must include
		new facilities to improve water supply, subject to the conditions set forth in Title 4,
		Part 1, Chapter 30, Subchapter A of the Texas Administrative Code.

	Describe all of the criteria	To qualify for the DR Fund:
	that will be used to select	a. The situation addressed by the applicant must be both unanticipated and beyond
	applications and the	the control of the local government.
	relative importance of	b. The problem being addressed must be of recent origin. For DR Fund assistance,
	these criteria.	this means that the application for assistance must be submitted no later than 12
		months from the date of the state or federal disaster declaration.
		c. Funds will not be provided under Federal Emergency Management Agency's
		("FEMA's") Hazard Mitigation Grant Program for buyout projects unless TDA receives
		satisfactory evidence that the property to be purchased was not constructed or
		purchased by the current owner after the property site location was officially
		mapped and included in a designated flood plain area.
		d. Each applicant must demonstrate that adequate local funds are not available, i.e.,
		the entity has less than six months of unencumbered general operations funds
		available in its balance as evidenced by the last available audit required by state
		statute, or funds from other state or federal sources are not available to completely
		address the problem.
		e. TDA may consider whether funds under an existing CDBG contract are available to
		be reallocated to address the situation.
		f. The distribution of these funds will be coordinated with other state agencies.
	If only summary criteria	Guidelines, applications and additional program documentation can be found on
	were described, how can	TDA's website at www.texasagriculture.gov.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
	criteria? (CDBG only)	
	Describe how resources	4.10% (approximately) of the State CDBG allocation is allocated to the DR Fund.
	will be allocated among	Deobligated funds up to \$1,000,000 are made available for the DR Fund on the first
	funding categories.	day of a program year, and additional deobligated funds may be allocated to the DR
	5 5	Fund according to the procedures described in the Additional Detail on Method of
		Distribution section following this table. The amount for this fund category may be
		adjusted during the program year as needed.
	Describe threshold factors	Maximum \$350,000/Minimum \$50,000
	and grant size limits.	
$\overline{}$		

	What are the outcome	Meet other community development needs of particular urgency which represent an
	measures expected as a	immediate threat to the health and safety of residents of the community.
	result of the method of	
	distribution?	
8	State Program Name:	General HOME Funds for Single-Family Activities
	Funding Sources:	HOME
	Describe the state	TDHCA awards single-family activity funds as grants and loans through a network of
	program addressed by the	local administrators for Homeowner Rehabilitation, Homebuyer Assistance, and
	Method of Distribution.	TBRA. Assistance length and term depends on the type of activity. The funds are
		initially being made available competitively on a regional basis, then later remaining
		funds are made available statewide on a first-come, first-served Reservation System,
		a contract-based system or some combination of these two methods. The method
		will be described in NOFAs and is informed by needs analysis, oversubscription for
		the activities, and public input.

Describe all of the criteria that will be used to select applications and the relative importance of these criteria.

Applicants must comply with requirements stated in NOFAs, the Single-Family Programs Umbrella Rule, and State HOME Program Rules in effect at the time they receive their award.

**Review of Applications** 

All programs will be operated through direct administration by TDHCA, reallocation of deobligated funding and program income, or through the release of Notices of Funding Availability ("NOFAs") with an emphasis on geographic dispersion of funds, particularly in rural areas of the state, using a Regional Allocation Formula ("RAF") which uses objective measures to determine rural housing needs such as poverty and substandard housing. For NOFAs, applicants must submit a complete application to be considered for funding, along with an application fee determined by TDHCA. Applications received by TDHCA will be reviewed for applicable threshold, eligibility and/or scoring criteria in accordance with the Department's rules and application review procedures published in the NOFA and/or application materials. Information related to NOFAs, application requirements and fees, and application review procedures and materials is available at http://www.tdhca.state.tx.us/home-division/index.htm.

**Selection Process** 

Qualifying applications are recommended for funding based on the Department's rules and any additional requirements established in the NOFA. Applications submitted for development activities will also receive a review for financial feasibility, underwriting and compliance under the HOME Final Rule as well as the Department's existing previous participation review process.

The state may select subrecipients or state recipients as described in program rules and NOFAs, or may conduct a portion of HOME activities directly in accordance with §92.201.

**Deobligated HOME Program Funds** 

When administrators have not successfully expended the HOME funds within their contract period, TDHCA de-obligates the funds and pools the dollars for redistribution according to TDHCA's Deobligated Funds Policy at 10 TAC §1.5, and consistent with the reservation system and any open NOFAs. TDHCA may also reallocate these funds through a competitive NOFA process resulting in an award of funds.

		TDUO
	Describe how resources	TDHCA announces the annual allocation of HOME Single-Family funds through a
	will be allocated among	NOFA and specifies that the funds will initially be made available using a Regional
	funding categories.	Allocation Formula ("RAF") which divides funds among 26 sub-regions as required by
		state statute. The allocation method is developed based on a formula which
		considers need and funding availability. After a period of several months, regional
		allocations collapse. Following the release of the annual allocation through the RAF,
		TDHCA periodically adds HOME program income and deobligated funds to the funds
		available via the Reservation System and either allocates a specific amount of funds
		per activity based on funding priorities or may allow HOME administrator's requests
		for funding through the system to determine how the funds are finally allocated
		among fund categories. TDHCA may specify the maximum amount of funds that will
		be released for each activity type and may allocate funds via a first come, first served
		Reservation System or alternate method based on public comment.
	Describe threshold factors	Applicants must comply with requirements stated in the HOME NOFA and State
	and grant size limits.	HOME Program Rules in effect the year they receive their award. These sources
		provide threshold limits and grant size limits per activity type.
	What are the outcome	Assistance to LMI households.
	measures expected as a	
	result of the method of	
	distribution?	
9	State Program Name:	HOME Multifamily Development
	Funding Sources:	HOME
	Describe the state	The HOME Multifamily Development Program Multifamily Direct Loan Program
	program addressed by the	awards loans to for-profit and nonprofit multifamily developers to construct and
	Method of Distribution.	rehabilitate affordable rental housing. These loans typically carry a 0% to 5% interest
		rate and have terms ranging from 15 years to 40 years. The vast majority of the loans
		are made in conjunction with awards of 4% or 9% HTCs.
	Describe all of the criteria	TDHCA's Uniform Multifamily Rules set forth a minimum set of requirements that
	that will be used to select	document a project owner's readiness to proceed with the development as
	applications and the	evidenced by site control, notification of local officials, the availability of permanent
	relative importance of	financing, appropriate zoning for the site, and a market and environmental study.
	these criteria.	Additionally, the development must be near certain community assets. HOME
		Multifamily Development Program Multifamily Direct Loan Program funds are
		typically awarded on a first-come, first-served basis, as long as the criteria above are
1		met. For HOME Multifamily Development applications layered with 9% HTCs, the
		highest scoring applications in the 9% cycle that also request HOME funds take
		highest scoring applications in the 9% cycle that also request HOME funds take priority over lower scoring HOME Multifamily Development applications that may have been received earlier.

	Describe how resources	Typically, of the HOME Multifamily Funds, 85% is available for general activities and
	will be allocated among	15% for Community Housing Development Organizations ("CHDOs"). However, the
	funding categories.	HOME Multifamily Development Program Multifamily Direct Loan Program may
		make funds available annually under the General, Persons With Disabilities, and
		CHDO Set-Asides.
	Describe threshold factors	TDHCA's Uniform Multifamily Rules set forth a minimum set of requirements that
	and grant size limits.	document a project owner's readiness to proceed with the development as
		evidenced by site control, notification of local officials, the availability of permanent
		financing, experience of the developer, appropriate zoning for the site, and a market
		and environmental study. Additionally, the development must be near certain
		community assets such as a bank, pharmacy, or medical office and have certain unit
		amenities and common amenities. Awards of HOME Multifamily Development
		Program Multifamily Direct Loan Program funds range from approximately \$300,000
		to \$3 million per application in the form of a loan.
	What are the outcome	Assistance to LMI households.
	measures expected as a	
	result of the method of	
	distribution?	
1	State Program Name:	Local Revolving Loan Funds
0	Funding Sources:	CDBG
	Describe the state	TxCDBG allows communities that received Texas Capital Fund awards to support job
	program addressed by the	creation or retention, and that created a local revolving loan fund, prior to
	Method of Distribution.	implementation of the interim rule published November 12, 2015, to retain the
		program income generated by the economic development activities and to reinvest
		the funds to support job creation/retention activities.
	Describe all of the criteria	Criteria are established by local subrecipients, with guidance from the TxCDBG
	that will be used to select	Revolving Loan Fund Information Guide provided by TDA.
	applications and the	
	relative importance of	
	these criteria.	
	If only summary criteria	The TxCDBG Revolving Loan Fund Information Guide is provided directly to
	were described, how can	subrecipients that have established revolving loan funds.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
1	criteria? (CDBG only)	

	Describe how resources	Program Income generated by a local RLF is retained by that community or returned
	will be allocated among	to TDA for distribution according to the Action Plan. See "Grantee Unique
	funding categories.	Appendices" for table of local revolving loan funds.
	Describe threshold factors	Minimum loan amount: \$25,000. Additional parameters for minimum or maximum
	and grant size limits.	loan amounts may be established by the subrecipient.
	What are the outcome	Activities Benefitting LMI Persons through Job Creation/Retention
	measures expected as a	
	result of the method of	
	distribution?	
1	State Program Name:	Planning/Capacity Building Fund
1	Funding Sources:	CDBG
	Describe the state	The Planning/Capacity Building ("PCB") Fund is available to assist eligible cities and
	program addressed by the	counties in conducting planning activities that assess local needs, develop strategies
	Method of Distribution.	to address local needs, build or improve local capacity, or that include other needed
		planning elements (including telecommunications and broadband needs).
	Describe all of the criteria	The selection criteria for the PCB Fund will focus upon the following factors:
	that will be used to select	a. Community Distress;
	applications and the	a. Percentage of persons living in poverty;
	relative importance of	b. Per capita income;
	these criteria.	c. Unemployment rate;
		b. Benefit to LMI Persons;
		c. Project Design;
		d. Program Priority;
		e. Base Match;
		f. Area-wide Proposals; and
		g. Planning Strategy and Products.
	If only summary criteria	Guidelines, applications and additional program documentation can be found on
	were described, how can	TDA's website at www.texasagriculture.gov.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
	criteria? (CDBG only)	
	Describe how resources	1.0% (approximately) of the State CDBG allocation is allocated to this fund.
	will be allocated among	
	funding categories.	

	Describe threshold factors	Minimum \$0/Maximum \$55,000
	and grant size limits.	
	What are the outcome	Activities Benefiting LMI Persons
	measures expected as a	
	result of the method of	
	distribution?	
1	State Program Name:	State Mandated Contract for Deed Conversion Set-Aside
2	Funding Sources:	HOME
	Describe the state	The 81st Texas Legislature passed Appropriations Rider 6 to TDHCA's appropriation
		pattern, which requires TDHCA to spend no less than \$4 million for the biennium on
	program addressed by the	contract for deed conversions for families that reside in a colonia and earn 60% or
	Method of Distribution.	less of the applicable Area Median Income ("AMI"). Furthermore, TDHCA is targeted
		to convert no less than 200 contracts for deed into traditional notes and deeds of
		trust by August 31, 2016. The intent of this program is to help colonia residents
		become property owners by converting their contracts for deed into traditional
		mortgages. Households served under this initiative must not earn more than 60% of
		the Area Median Family Income ("AMFI") and the home converted must be their
		primary residence.
	Describe all of the criteria	Administrators must meet HOME Program threshold requirements to access
	that will be used to select	funding. Funding is made available to contract for deed administrators on a first-
	applications and the	come, first-served basis, in addition to threshold requirements outlined in the State
	relative importance of	HOME Program Rule, through the Reservation System.
	these criteria.	
	Describe how resources	TDHCA sets aside \$2,000,000 for contract for deed conversion activities annually and
	will be allocated among	releases the funds through the reservation system as a method of distribution.
	funding categories.	
	Describe threshold factors	Applicants must meet the thresholds provided in the NOFA and State HOME
	and grant size limits.	Program Rules in effect the year in which they receive their award. Administrators
	_	are not awarded a grant following a successful application. Rather funds are
		awarded on a household by household basis.
	What are the outcome	Assistance to households with incomes at or below 60% AMFI.
	measures expected as a	
	result of the method of	
	distribution?	
1	State Program Name:	TCF Main Street Program
3	Funding Sources:	CDBG
ldot		

	Describe the state	The Texas Capital Fund ("TCF") Main Street Program provides eligible Texas Main
	program addressed by the	Street communities with grants to expand or enhance public infrastructure in
	Method of Distribution.	historic main street areas.
	Describe all of the criteria	The selection criteria for the TCF Main Street Program will focus upon the following
	that will be used to select	factors:
	applications and the	a. Applicant Need criteria, including poverty rate, median income, unemployment
	relative importance of	rate, and community need;
	these criteria.	b. Project criteria, including leverage, economic development consideration,
	these triteria.	sidewalks projects and Americans with Disabilities Act ("ADA") compliance, broad-
		based public support, emphasis on benefit to LMI persons, and grant application
		training; and
		c. Main Street program criteria, including National Main Street program recognition,
		Main Street program participation, historic preservation ethic impact.
	If only summary criteria	Guidelines, applications and additional program documentation can be found on
	were described, how can	TDA's website at www.texasagriculture.gov.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
	criteria? (CDBG only)	
	Describe how resources	6% of the total TCF allocation up to a maximum amount of \$600,000, and program
	will be allocated among	income up to \$150,000 (if available).
	funding categories.	
	Describe threshold factors	Maximum \$250,000/Minimum \$50,000
	and grant size limits.	
	What are the outcome	Eliminate or prevent slum and blight conditions.
	measures expected as a	
	result of the method of	
	distribution?	
1	State Program Name:	TCF Real Estate and Infrastructure Development Programs
4	Funding Sources:	CDBG
	Describe the state	The Texas Capital Fund ("TCF") Real Estate and Infrastructure Development
	program addressed by the	Programs provides grants and/or loans for Real Estate and Infrastructure
	Method of Distribution.	Development to create or retain permanent jobs in primarily rural communities and
		counties.

1	T
Describe all of the criteria	The selection criteria for the TCF Real Estate and Infrastructure Development will
that will be used to select	focus upon the following factors:
applications and the	a. Job creation criteria:
relative importance of	i. Cost-per-job,
these criteria.	ii. Job impact,
	iii. Wage impact, and
	iv. Primary jobs created/retained;
	b. Unemployment rate; and
	c. Return on Investment.
	Once applications are evaluated and determined to be in the funding range the
	projects will be reviewed upon the following additional factors:
	a. History of the applicant community in the program;
	b. Strength of the business or marketing plan;
	c. Evaluation of the business and the business' principal owners credit;
	d. Evaluation of community and business need; and
	e. Justification of minimum necessary improvements to serve the project.
If only summary criteria	Guidelines, applications and additional program documentation can be found on
were described, how can	TDA's website at www.texasagriculture.gov.
potential applicants	
access application	
manuals or other	
state publications	
describing the application	
criteria? (CDBG only)	44.540% of the Chate CDDC allowation in allowated to the Dead State and Lafe and Lafe
Describe how resources	14.51% of the State CDBG allocation is allocated to the Real Estate and Infrastructure
will be allocated among	Development Programs minus the lesser of 18% or \$1,800,000 of the total TCF
funding categories.	allocation. In addition, program income funds generated by TCF projects and not
	otherwise allocated are made available for the Real Estate and Infrastructure
	Development Programs on the first day of a program year.
	In accordance with 24 CFR 570.479(e)(ii), the State has determined that program
	income generated by TCF during PY 2016 must be returned to the State for
	redistribution to new economic development activities. TCF awards are made for a
	specific project, based on the minimum necessary work to support the creation or
	retention of specific jobs, which must be completed prior to close out of the TCF
	contract. Therefore the community is unlikely to continue funding the same activity
	in the near future as described in the new regulation.
Describe threshold factors	Maximum \$1,500,000/Minimum \$150,000
and grant size limits.	

	What are the outcome	Activities Benefiting LMI Persons
	measures expected as a	received benefiting time closers
	result of the method of	
	distribution?	
1	State Program Name:	TCF Small and Micro Enterprise Revolving Fund
5	Funding Sources:	
	Describe the state	The Texas Capital Fund ("TCF") Small and Micro Enterprise Revolving Fund provides
	program addressed by the	grants to local partnerships of communities and non-profit organizations to establish
	Method of Distribution.	a local revolving loan fund, providing loans to local small businesses that commit to
		create or retain permanent jobs.
	Describe all of the criteria	The selection criteria for the Small and Micro Enterprise Revolving Fund will focus on
	that will be used to select	the following factors:
	applications and the	a. Community Need;
	relative importance of	b. Non-Profit Loan Capacity; and
	these criteria.	c. Multi-jurisdictional applications.
	If only summary criteria	Guidelines, applications and additional program documentation can be found on
	were described, how can	TDA's website at www.texasagriculture.gov.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
	criteria? (CDBG only)	
	Describe how resources	Program Income funds up to \$1,500,000 are made available for the Small and Micro
	will be allocated among	Enterprise Revolving Fund on the first day of a program year.
	funding categories.	
	Describe threshold factors	\$100,000 per award
	and grant size limits.	
	What are the outcome	Activities Benefiting LMI Persons
	measures expected as a	
	result of the method of	
	distribution?	
1	State Program Name:	Texas Capital Fund Downtown Revitalization Program
6	,	CDBG
Ĺ	Funding Sources:	טסט

Describe the state	The Texas Capital Fund ("TCF") Downtown Revitalization Program awards grant	
program addressed by the	funds for public infrastructure to foster and stimulate economic development in	
Method of Distribution.	rural downtown areas.	
Describe all of the criteria	The selection criteria for the TCF Downtown Revitalization Program will focus upon	
that will be used to select	the following factors:	
applications and the	a. Applicant Need criteria, including poverty rate, median income, unemployment	
relative importance of	rate, and community need;	
these criteria.	b. Project criteria, including leverage, economic development consideration,	
these criteria.	sidewalks projects, and ADA compliance, broad-based public support, emphasis on	
	benefit to LMI persons, and grant application training; and	
	c. Past Performance.	
If only summary criteria	Guidelines, applications and additional program documentation can be found on	
were described, how can	TDA's website at www.texasagriculture.gov.	
potential applicants		
access application		
manuals or other		
state publications		
describing the application		
criteria? (CDBG only)		
Describe how resources	12% of the total TCF allocation up to a maximum of amount \$1,200,000, and	
will be allocated among	program income up to \$350,000 (if available).	
funding categories.		
Describe threshold factors	Maximum \$250,000/Minimum \$50,000	
and grant size limits.		
What are the outcome	Eliminate or prevent slum and blight conditions.	
measures expected as a		
result of the method of		
distribution?		
uistribution:		
State Program Name:	Texas ESG Program	

Describe the state program addressed by the Method of Distribution.

The ESG Program is currently a competitive grant that awards funds to private nonprofit organizations, cities, and counties in the State of Texas to provide the services necessary to help persons that are at-risk of homelessness or homeless quickly regain stability in permanent housing. TDHCA ran a pilot program in 2014 and 2015 with two local Continuum of Care ("CoC") lead agencies to run a local competition of state ESG funding in their respective CoC regions. TDHCA expanded that pilot in 2016 to five CoC lead agencies, giving them more local control of the use of funds in their service areas. Applicants in the CoC regions in which the lead agency is running a local competition will apply directly to the CoC lead agency is not running a local competition will apply directly to the TDHCA for ESG funding. Ultimate award authority for all ESG funds remains with TDHCA's Board.

Describe all of the criteria that will be used to select applications and the relative importance of these criteria.

In the competitive process with TDHCA, applications are selected based on:

Program Description and Capacity (11%); Proposed Performance
(74%); Proposed Budget and Match (8%); CoC Participation and Coordination
(6%); Language Access Plan (1%); and Past Performance of Subrecipients in
ESG Expenditure and Reporting (negative scores only) The allocation amounts
are established by formula by CoC region. Any funds returned to the
Department from prior ESG awards before 2016 ESG awards are made, will
be redistributed in accordance with the 2015 NOFA.

Describe the process for awarding funds to state recipients and how the state will make its allocation available to units of general local government, and non-profit organizations, including community and faith-based organizations. (ESG only)

For the competitive process, Texas releases a NOFA each spring in anticipation of the State's receipt of ESG funding. For 2016, Applications will be accepted for a 50-day period. Applications are scored and ranked within their CoC regions.

Eligible applicant organizations are Units of General Purpose Local Government, including cities, counties and metropolitan cities; urban counties that receive ESG funds directly from HUD; and organizations as described in a NOFA or other funding mechanism. Other instrumentalities of a city or county, like an LMHA, may be eligible and should seek guidance from TDHCA to determine if they can apply. Governmental organizations such as Public Housing Authorities ("PHAs") are not eligible and cannot apply directly for ESG funds; however PHAs may serve as a partner in a collaborative Application, but may not be the lead entity. These same criteria will apply to those entities awarded directly by the CoCs as well.

Eligible applicant organizations also include private nonprofit organizations that are secular or religious organizations described in section 501(c) of the Internal Revenue Code of 1986, are exempt from taxation under subtitle A of the Code, have an acceptable accounting system and a voluntary board, and practice non-discrimination in the provision of assistance. Faith-based organizations receiving ESG funds, like all organizations receiving HUD funds, must serve all eligible beneficiaries without regard to religion.

	Describe how resources	ESG funds may be used for six program components: street outreach, emergency
	will be allocated among	shelter, homelessness prevention, rapid re-housing assistance, HMIS, and
	funding categories.	administrative activities. Per 24 CFR §576.100(b), the total amount of an Applicant's
		budget for street outreach and emergency shelter cannot exceed 60% of their total
		requested amount. Within a Collaborative Application, the 60% limit applies to the
		entire Application and not to each partner within the Collaborative Application. This
		requirement will also apply in the CoC local competition method.
	Describe threshold factors	Within each CoC region, applicants may request no less than \$125,000 unless the
	and grant size limits.	initial amount available in the region is less than \$125,000. In those cases, applicants
		may request an amount no less than the available allocation for that region. Single
		applicants may request a maximum of \$150,000. For a collaborative application, the
		maximum request amount is \$150,000 times the number of partners in the
		application, with a maximum request of \$600,000. The minimum request for a
		collaborative application is \$125,000, unless the initial amount available in the
		region is less than \$125,000. In those cases the collaborative applicant may request
		an amount no less than the available allocation for that region. In a collaborative
		application, each partner is not limited to budgeting \$150,000 each; the total grant
		amount may be budgeted among all partners as agreed upon. These numbers may
		be adjusted depending on the final allocation from HUD. If funds are being awarded
		by CoCs, they will establish these factors and limits with TDHCA approval. They will
		not necessarily reflect these factors, but will reflect a local decision-making process.
	What are the outcome	The expected outcome is that funds will be awarded to organizations that have the
	measures expected as a	administrative and performance capacity to provide the services needed in their
	result of the method of	communities. The expected outcome of TDHCA's plan to fund the CoCs directly is
	distribution?	that the same will be accomplished, but with CoC-wide planning rather than with
		only State planning.
1	State Program Name:	Texas HOPWA Program
8	Funding Sources:	HOPWA
	Describe the state	DSHS selects seven AAs across the state through a combination of competitive
	program addressed by the	Requests for Proposal ("RFP") and intergovernmental agency contracts. The AAs act
	Method of Distribution.	as an administrative arm for DSHS by administering the HOPWA program locally. The
		AAs do not receive any HOPWA administrative funds from DSHS; all AA
		administrative costs are leveraged from other funding sources. The AAs, in turn,
		select HOPWA Project Sponsors to cover all 26 HSDAs through local competitive
		processes.

Describe all of the criteria that will be used to select applications and the relative importance of these criteria.

Information on grant applications, available funding opportunities, application criteria, etc. can be found on the DSHS website:

http://www.dshs.state.tx.us/fic/default.shtm. Contracting information and resources (i.e., General Provisions, contract requirements, etc.) are located on the DSHS website: http://www.dshs.state.tx.us/contracts/default.shtm.

Contracting services for DSHS and other Health agencies are consolidated under the Health and Human Services Commission's Procurement and Contracting Services (PCS) Division. This division handles the solicitation, contract development, contract execution, and office of record for DSHS's contracting needs.

Evaluation Criteria as noted in the most recent RFP process for AAs for Ryan White/State Services and HOPWA programs were: Respondent Background = 30%; Assessment Narrative = 15%; Performance Measures = 10%; Work Plan = 35%; and Budget = 10%.

Identify the method of selecting project sponsors (including providing full access to grassroots faithbased and other community-based organizations). (HOPWA only)

The AAs select HOPWA Project Sponsors to cover all 26 HSDAs through local competitive processes. Community-based organizations, minority organizations, minority providers, grassroots and faith-based organizations are encouraged to apply. Historically, many of the agencies that have provided services to TDHCA's client population are grassroots, community-based, and minority organizations.

Describe how resources will be allocated among funding categories.

Texas HOPWA funding allocations are geographically distributed across the state to the 26 HSDAs based on factors such as population of PLWH and unmet need. Texas HOPWA serves PLWH and their family members, all of whom are at or below 80% of AMI, and most fall into the extremely low-income category. Allocations generally mirror the Ryan White Program allocation formula, which takes into account population of PLWH, HIV incidence, number of PLWH accessing Ryan White services, percent of PLWH eligible for Medicaid, and other considerations. The allocations are then adjusted based on unmet need, prior performance and expenditures, geographic-specific data provided by Project Sponsors, and any other relevant factors. After allocations to each HSDA are determined, it is then up to the Project Sponsor to allocate between activities of TBRA, STRMU, PHP, Supportive Services, and administrative expenses (not to exceed 7% of their allocation) and submit those to their AA and DSHS for approval. Project Sponsors base allocations on many factors, including but not limited to, number of clients projected to continue into the next year, area unmet need, rental costs, prior number of clients served, average expenditures per client, and changes in HIV population living in poverty, etc. Funds are also reallocated during the year within HSDAs under each AA as needed when needs change.

	Describe threshold factors	Texas HOPWA serves PLWH and their family members, all of whom are at or below
	and grant size limits.	80% of AMI.
		The majority of HOPWA clients are classified as extremely low income, which is
		between 0% and 30% of AMI.
	What are the outcome	Outcome measures are number of unduplicated income-eligible clients and families
	measures expected as a	living with HIV (households) assisted with each HOPWA service category (TBRA,
	result of the method of	STRMU, PHP if applicable, and Supportive Services).
	distribution?	
1	State Program Name:	Texas Small Towns Environment Program Fund
9	Funding Sources:	CDBG
	Describe the state	The Texas Small Towns Environment Program ("STEP") Fund provides funds to cities
	program addressed by the	and counties that recognize the need and potential to solve water and sewer
	Method of Distribution.	problems through self-help techniques via local volunteers. By utilizing the resources
		of the community (human, material, and financial), the necessary construction,
		engineering, and administration costs can be reduced significantly from the cost for
		the installation of the same improvements through conventional construction
		methods.
		The self-help response to water and sewer needs may not be appropriate in every
		community. In most cases, the decision by a community to utilize self-help to obtain
		needed water and sewer facilities is based on the realization of the community that
		it cannot afford even a basic water or sewer system based on the initial construction
		costs and the operations/maintenance costs (including debt service costs) for water
		or sewer facilities installed through conventional financing and construction
		methods.
	Describe all of the criteria	The following are the selection criteria to be used by CDBG staff for the scoring of
	that will be used to select	assessments and applications under the Texas STEP Fund:
	applications and the	a. Project Impact
	relative importance of	b. STEP Characteristics, Merits of the Project, and Local Effort
	these criteria.	c. Past Participation and Performance
		d. Percentage of Savings off of the retail price
		e. Benefit to Low/Moderate-Income Persons
	If only summary criteria	Guidelines, applications and additional program documentation can be found on
	were described, how can	TDA's website at www.texasagriculture.gov.
	potential applicants	
	access application	
	manuals or other	
	state publications	
	describing the application	
	criteria? (CDBG only)	
	, , , , , , , , , , , , , , , , , , , ,	

	Describe how resources	Deobligated funds up to \$1,000,000 are made available for the STEP Fund on the first	
	will be allocated among	day of the program year.	
	funding categories.		
	Describe threshold factors	Maximum \$350,000/Minimum \$0	
	and grant size limits.		
	What are the outcome	Activities Benefiting LMI Persons	
	measures expected as a		
	result of the method of		
	distribution?		
2	State Program Name:	Urgent Need Fund	
0	Funding Sources:	CDBG	
	Describe the state	Urgent Need ("UN") Fund assistance is available for activities that will restore water	
	program addressed by the	and/or sewer infrastructure whose sudden failure has resulted in death, illness,	
	Method of Distribution.	injury, or poses an imminent threat to life or health within the affected applicant's	
		jurisdiction. The infrastructure failure must not be the result of a lack of	
		maintenance and must be unforeseeable. An application for UN Fund assistance will	
		not be accepted until discussions between the potential applicant and	
		representatives of TDA, TWDB, and the Texas Commission on Environmental Quality	
		("TCEQ") have taken place. Through these discussions, a determination shall be	
		made whether the situation meets eligibility requirements and if a potential	
		applicant should be invited to submit an application for the UN Fund.	
		Construction on an UN Fund project must begin within ninety (90) days from the	
		start date of the CDBG contract. TDA may de-obligate the funds under an UN Fund	
		contract if the grantee fails to meet this requirement.	

Describe all of the criteria that will be used to select applications and the relative importance of these criteria.

To qualify for the UN Fund:

- 1. The situation addressed by the applicant must not be related to a proclaimed state or federal disaster declaration.
- 2. The situation addressed by the applicant must be both unanticipated and beyond the control of the local government (e.g., not for facilities or equipment beyond their normal, useful life span).
- 3. The problem being addressed must be of recent origin. For UN assistance, this means that the situation first occurred or was first discovered no more than 30 days prior to the date that the potential applicant provides a written request to the TDA for UN assistance. UN funds cannot fund projects to address a situation that has been known for more than 30 days or should have been known would occur based on the applicant's existing system facilities.
- 4. Each applicant for these funds must demonstrate that local funds or funds from other state or federal sources are not available to completely address the problem.
- 5. The applicant must provide documentation from an engineer or other qualified professional that the infrastructure failure cannot have resulted from a lack of maintenance or been caused by operator error.
- 6. UN funds cannot be used to restore infrastructure that has been cited previously for failure to meet minimum state standards.
- 7. The infrastructure requested by the applicant cannot include back-up or redundant systems.
- 8. The UN Fund will not finance temporary solutions to the problem or circumstance.
- 9. TDA may consider whether funds under an existing CDBG contract are available to be reallocated to address the situation, if eligible.
- 10. The distribution of these funds will be coordinated with other state agencies. Each applicant for UN Funds must provide matching funds. If the applicant's most recent Census population is equal to or fewer than 1,500 persons, the applicant must provide matching funds equal to 10 percent of the CDBG funds requested. If the applicant's most recent Census population is over 1,500 persons, the applicant must provide matching funds equal to 20 percent of the CDBG funds requested. For county applications where the beneficiaries of the water or sewer improvements are located in unincorporated areas, the population category for matching funds is based on the number of project beneficiaries.

	If a	only summary criteria	Guidelines, applications and additional program documentation can be found on	
		ere described, how can		
		tential applicants		
	-			
		cess application		
		anuals or other		
		ate publications		
		scribing the application		
	cri	teria? (CDBG only)		
	De	escribe how resources	No funds will be allocated on the first day of the Program Year; however, the amount	
	wi	II be allocated among	for this funding category may be adjusted during the 2015 PY as needed.	
	fu	nding categories.		
	De	escribe threshold factors	Maximum \$250,000/Minimum \$25,000	
	an	d grant size limits.		
	W	hat are the outcome	Meet other community development needs of particular urgency which represent an	
	me	easures expected as a	immediate threat to the health and safety of residents of the community.	
	res	sult of the method of		
	dis	stribution?		
2	Sta	ate Program Name:	NHTF	
4	Fu	nding Sources:	NHTF	
<u>2</u>	De	scribe the state	The NHTF Program awards loans to for-profit and nonprofit multifamily developers	
1	pr	ogram addressed by the	ot construct and rehabilitate multifamily affordable housing. Because the NHTF is	
	-	ethod of Distribution.	required to benefit ELI households at 30% of AMI or less, the units will likely not be	
			able to service a debt payment. The constraints on NHTF dictate that the funds be	
			available as 0% interest, deferred payment loan, or as a 0% interest cash flow lona	
			loans, if required, to leverage with tax credits or other financing mechanisms.	
	De	escribe all of the criteria	TDHCA's Uniform Multifamily Rules set forth a minimum set of requirements that	
	th	at will be used to select	document a project owner's readiness to proceed with the development as	
	ар	plications and the	evidenced by site control, notification of local officials, the availability of permanent	
	re	ative importance of	financing, appropriate zoning for the site, and a market and environmental study.	
	th	ese criteria.	Additionally, the development must be near certain community assets. HOME	
			TDHCA Multifamily Development Direct Loan Program funds are typically awarded	
			on a first-come, first-served basis, as long as the criteria above are met. For HOME	
			NHTF Multifamily Development applications layered with 9% HTCs, the highest	
			scoring applications in the 9% cycle that also request HOME-NHTF funds take priority	
			over lower scoring HOME NHTF Multifamily Development applications. that may	
			have been received earlier. Applications that will create new ELI units without	
			preexisting vouchers or other rental subsidy will be prioritized, and additional criteria may be imposed for applications not layered with tax credits.	
			i may de imposed for addiications not lavered with tax credits.	

Describe how resources	Typically, of the HOME Multifamily Funds, 85% is available for general activities and	
will be allocated among	15% for Community Housing Development Organizations ("CHDOs"). However, the	
funding categories.	HOME Multifamily Development Program Multifamily Direct Loan Program may	
3 3 3 3 3	make funds available annually under the General, Persons With Disabilities, an	
	CHDO Set Asides. NHTF will not be allocated among funding categories. The	
	requirement to serve ELI households already meets a setaside category in TDHCA	
	Multifamily programs.	
Describe threshold factors	TDHCA's Uniform Multifamily Rules set forth a minimum set of requirements that	
and grant size limits.	document a project owner's readiness to proceed with the development as	
	evidenced by site control, notification of local officials, the availability of permanent	
	financing, experience of the developer, appropriate zoning for the site, and a market	
	and environmental study. Additionally, the development must be near certain	
	community assets such as a bank, pharmacy, or medical office and have certain u	
	amenities and common amenities. Awards of NHTF will be integrated into the	
	TDHCA HOME Multifamily Development Direct Loan Program. Awards funds may	
'	range from approximately \$300,000 to \$3 million per application in the form of a	
	loan for this program	
What are the outcome	Assistance to LMIELI households.	
measures expected as a		
result of the method of		
distribution?		

#### Discussion

The distribution process for 4% HTC Program, 9% HTC Program, HHSP, Housing Trust Fund Program, MMC Program, My First Texas Home Program, NSP PI Program, Section 8 HCV Program, Section 811 PRA Program, and TCAP Loan Repayments can be found in the documents that govern these programs, all available at http://www.tdhca.state.tx.us/. The CDBG Colonia Set-Aside Methods of Distribution will be included in Action Plan Section 48, which is specifically about colonias.

Along with selecting appropriate entities to administer funding, the State must ensure that the funding is appropriately spent. For example, in addition to an outcome measure of the number of clients/households supported with HOPWA housing subsidies assistance, AAs routinely monitor Project Sponsors for compliance and performance. DSHS monitors the AAs and annually compiles AAs' and Project Sponsors program progress reports and reviews cumulative data for number of households assisted compared to goals, expenditures, and stability outcomes of households served. More information on CPD Programs monitoring efforts are described in Strategic Plan Section 80, Monitoring. Additional detail on the Method of Distribution for CDBG funds is included as an attachment

# AP-50 Geographic Distribution – 91.320(f)

# Description of the geographic areas of the state (including areas of low-income and minority concentration) where assistance will be directed

**HOME Addresses Geographic Areas for Assistance** 

TDHCA does not provide priorities for allocation of investment geographically to areas of minority concentration; however, the geographic distribution of HOME funds to minority populations is analyzed annually. TDHCA is statutorily required by the Texas Government Code to provide a comprehensive statement of its activities through the State of Texas Low Income Housing Plan and Annual Report. Part of this document describes the ethnic and racial composition of families and individuals receiving assistance from each housing program.

HOME funds used for multifamily development are typically paired with tax-exempt bond and/or HTC. TDHCA rules that govern the HTC Program include incentives for developments utilizing the competitive 9% HTC in high opportunity areas which are defined as high-income, low-poverty areas and are not typically minority-concentrated, but it also provides incentive to develop in colonias or economically distressed areas. Developments using tax-exempt bond financing and 4% HTCs are more frequently located in qualified census tracts due to federal guidelines that cause these to be more financially viable.

#### ESG Addresses Geographic Areas for Assistance

Assistance provided by ESG funds will be directed statewide, according to the 11 HUD-designated CoC areas. TDHCA does not provide priorities for allocating investment geographically to areas of minority concentration as described in Section 91.320(d).

## **HOPWA Addresses Geographic Areas for Assistance**

The Texas HOPWA funding allocations are geographically distributed according to the 26 HIV HSDAs. Allocations are based on several factors, including past performance of Project Sponsors and unmet need, with the majority of Texas HOPWA clients (90% in 2014) classified as extremely low and low income. Allocations generally mirror the Ryan White Program allocation formula, which takes into account population of PLWH, HIV incidence, number of PLWH accessing Ryan White services, percent of PLWH eligible for Medicaid, and other considerations. The allocations are then adjusted based on unmet need, prior performance and expenditures, geographic-specific data provided by Project Sponsors, and any other relevant factors. Many of these individuals reside in areas of minority concentration and most PLWH are racial and ethnic minorities, so the program allocates funding to meet the needs of PLWH in Texas.

#### CDBG Addresses Geographic Areas for Assistance

TDA does not provide priorities for allocation of funds geographically to areas of minority concentration as described in Section 91.320(f). CDBG funds are allocated across the state in three ways.

1. The CD Fund assigns a percentage of the annual allocation to each of the 24 Regional COGs, ensuring that each region of the state receives a portion of the funds.

- 2. The Colonia Fund directs funding to communities within 150 miles of the Texas-Mexico border. All remaining funds are distributed through state-wide competitions without geographic priorities.
- 3. For the Colonia SHCs, centers are established along the Texas-Mexico border in Cameron/Willacy, Hidalgo, Starr, Webb, Maverick, Val Verde, and El Paso counties as well as in any other county designated as an economically distressed area. The SHC Program serves approximately 28 colonias in seven border counties, which are comprised of primarily Hispanic households and have concentrations of very low-income households.

# **NHTF Geographic Priorities**

The Texas NHTF will distribute NHTF funds through a competitive NOFA process. The funds will initially be available geographically, based on the proportion of Extremely Low Income Renter households to the total population of Renter Households in each of thirteen State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by thirteen, and available competitively within each region prior to collapse into a statewide competition.

# **Geographic Distribution**

Target Area	Percentage of Funds
State of Texas	100

Table 77 - Geographic Distribution

#### Rationale for the priorities for allocating investments geographically

**HOME Addresses Geographic Investments** 

HOME funds are allocated geographically using a RAF, as described in Strategic Plan Section 10. This process directs funds to areas of the State that demonstrate high need. In addition, HOME funds administered by TDHCA are primarily used in areas that are not Participating Jurisdictions ("PJs") per statute. This results in more HOME funds in smaller communities than in the larger Metropolitan Statistical Areas ("MSAs") that receive HOME funds directly from HUD. The most updated RAF is online at http://www.tdhca.state.tx.us/housing-center/pubs-plans.htm.

#### **ESG Addresses Geographic Investments**

CoC regions have funding made available for competition according to the combination of the region's proportionate share of the state's total homeless population, based on the most recent Point-in-Time count submitted to HUD by the CoCs and the region's proportionate share of people living in poverty, based on the most recent 5-year American Community Survey poverty data published by the Census Bureau. For the purposes of distributing funds, the percentage of statewide homeless population is weighted at 75% while the percentage of statewide population in poverty is weighted at 25%

#### **HOPWA Addresses Geographic Investments**

At the end of 2012, nearly 73,000 people in Texas were known to have HIV and it is estimated that an additional 17,000 people in Texas are living with HIV but are currently unaware of their status. The

number of Texans living with HIV increases each year and in order to meet the needs of low-income PLWH in Texas, many of whom live in areas of minority concentration, the HOPWA funding allocations are geographically distributed across the State and are allocated based on several factors, including unmet need.

Six cities in Texas have a population of over 500,000 (Austin, Dallas, Fort Worth, El Paso, Houston, and San Antonio), which are in MSAs funded directly from HUD for HOPWA. Although the Texas HOPWA program can operate in any area of the State, the State program serves all counties not covered under the MSAs' jurisdictions, with some overlap of counties between the State and the MSAs. As a result, Texas HOPWA covers all of the rural areas of the State, where many low-income HOPWA clients reside, and funding prioritization is based on areas with greater unmet need for PLWH.

## **CDBG Addresses Geographic Investments**

Texas CDBG Funds for projects under the CD Fund are allocated by formula to 24 regions based on the methodology that HUD uses to allocate CDBG funds to the non-entitlement state programs (21.71% of annual allocation), along with a state formula based on poverty and unemployment (40% of annual allocation). In addition, 12.5% of the annual allocation is allocated to projects under the Colonia Fund categories, which must be expended within 150 miles of the Texas-Mexico border.

For the Colonia SHCs, state legislative mandate designates five centers along the Texas-Mexico border in specific border counties to address the long history of poverty and lack of institutional resources. Two additional counties have been designated as economically distressed areas and also operate centers through the program. These counties collectively have approximately 42,000 colonia residents who may qualify to access center services.

#### **NHTF Addresses Geographic Investments**

NHTF funds are allocated geographically using a Regional Allocation Formula, as described in Strategic Plan Section 10. Acknowledging that all regions of the State have a need to create housing for ELI households, the formula provides opportunity for access to NHTF. This process directs funds to areas of the State that demonstrate high need, but the very small amount of the PY 2016 allocation makes it difficult to fully differentiate.

#### Discussion

Many of the Target Areas available in the Integrated Disbursement and Information System ("IDIS"), HUD's electronic system in which this Plan has been entered, were too detailed for use at the macrolevel; therefore, the State entered the "State of Texas" as a Target Area in Strategic Plan Section 10. Within Texas, each program relies on a formula to distribute funds geographically.

# **Affordable Housing**

# AP-55 Affordable Housing – 24 CFR 91.320(g)

#### Introduction

Affordable Housing goals for PY 2016 are indicated in the table below for the number of homeless, non-homeless, and special needs households, and for the number of affordable housing units that will be provided by program type, including rental assistance, production of new units, rehabilitation of existing units, utility connections for existing units, or acquisition of existing units. Note that goals entered for ESG are only for Homeless Prevention and Rapid Re-housing. The HOME goals include multifamily and single family activities.

One Year Goals for the Number of Households to be Supported		
Homeless	4,740	
Non-Homeless	363	
Special-Needs	1,713	
Total	6,816	

Table 88 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through		
Rental Assistance	6,475	
The Production of New Units	172	
Rehab of Existing Units	58	
Acquisition of Existing Units	54	
Total	6,759	

Table 99 - One Year Goals for Affordable Housing by Support Type

#### Discussion

The one year goals for TDHCA's HOME Program include homebuyer assistance with possible rehabilitation for accessibility, TBRA, homeowner rehabilitation assistance, rehabilitation of multifamily units, and construction of single-family and multifamily units.

The one year goals for TDHCA's NHTF Program include rehabilitation of multifamily units, and construction of new multifamily units.

TDHCA's ESG Program provides Rapid Re-housing assistance to help homeless individuals and households quickly regain stability in housing. Homelessness Prevention and Emergency Shelter outcome indicators are counted as persons, not households, so is not added into the chart above. ESG also provides street outreach, but as this does not directly equate to affordable housing, it is not counted above.

DSHS' HOPWA Program provides TBRA, STRMU, PHP, and Supportive Services to assist low-income HIV-positive clients and their households to establish or maintain affordable, stable housing, reduce the risk

of homelessness, and improve access to health care and other services. HOPWA serves households with 80% or less of area median income, but a majority of Texas HOPWA households are under 30% AMI and lack of affordable housing is an ongoing issue. DSHS estimates that the HOPWA program will assist 890 unduplicated, income-eligible households with housing subsidy assistance.

Currently, Texas CDBG funds primarily support affordable housing through water and sewer infrastructure for housing. The CDBG funding provides a cost savings for housing when used to install water and sewer yard lines and pay impact and connection fees for qualifying residents. Housing rehabilitation projects are prioritized in several fund categories. CDBG funds also help communities study affordable housing conditions, providing data on affordable housing stock and planning tools for expanding affordable housing. CDBG provides approximately 250 utility connections per year, which are not reflected in the chart above, but could prove essential to obtaining or maintaining housing.

Colonia residents are considered "Special Needs" households who are supported through the production, rehab or acquisition of units (no rental assistance). The Colonia SHCs continue to address affordable housing needs in border counties by assisting qualifying colonia residents to improve or maintain a safe, suitable home in suitable areas, with the contribution of the residents' sweat-equity which is required in all housing activities at the SHC. In addition, the Colonia SHCs provide other development opportunities that support the creation of affordable housing for beneficiaries, such as tool lending, and training in home construction and repair, financial literacy, and homeownership skills.

# AP-65 Homeless and Other Special Needs Activities – 91.320(h) Introduction

TDHCA will address requirements in 24 CFR §91.320 by using funds to reduce and end homelessness. Each ESG applicant is required to coordinate with the lead agency of the CoC, which provides services and follows a centralized or coordinated assessment process; has written policies and procedures in place as described by §578.7(a)(8) and (9); and follows a written standard to provide street outreach, emergency shelter, rapid re-housing, and homelessness prevention assistance. To assist low-income individuals and families to avoid becoming homeless, especially those discharged from publicly-funded institutions and systems of care, or those receiving assistance from public and private agencies that address housing, health, social services, employment, education, or youth needs, TDHCA requires each Subrecipient to set performance targets that are part of their contract and extended to each of the local organizations that the Subrecipient funds. A Subrecipient must address the housing and supportive service needs of individuals assisted with ESG funds in a plan to move the client toward housing stability.

In addition, ESG works in tandem with other programs that help to transition persons out of institutions, such as the HOPWA Program, Section 811 PRA Program, Project Access Program, Money Follows the Person Program, and the Home and Community-Based Services - Adult Mental Health Program. The HHSCC also works to enhance coordination between housing and service agencies to assist persons transitioning from institutions into community-based settings.

# Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The Texas ESG Program provides funds to service providers for outreach to unsheltered homeless persons in order to connect them to emergency shelter, housing, or critical services; and to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or other appropriate facilities. Of critical importance is assisting the unsheltered homeless with emergency shelter or other placement. One of the possible performance measures that Subrecipients will be measured against is their ability to help homeless persons move into permanent housing, achieve higher incomes and gain more non-cash benefits. To ensure long-term housing stability, clients will be required to meet with a case manager not less than once per month (with exceptions pursuant to the VAWA and the Family Violence Prevention and Services Act ("FVPSA")). Subrecipients will also be required to develop a plan to assist program participants to retain permanent housing after the ESG assistance ends.

#### Addressing the emergency shelter and transitional housing needs of homeless persons

The ESG Program helps the unsheltered homeless and homeless individuals and families residing in emergency shelter and those fleeing domestic violence to return to stable housing conditions by providing support to organizations that provide emergency services and shelter to homeless persons

and households. One of the possible performance measures that Subrecipients will be measured against is their ability to help individuals and families move out of emergency shelter and transitional housing and into permanent housing, achieve higher incomes and gain more non-cash benefits. To ensure long-term housing stability, clients will be required to meet with a case manager not less than once per month (with exceptions pursuant to the VAWA and the FVPSA). Subrecipients will also be required to develop a plan to assist program participants to retain permanent housing after the ESG assistance ends. In addition, the State will consider transitional housing as having characteristics associated with instability and an increased risk of homelessness, which may allow clients moving out of transitional housing to access Homelessness Prevention services.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The ESG Program has broadened the activities that can be used to help low-income families and individuals avoid becoming homeless and to rapidly re-house persons or families that experience homelessness. ESG funds can be used for short-term and medium-term rental assistance, rental application fees, security deposits, utility deposits, utility payments, and moving costs for homeless individuals or persons at risk of homelessness. Funds can also be used for housing service costs related to housing search and placement, housing stability case management, mediation, legal services, and credit repair. ESG funds can also be used to pay for essential service costs including case management, child care, education services, employment assistance and job training, outpatient health services, legal services, life skills training, mental health services, substance abuse treatment services, transportation, and costs related to serving special populations.

TDHCA acknowledges the change in the definition of chronically homeless, which was published in the Federal Register on December 4, 2015, and effective January 15, 2016. The new definition applies to clients of TDHCA's 2015 ESG Subrecipients assisted on or after the effective date, and TDHCA's ESG Subrecipients for future awards, per the revision to 24 CFR §91.5.

The definition of chronically homeless had been from the McKinney-Vento Homeless Act. The definition of chronically homeless under McKinney-Vento had included an individual or family who met certain criteria for homelessness and had "a diagnosable substance use disorder, serious mental illness, developmental disability, post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability." The revised definition of chronically homeless has more general term of "homeless individual with a disability", per below:

- (9) Homeless individual with a disability
- (A) In general, the term "homeless individual with a disability" means an individual who is homeless, as

defined in section 11302 of this title, and has a disability that—

- (i) (I) is expected to be long-continuing or of indefinite duration;
- (II) substantially impedes the individual's ability to live independently;
- (III) could be improved by the provision of more suitable housing conditions; and
- (IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;
- (ii) is a developmental disability, as defined in section 15002 of this title; or
- (iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome."

The definition of chronically homelessness now includes a different time requirement of homelessness. The McKinney-Vento Homeless Assistance Act defined the time period of chronically homeless as homeless for at least one year, or on at least four separate occasions in the last three years. The new definition of chronically homeless requires the following time period: (1) continuously homeless for at least 12 months, or (2) on at least four separate occasions in the last three years, where the combined occasions must total at least 12 months. An "occasion" is considered a separate episode of homelessness if it is separated by at least seven days. Stays in institutions of fewer than 90 days do not constitute a break.

Finally, the new definition clarifies that a family can qualify as chronically homeless if the head of the household (whether adult head or minor head, if the family has no adult) meets the criteria of chronically homeless. In addition, the family could have a composition that has fluctuated while the head of household has been homeless.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

In addition to homelessness prevention, ESG funds actively promote coordination with community providers and integration with mainstream services to marshal available resources. One performance measure for Subrecipients may be their ability to help increase non-cash benefits for program participants; the Subrecipients would help program participants obtain non-ESG resources, such as veterans benefits or food stamps.

Individuals eligible for the State's HOPWA Program who are exiting from an institution receive a comprehensive housing plan and linkage and referrals to health professionals from a case manager. The State HOPWA Program provides TBRA, which can be used to transition persons from institutions into stable housing. Some project sponsors also provide rental deposits and application fees.

Other programs included in this Plan also address persons transitioning from institutions. For example, TDHCA has received awards totaling more than \$24 million for the Section 811 PRA Program. The program will help extremely low-income individuals with disabilities and their families by providing more than 600 new integrated supportive housing units in seven areas of the state. Members of the target population include individuals transitioning out of institutions; people with severe mental illness; and youth with disabilities transitioning out of the state's foster care system. Individuals in the Section 811 PRA Target Population are eligible for assistance from public agencies, are Medicaid-eligible, and could be at-risk of housing instability and/or homelessness.

Coordination between housing and the Health and Human Services ("HHS") agencies is exemplified by the Project Access and Money Follows the Person programs. Project Access uses Section 8 Housing Choice Vouchers administered by TDHCA to assist low-income persons with disabilities transition from nursing homes and Intermediate Care Facilities ("ICFs") to the community, while using the Money Follows the Person Program to provide services by HHS agencies. Since it began in 2002, the TDHCA Governing Board approved changes to Project Access based on input from advocates and the HHS agencies, such as incremental increases to vouchers from 35 to 140 and creation of a pilot program with DSHS for persons with disabilities transitioning out of State Psychiatric Hospitals.

In addition, TDHCA offers the use of TBRA to individuals on the Project Access Wait List, allowing him/her to live in the community until she/he can use Project Access. TDHCA conducted outreach and technical assistance to Department of Aging and Disability Services ("DADS") Relocation Specialists and HOME TBRA Administrators to help them serve individuals on the wait list.

To further address the needs of individuals transitioning from institutions, HHSCC, codified in Texas Government Code, Chapter 2306, Subchapter NN, seeks to increase coordination of housing and health services, by supporting agencies to pursue funding, such as Relocation Contractor services for people with behavioral health challenges and Intellectual and Developmental Disabilities; Medicaid waiver programs; vouchers from PHAs for people with disabilities and aging Texans; housing resources from the Texas Department of Criminal Justice for people with criminal histories transitioning to the community; and DSHS' rental assistance program.

HHSCC also encourages the coordination of TDHCA with DSHS for DSHS' new Home and Community-Based Services: Adult Mental Health Program. This program will serve individuals with Serious Mental Illness who have long-term or multiple stays in the State's Mental Health Facilities.

#### Discussion

The Texas ESG Program is designed to assist, assess and, where possible, shelter the unsheltered homeless; to quickly re-house persons who have become homeless and provide support to help them maintain housing; and to provide support that helps persons at risk of becoming homeless maintain their current housing. Other special needs populations are described in Action Plan Section 25.

# AP-75 Barriers to affordable housing – 91.320(i)

#### Introduction

The Phase 2 AI identifies impediments to fair housing choice in the State of Texas and action steps that the State intends to take to address identified impediments. This document describes state and local regulatory and land use barriers in detail. It may be accessed at https://www.tdhca.state.tx.us/fair-housing/policy-guidance.htm.

TDHCA staff developed a database to track fair housing action steps, link action steps to impediments, and document benchmarks and progress in implementing such action steps. This database assists the State in the development of well informed steps to directly address impediments reflected in the Phase 2 AI. Staff also developed a database to consolidate the demographic and geographic data of recipients of the Department's Housing Tax Credit programs and provide for in-depth analyses of patterns in the allocation of funding and comparison to census data. Staff believes these databases will assist in identifying new impediments to fair housing choice as the consolidated data is analyzed and the efficacy of implemented action steps is reviewed.

The State is currently developing best practices guidance related to zoning and land use regulations, policies, and practices that will further fair housing choice. The State plans to release best practices to the public through its Fair Housing website; the website will include areas specific to Real Estate Professionals, Developers and Administrators, as well as Local Governments and Elected Officials. The Al included several suggestions on countering negative effects of public policy as it concerned two areas — land use and zoning and Not-In-My-Backyard Syndrome ("NIMBYism"). In order to avoid the difficulty, expense, and uncertainty that NIMBYism can engender, developers often focus on areas where their proposed developments are well supported. Changes in the scoring of the State's HTC Program provide incentives to develop in high opportunity areas. High opportunity areas include places with low poverty rates and quality schools, with above average state ratings.

Cases of NIMBYism can be difficult to track, it is hard to measure where NIMBYism occurs most often. The cases of NIMBYism most often associated with proposed multifamily developments, although not exclusive to these areas, NIMBYism appear anecdotally to be more likely to occur in areas with socioeconomic and housing homogeneity. To assist the State in gathering data on how elected officials, communities, and local governments are impacted by NIMBYism sentiments and to help the State in countering NIMBY messaging, TDHCA periodically outsources with universities and private consulting firms for studies, market analyses, and special projects. Guidance and resources to support affordable housing will be provided through TDHCA's Fair Housing website, along with the Fair Housing listserv and community events calendar, and a Speaker's Bureau that will be able to discuss this and other Fair Housing topics.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the

#### return on residential investment

TDHCA reviews all guiding documents, rules, and practices internally to determine if known barriers or impediments to furthering fair housing choice can be addressed through changes within TDHCA's power. The Department's Fair Housing, Data Management, and Reporting group continues ongoing interviews with Division Directors originally held in spring 2014. Initial recommendations and actions were noted for each program as well as a list of 15 cross-Divisional recommendations that included items such as improved Affirmative Marketing Rules, improved Language Assistance Plan guidance, a better internal mechanism for Fair Housing training, Fair Housing Team reviews of rule changes and NOFA documents, etc. TDHCA has been making and will continue to make a concerted effort to review and move forward on key recommendations and to increase staff and subrecipient education to ensure that all programs are providing best practices guidance to recipients and the general public.

TDHCA acts as an information resource for affordable housing studies and information. A project between TDHCA (including HHSCC) and the University of Texas has resulted in a Fair Housing public service message campaign with videos in support of affordable housing, fair housing rights, and Service-Enriched Housing.

The Texas Workforce Commission Civil Rights Division ("CRD") received a two-year grant of HUD Partnership Funds for an outreach campaign. CRD launched a public service announcement initiative targeting Midland, Odessa, Laredo, and Victoria, as well as small cities and towns surrounding these "oil and gas boom" areas. The campaign educates people in these areas on their Fair Housing rights and responsibilities. This includes in-person and webinar training as well as outreach presentations. CRD's fair housing training was in such demand that the outreach campaign was expanded to include all of Texas and will run through 2016.

On August 17, 2015, the United States Department of Housing and Urban Development ("HUD") adopted the Final Affirmatively Furthering Fair Housing Rule ("AFFH" or "the rule"), detailing what recipients of block grant CPD funds and Public Housing funds must do to affirmatively further fair housing and the tool by which they can identify those steps. The rule requires that Units of Government take "meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics." The rule replaces the Analysis of Impediments ("AI") to Fair Housing Choice with a new Assessment of Fair Housing ("AFH") tool. The AFH Tool uses HUD-generated data, and a significant community participation process, to identify areas of disparity, patterns of integration and segregation, and disproportionate housing needs. With the information generated through the AFH tool and AFFH, Units of Government are responsible for identifying fair housing issues and contributing factors, assigning priorities to contributing factors, setting goals for overcoming prioritized contributing factors, and maintaining records of progress in achieving goals.

The new process directly links the AFH tool and its identified goals with the Unit of Government's HUD-required program planning document (its Consolidated Plan or for a PHA, its 5-Year PHA Plan). Fair

housing goals and priorities from the AFH are expected to be incorporated into the actual programming and proposed use of the HUD funds. Fair Housing staff are reviewing the AFFH rule and beginning to implement changes into the citizen participation plan. The first AFH tool is anticipated to be due to HUD from the State of Texas in May 2019. Staff will meet with legislators and local administrators to discuss the AFH tool and final rule.

#### Discussion

A current collaboration between federal funding recipients known as the Texas State Fair Housing Workgroup began in May, 2014 and continues to meet. This workgroup is assisting State agencies in adopting a uniform stance on Fair Housing issues and provide streamlined direction to essential Fair Housing information and best practices. To date, the workgroup has looked at sharing language assistance contracts, has generated ideas on streamlining Fair Housing discrimination complaint information and resources, and has served as a vehicle for comparing internal Fair Housing tracking and record keeping measures.

The Fair Housing Team at TDHCA has taken a leadership role in these meetings as directed under the 2013 Analysis of Impediments; the Fair Housing Team has shared both its Fair Housing Tracking Database and its Fair Housing website section, which TDHCA believes will become one of the leading Fair Housing website resources for the state. The Fair Housing Team has shared its demographic database, which is being created with the long-range goal of standardizing demographics collected in each TDHCA program area and analyzing these demographics to identify trends; make policy recommendations; and map service areas. As its initial test, this database will auto-generate an Excel spreadsheet that analyzes TDHCA multifamily property demographics against census data demographics by census tract, county, and MSA to determine which populations are under-represented or over-represented based on the definition of minority concentration from HUD. The spreadsheet debuted with the revised Multifamily and new Single Family Affirmative Marketing Rules. The spreadsheet assists Multifamily Owners in determining which populations are considered least likely to apply and should be included in an Affirmative Marketing Plan. The short-term effect should be an increase in understanding and compliance with the Affirmative Marketing Rule of TDHCA. The long-term effect should be an improved ability to determine which areas are under or over served and an ability to present such information objectively to stakeholders and local governments.

The Fair Housing Team has 36 action steps on which it is moving forward, and is able to produce metrics on its momentum under the AI through its Fair Housing Tracking Database. In addition to logged action steps, the database also includes outreach and daily task logs. The database collects action steps based on the four phases of project management planning (e.g., Plan, Review, Implement, and Evaluate) which lead staff to consider even at the planning stage how the step will be evaluated. This has resulted in a metrics-focused planning effort that will continue to guide future initiatives.

Finally, the State, through its Fair Housing Team, has created a new Fair Housing website section, including fair housing information for a variety of audiences (renters and homebuyers, owners and

administrators, real estate agents, and local governments and elected officials) and will include fair housing toolkits and resources, links to a new Fair Housing email list and community events calendar, and a consumer survey. A portion of the available toolkits will be tailored to elected officials and local governments in an effort to encourage best practices in zoning and land use and addressing community concerns. Through this education and outreach, the State is hoping to make its best practices guidance widely known and to integrate such guidance with other state resource information.

# **AP-85 Other Actions – 91.320(j)**

#### Introduction

The actions listed below are Other Actions taken by TDHCA, TDA, and DSHS to meet the requirements of §91.320(j). Other Actions include Meeting Underserved Needs, Fostering and Maintaining Affordable Housing, Lead-Based Paint Hazard Mitigation, Reducing Poverty-Level Households, Developing Institutional Structure, and Coordination of Housing and Services. The HOME, ESG, HOPWA, and CDBG programs address the other actions in concert with other federal, state, and local sources.

# Actions planned to address obstacles to meeting underserved needs

**HOME Addresses Underserved Needs** 

Obstacles to meeting underserved needs with HOME funds, particularly multifamily activities, include NIMBYism, a lack of understanding of federal requirements surrounding the use of HOME funds, and staff observation that program administrators may have more strict tenant or household selection criteria than other locally-run programs. TDHCA works to overcome these obstacles by educating developers and the communities where affordable housing is being proposed, as well as by offering HOME funds as grants or low-interest loans, with rates as low as 0%.

#### **ESG Addresses Underserved Needs**

Lack of facilities and services for persons experiencing homelessness in rural areas is ESG's greatest underserved need. To help meet this need, TDHCA has used Community Services Block Grant discretionary funds to provide training and technical support to organizations in the Balance of State CoC. Shelters in the Balance of State CoC have limited funds for operations and maintenance, with little access to federal funds which often require substantial organizational capacity less common in smaller organizations. ESG and TDHCA's HHSP, which is state-funded only in some urban areas, may supplement federal funds in operational support.

# **HOPWA Addresses Underserved Needs**

Some significant obstacles to addressing underserved needs are PLWH inability to obtain or maintain medical insurance, maintain income, and especially obtain employment, are partially due to a difficult economy in conjunction with rising costs of living (rent, deposits, utilities, food, transportation, etc.), high unemployment, no access to health insurance and/or decreased access to other affordable housing such as the HCV program. The inability to access HCVs is due to long or closed waiting lists, and in some cases, client non-compliance and ineligibility due to undocumented immigrant status.

DSHS' HOPWA program helps meet the needs of this underserved population throughout the State by providing essential housing and utilities assistance as part of a comprehensive medical and supportive services system. As a result, PLWH and their families are able to maintain safe and affordable housing, reduce their risk of homelessness, and access medical care and supportive services. DSHS will reallocate funding to address changing needs to maximize and target HOPWA funding to HSDAs that are in greatest need.

#### CDBG Addresses Underserved Needs

TDA encourages projects addressing underserved community development needs. In PY 2014 CDBG funds will be available through five different grant categories to provide water or sewer services on private property for low- and moderate-income households by installing yard lines and paying impact and connection fees. Regional competition for funding allows each area of the state to determine its highest priority needs, which may vary from first-time water service to drought relief to drainage projects.

Since the first legislative reforms in the 1990s, service providers in colonias have made gains in their capacity to address colonia issues, but unmet needs still exist and the Texas-Mexico border population growth is still increasing. OCI's main obstacle in addressing colonia housing needs is the varying capacities of subrecipients to administer assistance. TDHCA has established Border Field Offices along the Texas-Mexico border to readily provide technical assistance and on-going training to organizations and local governments that use TDHCA's CDBG funding.

## Actions planned to foster and maintain affordable housing

**HOME Addresses Affordable Housing** 

The HOME Program provides grant funds, deferred forgivable loans, and repayable loans to households or developments assisted by or through entities including units of local government, public organizations, nonprofit and for-profit organizations, CHDOs and PHAs. These funds are primarily used to foster and maintain affordable housing by providing rental assistance, rehabilitation or reconstruction of owner-occupied housing units with or without refinancing, down payment and closing cost assistance with optional rehabilitation for the acquisition of affordable single family housing, single family development and funding for rental housing preservation of existing affordable or subsidized developments. HOME funds may also be used in conjunction with the HTC Program or Bond Program to construct or rehabilitate affordable rental housing.

In addition, credits awarded through the HTC program can be layered with awarded funds from the HOME <u>Multifamily Development program Multifamily Direct Loan Program</u>. When more than one source of funds is used in an affordable housing project, the State is able to provide more units of affordable housing than with one funding source alone.

#### **ESG Addresses Affordable Housing**

While TDHCA encourages the use of ESG funds to provide affordable transitional housing, the majority of funds are utilized to provide emergency shelter. Fostering affordable housing is not an initiative for which TDHCA provides funding or that TDHCA monitors in relation to the ESG Program.

**HOPWA Addresses Affordable Housing** 

The cost of living continues to rise (increases in rent, utilities, application fees, and security deposits) while clients' income does not change, may decrease, or clients have no income. HOPWA makes housing more affordable for low-income clients so they can maintain housing, adhere to medical treatment, and

Annual Action Plan

work towards a healthier outcome. Project Sponsors will address long-term goals with the clients to help them establish a financial plan that can assist them in maintaining their housing. Affordable housing needs are high among PLWH. DSHS will continue to update funding allocations to address the changing needs of local communities and to maximize and target HOPWA funding to HSDAs in greatest need. DSHS will consider a variety of factors including but not exclusive to HIV/AIDS morbidity, poverty level, housing costs and needs, and program waitlists and expenditures. Furthermore, funds are reallocated between HOPWA activities within HSDAs to meet changing needs during the project year.

#### **CDBG Addresses Affordable Housing**

Currently, CDBG funds primarily support affordable housing through water and sewer infrastructure for housing. The CDBG funding provides a cost savings for housing when used to install water and sewer yard lines and pay impact and connection fees for qualifying residents.

Housing rehabilitation projects are prioritized in several fund categories, and TDA encourages each region to set aside a percentage of the regional allocation for housing rehabilitation projects.

CDBG helps communities study affordable housing conditions, providing data on affordable housing stock and planning tools for expanding affordable housing. The Colonia SHCs continue to address affordable housing needs in border counties by assisting qualifying colonia residents to improve or maintain a safe, suitable home in suitable areas.

The OCI serves as a liaison to the Colonia SHCs to assist with securing funding and carrying out activities, such as low-interest mortgages, grants for self-help programs, revolving loan funds for septic tanks, and tool lending.

#### **NHTF Addresses Affordable Housing**

The NHTF Program provides to developments assisted by or through entities including, public organizations, nonprofit and for-profit organizations, and PHAs. These funds are primarily used to foster and maintain affordable housing by providing funding for preservation of existing affordable developments, or construction of new affordable developments.

In addition, credits awarded through the HTC program can be layered with awarded funds from the NHTF program. When more than one source of funds is used in an affordable housing project, the State is able to provide more units of affordable housing than with one funding source alone.

#### Actions planned to reduce lead-based paint hazards

**HOME Addresses Lead-based Paint** 

The HOME Program requires lead screening in housing built before 1978 for all HOME eligible activities in accordance with 24 CFR §92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R. Furthermore, single-family and multifamily development activities in HOME increase the access to lead-based-paint-free housing through the construction of new housing or reconstruction of an existing housing unit.

There is significant training, technical assistance, and oversight of this requirement on each activity funded under the HOME Program.

#### ESG Addresses Lead-based Paint

For ESG, TDHCA requires Subrecipients to evaluate and reduce lead-based paint hazards as part of its habitability review. During the annual contract implementation training, TDHCA will provide ESG Subrecipients with information related to lead-based paint regulations and TDHCA's requirements related to such. TDHCA will require ESG-funded Subrecipients to determine if a housing unit was built prior to 1978, for households seeking ESG funded rent or rent deposit assistance whose household has a family member(s) six year of age or younger. If the housing unit is built prior to 1978, the ESG Subrecipient will notify the household of the hazards of lead-based paint.

ESG Subrecipients utilizing ESG funds for renovation, rehabilitation or conversion must comply with the Lead-Based Paint Poisoning and Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992. Through renovation, rehabilitation or conversion, ESG increases access to shelter without lead-based paint hazards. TDHCA evaluates, tracks, and reduces lead-based hazards for conversion, renovation, leasing or rehabilitation projects.

#### **HOPWA Addresses Lead-Based Paint**

HUD requires that Project Sponsors give all HOPWA clients utilizing homes built before 1978 the pamphlet entitled, "Protect Your Family from Lead in Your Home" during the intake process. The client's case record must include documentation that a copy of the pamphlet was given to the client and the case manager must make a certification regarding lead-based paint that includes actions and remedies if a child under age six will reside at the property.

#### CDBG Addresses Lead-Based Paint

Lead-based paint mitigation is an activity eligible under housing rehabilitation that is funded under the CPF, CFC, and Community Development Funds. Each contract awarded requires the sub-grantee to conform to Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) and procedures established by TDA's CDBG in response to the Act.

#### **NHTF Addresses Lead-based Paint**

The NHTF Program requires lead screening in housing built before 1978 for all NHTF eligible activities in accordance with 24 CFR §92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R. Furthermore multifamily development activities in NHTF increase the access to lead-based-paint-free housing through the construction of new housing or reconstruction of an existing housing unit.

#### Actions planned to reduce the number of poverty-level families

**HOME Addresses Poverty-Level Households** 

Through the HOME TBRA Program, TDHCA assists households with rental subsidy and security and utility deposit assistance for an initial term not to exceed 24 months. As a condition to receiving rental

Annual Action Plan

assistance, households must participate in a self-sufficiency program, which can include job training, General Education Development ("GED") classes, or drug dependency classes. The HOME Program enables households to receive rental assistance while participating in programs that will enable them to improve employment options and increase their economic independence and self-sufficiency. Additionally, TDHCA allocates funding toward the rehabilitation and construction of affordable housing, incentivizing units to assist very low-income households, and assists very low-income households along the international border of Texas and Mexico by promoting the conversion of contract for deed arrangements to traditional mortgages.

#### ESG Addresses Poverty-Level Households

The ESG Program funds activities that provide shelter and essential services for homeless persons, as well as intervention services for persons threatened with homelessness. Essential services for homeless persons include medical and psychological counseling, employment counseling, substance abuse treatment, transportation, and other services. While TDHCA supports the use of ESG funds to help ESG clients lift themselves above the poverty line, it is not a specific initiative for which TDHCA earmarks ESG funding or that TDHCA monitors for the ESG Program.

For individuals threatened with homelessness, homelessness prevention funds can be used for short-term subsidies to defray rent and utility arrearages for households receiving late notices, and security deposits.

#### **HOPWA Addresses Poverty-Level Households**

The DSHS HOPWA Program serves households in which at least one person is living with HIV based on income eligibility criteria of no more than 80% of AMI with adjustments for family and household size, as determined by HUD income limits. With varying poverty levels and housing needs in each HSDA across the State, funds are allocated and reallocated throughout the program year to maximize and target HOPWA resources to those with the most need. While many HOPWA households assisted may be at poverty-level, this is not a requirement under 24 CFR §574.3.

#### CDBG Addresses Poverty-Level Households

A substantial majority of TDA's CDBG funds, over 95% in 2013, are awarded to principally benefit low and moderate income persons. In addition, the formula used to distribute CD funds among regions includes a variable for poverty to target funding to the greatest need. CDBG economic development funds create and retain jobs through assistance to businesses. LMI persons access these jobs, which may include training, fringe benefits, opportunities for promotion, and services such as child care.

#### NHTF Addresses Poverty-Level Households

NHTF allocates funding toward the rehabilitation and construction of affordable housing restricted to serve ELI households with affordable rents. These affordable units will allow households to have greater housing security and stability, and will ameliorate some of the negative impacts of living in poverty through provision of decent, safe and affordable housing.

# Actions planned to develop institutional structure

**HOME Addresses Institutional Structure** 

The HOME Program encourages partnerships in order to improve the provision of affordable housing. Organizations receiving Homebuyer Assistance funds are required to provide homebuyer education classes to households directly, or coordinate with a local organization that will provide the education. In addition, organizations receiving TBRA funds must provide self-sufficiency services directly, or coordinate with a local organization that will provide the services. Finally, partnerships with CHDOs and nonprofit and private-sector organizations facilitate the development of quality rental housing developments and assist in the rehabilitation or reconstruction of owner-occupied housing.

#### ESG Addresses Institutional Structure

TDHCA encourages ESG Subrecipients to coordinate services with housing and other service agencies. Likewise, the CoCs funded with ESG funds are required to coordinate services and their local funded organizations to provide services as part of the local CoC. While TDHCA believes its system of funding applications that apply to a statewide NOFA is an effective system, TDHCA also believes that its move to work locally with CoCs on ESG funding decisions advances program goals of local coordination and cooperation within CoCs. TDHCA reviews ESG Subrecipients' coordination efforts during on-site and desk monitoring. A map of local CoCs can be found online at: http://www.thn.org/continuums/.

#### **HOPWA Addresses Institutional Structure**

DSHS contracts with seven AAs, which contract directly with Project Sponsors serving all 26 HSDAs in the State to administer the HOPWA program under DSHS oversight. AAs also administer the delivery of other HIV health and social services, including the Ryan White and State Services HIV funds. This structure ensures the coordination of all agencies serving PLWH, avoids duplication, saves dollars, and provides the comprehensive supportive services for PLWH in each local community.

#### CDBG Addresses Institutional Structure

Each CDBG applicant must invite local housing organizations to provide input into the project selection process. TDA coordinates with state and federal agencies, regional Councils of Governments, and other partners to further its mission in community and economic development.

TDA also uses conference calls and webinars to provide training and technical assistance throughout the state. On-site project reviews may be conducted based on risk and other factors.

#### **NHTF Addresses Institutional Structure**

The NHTF Program encourages partnerships in order to improve the provision of affordable housing. Partnerships with nonprofit and private-sector organizations facilitate the development of quality rental housing developments. Development owners are required to provide tenant services to address the needs of ELI households living in the development.

# Actions planned to enhance coordination between public and private housing and social service agencies

TDHCA has staff members that participate in several State advisory workgroups and committees. The workgroups and committees which TDHCA leads are listed in Action Plan Section 15. The groups in which TDHCA participates include, but are not limited to the Community Resource Coordination Groups, led by the Health and Human Services Commission ("HHSC"); the Council for Advising and Planning for the Prevention and Treatment of Mental and Substance Use Disorders, led by DSHS; Reentry Task Force, led by Texas Department of Criminal Justice; Interagency Workgroup on Border Issues, led by Secretary of State; Texas Foreclosure Prevention Task force, led by Texas State Affordable Housing Corporation; Money Follows the Person Demonstration Project, led by DADS; Promoting Independence Advisory Committee, led by HHSC; and Texas State Independent Living Council, lead by the Texas Department of Assistive and Rehabilitative Services ("DARS").

TDHCA's participation in HUD's Section 811 PRA Program requires linkages between housing and services through a partnership with TDHCA, and the State Medicaid Agency (i.e., HHSC). Because the program is designed so that an individual can access both affordable housing and services in the community, TDHCA staff and HHSC staff meet regularly to ensure both housing and services are coordinated for the program. TDHCA and HHSC have responsibilities to execute the program. TDHCA will use units for the program in multifamily housing financed by TDHCA and the services will be provided by a network of local service providers coordinated by the HHSC enterprise agencies.

HHSCC, established by Texas Government Code §2306.1091, seeks to improve interagency understanding and increase the number of staff in state housing and health services agencies that are conversant in both housing and services. HHSCC supports agencies in their efforts to secure funding for: expansion of Housing Navigators to all Aging and Disability Resource Centers ("ADRCs") with TDHCA assisting in training; expansion of the Program for All-Inclusive Care for the Elderly ("PACE"); implementation of the Delivery System Redesign Incentive Payment ("DSRIP") behavioral health projects; implementation of the Balancing Incentives Payment ("BIP") initiative; and DSHS' expansion of Oxford Houses for people with Substance Use Disorders. (Other coordination efforts for HHSCC involving people leaving institutions are in Action Plan Section 65.)

Further cooperation was directed by Senate Bill 7 passed during the 83rd Legislative session. Texas Government Code §533.03551 directs the commissioner of HHSC to work in cooperation with TDHCA, TDA, Texas State Affordable Housing Corporation ("TSAHC"), and other federal, state, and local housing entities to develop housing supports for people with disabilities, including individuals with intellectual and developmental disabilities.

Finally, DADS provides Money Follows the Person Demonstration funds to TDHCA for the equivalent of two full-time employees to increase affordable housing options for individuals with disabilities who currently reside in institutions and choose to relocate into the community; and to increase the amount of affordable housing for persons with disabilities, along with other TDHCA programs that will assist in

preventing institutionalization. These enhanced coordination efforts further the implementation of many programs included in the Consolidated Plan, including the Section 811 PRA Program, Section 8 Project Access, and HOME Single Family activities.

#### Discussion

In addition to the program actions mentioned above, TDHCA strives to meet underserved needs by closely monitoring affordable housing trends and issues as well as conducting its own research. TDHCA also makes adjustments to address community input gathered through roundtable discussions, webbased discussion forums and public hearings held throughout the State.

To foster and maintain affordable housing, TDHCA, TDA, and DSHS provide funds for nonprofit and forprofit organizations and public organizations to develop and maintain affordable housing. Funding sources include grants, low-interest loans, housing tax credits, and mortgage loans.

For lead-based paint hazard mitigation, DSHS has been charged with oversight of the Texas Environmental Lead Reduction Rules ("TELRR"). TELRR cover areas of lead-based paint activities in target housing (housing constructed prior to 1978) and child-occupied facilities, including the training and certification of persons conducting lead inspections, risk assessments, abatements, and project design. For all projects receiving over \$25,000 in federal assistance, contractors need to follow inspections and abatements standards overseen by DSHS. By following these standards, the State is increasing the access to housing without lead-based paint hazards. The adherence to inspection and abatement standards is related to the extent of lead-based paint in that a majority of the housing in need of rehabilitation is likely housing built before 1978.

Furthermore, TDHCA, DSHS, and TDA's programs are aimed at reducing the number of Texans living in poverty, thereby providing a better quality of life for all Texans. The departments provide long-term solutions to the problems facing people in poverty and focus resources to those with the greatest need. Regarding institutional structure, TDHCA, DSHS, and TDA are primarily pass-through funding agencies and distribute federal funds to local entities that in turn provide assistance to households. Because of this, the agencies work with many partners, including consumer groups, community based organizations, neighborhood associations, community development corporations, councils of governments, community housing development organizations, community action agencies, real estate developers, social service providers, local lenders, investor-owned electric utilities, local government, nonprofits, faith-based organizations, property managers, state and local elected officials, and other state and federal agencies. Because the agencies do not fund individuals directly, coordination with outside entities is essential to the success of their programs. By structuring its operations this way, the State shares its risk and commits funds in correlation with local needs, local partners are able to concentrate specifically on their area of expertise and gradually expand to offering a further array of programs.

Finally, to enhance coordination between public and private housing and social service agencies, State

agencies chief function is to distribute program funds to local providers that include units of local government, nonprofit and for-profit organizations, community-based organizations, private sector organizations, real estate developers and local lenders. The private housing and social service funds available for priority needs may include loans or grant programs through private banks, for-profit or nonprofit organizations; this source of funding varies from year to year.

# 2015-2019 Consolidated Plan sections for NHTF updates

# ES-05 Executive Summary - 91.300(c), 91.320(b)

## 1. Introduction

The 2015–2019 State of Texas Consolidated Plan ("Plan") governs four programs funded by the U.S. Department of Housing and Urban Development ("HUD"): the Community Development Block Grant Program ("CDBG"), the HOME Investment Partnerships ("HOME") Program, the Emergency Solutions Grants ("ESG") Program, and the Housing Opportunities for Persons with AIDS ("HOPWA") Program, and the National Housing Trust Fund ("NHTF"). If 2014 HUD funding levels remain consistent, the Plan will govern approximately \$97,000,000 annually. NHTF will add approximately \$4,700,000 for 2016, with subsequent allocations assumed to be consistent. This Plan determines which of HUD's eligible activities have been identified to best serve the needs of Texas.

HUD allows a broad range of activities for CDBG, HOME, ESG, and HOPWA, and NHTF. CDBG provides resources for community development, which may include acquisition of real property; relocation and demolition; rehabilitation of residential and non-residential structures; construction of public facilities and improvements; public services; activities relating to energy conservation and renewable energy resources; and provision of assistance to profit-motivated businesses to carry out economic development and job creation/retention activities. HOME is used for single-family and multifamily housing activities, which may include providing home purchase or rehabilitation financing assistance to eligible homeowners and new homebuyers; building or rehabilitating housing for rent or ownership for eligible households; and tenant-based rental assistance to subsidize rent for low-income persons. ESG funds projects which may include supportive services to homeless individuals and households, emergency shelter/transitional housing, homelessness prevention assistance, and permanent housing for the homeless population. HOPWA is dedicated to the housing and supportive service needs of people living with HIV/AIDS and their families, which may include the acquisition, rehabilitation, or new construction of housing units; facility operations; rental assistance; short-term payments to prevent homelessness; case management; substance abuse treatment; mental health treatment; nutritional services; job training and placement assistance; and assistance with daily living. NHTF provides resources for activities housing extremely low income households, including acquisition, construction and rehabilitation for rental or ownership. A portion of the funds may be used to provide operating support for rental housing.

The Texas Department of Housing and Community Affairs ("TDHCA") administers the HOME Program and ESG, and NHTF Programs; the Texas Department of Agriculture ("TDA") administers the CDBG Program; and the Texas Department of State Health Services ("DSHS") administers the HOPWA Program. All three State agencies collaborated to complete the Plan, along with extensive input from other state agencies, stakeholders, advocates, and community members. TDHCA is the lead agency for the Plan's development.

The Plan consists of five main chapters. The first main chapter is the Process Chapter, which describes the public input process. The second chapter is the Needs Assessment, which outlines levels of relative need in the areas of affordable housing, homelessness, special needs populations, and community development. Information was gathered through consultation with local agencies, public outreach, and demographic and economic datasets. The third chapter, Market Analysis, focuses on economic forces, as well as the current condition and availability of housing and community development resources. The research-heavy Needs Assessment and Market Analysis chapters form the basis of the fourth chapter, the Strategic Plan, which details how the State will address its priority needs over a five-year period. The strategies reflect the condition of the market, expected availability of funds, and local capacity to administer the Plan. The Strategic Plan is used as a basis for the final chapter: the One Year Action Plan, which will be updated annually.

# 2. Summary of the objectives and outcomes identified in the Plan Needs Assessment Overview

The Needs Assessment Chapter shapes the policies throughout the Plan. The most common housing problem was moderate to severe cost burden, especially for households with incomes between 0-30% of the area median income ("AMI"). In most cases renters experienced a higher rate of housing problems than homeowners. When comparing the Needs Assessment Chapter to the Market Analysis Chapter, the shortage of affordable housing becomes apparent. However, the State recognizes that housing costs are impacted by local economies, and common housing problems may vary by neighborhood. The Strategic Plan identifies Priority Needs for housing, such as rental assistance; production of new units; acquisition of existing units; and rehabilitation of housing.

The Needs Assessment finds that people with special needs have specific barriers to housing. For example, people with disabilities typically have lower incomes than other household types and require housing with certain specifications, such as physical accessibility features. Special needs populations include elderly and frail elderly; homeless populations and persons at risk of homelessness; persons living with HIV/AIDS and their families; persons with alcohol and substance use disorders; persons with disabilities (mental, physical, intellectual, developmental); public housing residents; residents of colonias; and victims of domestic violence. While not specifically designated as "special needs," the State is directed statutorily to gather data on farmworkers, youth aging out of foster care, and veterans. Each of these special needs populations are specifically focused on through incentives within at least one of the HUD programs covered by this Plan.

ESG focuses on persons who are homeless or at risk of homelessness. Therefore the Needs Assessment has one section dedicated to this population, including numbers of households experiencing sheltered and unsheltered homelessness, and a discussion on the greater likelihood that minorities are homeless. The Market Analysis lists the available resources for homeless populations, and the Strategic Plan identifies Priority Needs as homeless outreach; emergency shelter and transitional housing; rapid rehousing; and homelessness prevention.

HOPWA focuses on persons living with HIV/AIDS and their families, so the Needs Assessment includes an in-depth discussion about this population. Racial and ethnic minorities are disproportionately affected by HIV. Also, persons with HIV are more vulnerable to becoming homeless. The Strategic Plan identifies priority needs to serve persons with HIV/AIDS, such as rental assistance; supportive services for persons with HIV/AIDS; rapid re-housing; and homelessness prevention.

Needs Assessment Section 15 shows disproportionate housing problems based on race, which is defined as a 10% difference compared to the State as a whole. Colonias, which are residential areas along the Texas-Mexico border that lack basic living necessities, such as potable water, electricity, paved roads, and safe and sanitary housing, showed very high rates of housing problems. The 2013 Analysis of Impediments to Fair Housing Choice identified local best practices that mitigate barriers and promote choice for housing. The Strategic Plan and Action Plan lay out steps, such as research on affordable housing expansion, which mitigate the negative effects of public policies on affordable housing. Finally, non-housing community needs focus on economic and community development. The Needs Assessment finds a large demand for community infrastructure, including water and wastewater systems, roads/ streets, and utilities. Also, there is great emphasis to serve colonias with these types of services. The Strategic Plan identifies priority community development needs as public improvements and infrastructure; economic development; public facilities; and public services.

#### 3. Evaluation of past performance

The information below is for HOME, ESG, CDBG, and HOPWA for Program Year ("PY") 2013 (February 1, 2013 to January 31, 2014). <u>Because NHTF is a new program for 2016, past performance information is not available.</u>

During PY 2013, the Texas CDBG Program committed a total of \$75,871,400 through 254 awarded contracts. For contracts that were awarded in PY 2013, 414,973 persons were anticipated to receive service. The Colonia Self Help Centers awarded \$1,564,167 in contracts outside the PY2013 reported below. Distribution of the funds by activity is described in the table below.

In PY 2013, DSHS' HOPWA served 441 households with TBRA (109% of the One Year Action Plan, or "OYAP" goal), 470 households with Short-Term Rent and Mortgage and Utility ("STRMU") assistance (86% of the OYAP goal), and 12 households with Permanent Housing Placement ("PHP") assistance (80% of the OYAP goal) for a total of 923 unduplicated households. Of the total households served, 907 also received HOPWA-funded Supportive Services (95% of the OYAP goal). All HOPWA clients receive housing supportive services at some level, but some costs were leveraged with other funding sources. Client outcome goals for housing stability, reducing homelessness risk, and improving access to care were also achieved. (Subtotaled and/or totaled dollar amounts may not be exact due to all expenses are reported to two decimal points but are rounded to nearest whole dollar for the HOPWA chart.)

ESG is expended by Federal Fiscal Year (10/1-9/30). TDHCA evaluated ESG funds committed versus funds expended by activity for PY 2013, a time period that consists of half of Federal Fiscal Year 2012 (2/1/2013-9/30/2013) and Federal Fiscal Year 2013 (10/1/2013-1/31/2014). Based on TDHCA's ESG

analysis, expenditures were well within range of state funding for activities. The largest disparities were found in Homelessness Prevention, where the State committed 23% of the overall budget and the activity accounted for 26% of expenditures, and in Rapid Re-Housing, where the State committed 32% of the total budget and the activity accounted for 30% of expenditures. The evaluation indicated that the State needed to minimally change its goals or projects.

TDHCA's HOME program committed \$45,747,623 through seven HOME Program activities in PY 2013, representing assistance to 1,133 households. Details on the amount committed in each activity type are included in the chart below.

Fund	2013 Total Obligation
Community Development Fund	\$42,879,742
Texas Capital Fund	\$14,873,609
Colonia Construction Fund	\$5,500,000
Colonia Economically Distressed Areas Program	\$619,665
Fund	
Colonia Planning Fund	\$24,250
Colonia Self-Help Centers	\$0*
Planning / Capacity Building	\$560,495
Disaster Relief/ Urgent Need	\$9,407,233
STEP Fund	\$2,006,406
Total	\$75,871,400
	*The Colonia Self Help Centers awarded \$1,564,167 in
	PY2012.

#### Table 1 - Table 1 - CDBG Funds Committed, PY 2013

Activity	Amount
Expenditures for Housing Information Services	\$0
Expenditures for Resource Identification	\$0
Expenditures for Housing Assistance (equals the sum of all sites and scattered-site Housing	\$2,285,384
Assistance)	
Expenditures for Supportive Services	\$469,448
Grantee Administrative Costs expended	\$25,375
Project Sponsor(s) Administrative Costs expended	\$176,971
Total of HOPWA funds expended during period	\$2,957,179

#### Table 2 - Table 2 - HOPWA Program Expenditures, PY 2013

Activity	Total Funds Expended*	Percentage
Street Outreach	\$502,953.00	6%
Emergency Shelter	\$2,875,237.00	30%
Homelessness Prevention	\$2,505,265.00	26%
Rapid Re-Housing	\$2,877,496.00	30%
Homeless Management Information	\$486,570.00	5%
Systems		
Administration	\$308,974.00	3%
Total	\$9,556,495.00	100%

*Expenditures include funds from PY 2011 Second	
Allocation and PY 2012.	

Table 3 - Table 3 - ESG Fund Expenditures by Activity (02/01/2013-01/31/2014)

Activity	Total Committed
Homebuyer Assistance (all activities)	\$4,144,295.52
Homeowner Rehabilitation	\$19,299,152.13
Tenant-Based Rental Assistance	\$5,072,945
CHDO Rental Development	\$3,000,000
CHDO Single Family Development	\$434,477
CHDO Operating Expenses	\$50,000
Rental Housing Development	\$13,746,754
Total	\$45,747,623.65

Table 4 - Table 4 - HOME Commitments by Activity, PY 2013

#### 4. Summary of citizen participation process and consultation process

The State is committed to collaboration with a diverse cross-section of the public in order to meet the various affordable housing needs of Texans. The State also collaborates with governmental bodies, nonprofits, and community and faith-based groups.

Prior to the release of the Draft Plan, several consultations were completed statewide, between April, 2014, and September, 2014, by TDHCA, DSHS, and TDA. The State conducted consultations in person, workshops, roundtables, planning meetings, and a public hearing. The State also conducted consultations electronically, using an online discussion forum, an online survey, listserv announcements, and emails.

During the consultation process, the State consulted with a wide variety of public, private, and nonprofit agencies that provide services including assisted housing, health services, and social and fair housing services, including those focusing on services to children, elderly persons, persons with disabilities, persons with HIV/AIDS and their families, homeless persons, and colonia residents.

Following the release of the Draft 2015-2019 Plan, a 32-day public comment period was open from September 12, 2014, through October 13, 2014. Four public hearings were held across the State at the following dates and times:

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

Two of the hearings were held after business hours. Six people commented at the hearings. Staff members received 28 email comments and 12 letter comments. Some of these commenters submitted oral and written comments and several of the letters represented comments of more than one person. TDHCA held tow roundtables in 2016 specific to NHTF, and accepted input a Board meetings and in writing prior to drafting the Application Plan. A hearing will be held during the public comment period,

and the results along with any comment received during the Public Comment period will be reported in

Consolidated Plan TEXAS 5

the final Plan

#### 5. Summary of public comments

The initial public comment on the development of the draft Plan focused on the HOME and CDBG programs. Summary of those comments and staff's reasoned responses are in AD-25. For the comments that occurred during the consultation, the descriptions are in Process Chapter Section 10. Because HUD's online template for grantees, Integrated Disbursement & Information System ("IDIS") had technical difficulties and provided data limitations in saving and responding to all of the consultations, a list of consultations is also attached in the Attachments Chapter.

The public comment on the draft Plan resulted in several clarifications and additional information included in the Plan. Every program received public comment. Public comments about the programs centered on funding goal percentages for each activity, scoring criteria for award-making, and distribution process of awards. Several commenters spoke or gave written testimony on behalf of special needs groups, such as homeless populations, victims of domestic violence, people with disabilities, and farmworkers. Additionally, a few of the comments asked for clarification on the data provided or the addition of national or local statistics or information in the Plan's Needs Assessment and Market Analysis Chapters. The summary of the 67 total comments and the staff responses is attached in the Attachments Chapter.

A summary of public comment and staff's reasoned response on the NHTF Allocation Plan will be provided in the final Plan.

## 6. Summary of comments or views not accepted and the reasons for not accepting them

Because of the flexible nature of a draft Plan, all comments were considered for revisions. Comments or views that were not accepted were typically comments or views that requested that one activity be eliminated in favor of another activity, or that a specific activity or staff member be dedicated to one special need population. Within the confines of the existing budget and program regulations, the funding goals for the activities selected in the Plan reflect the needs identified in the Needs Assessment. In addition, eliminating any activity would potentially hamper the ability of the State to have the flexibility to meet the varied needs of Texans and adhere to program regulations. Therefore, no activity was entirely defunded.

In addition, while the State supports initiatives to serve special needs populations, holding funds in specific programs developed for one special need population might place the State in a position of having to deny an equally qualified person from access to assistance. Except for the set asides for special needs provided by statute, no other specific program for a special needs population has been developed. In addition, staff members are available to provide assistance to conveying program requirements as they relate to special needs populations.

A summary of public comment and staff's reasoned response on the NHTF Allocation Plan will be provided in the final Plan.

#### 7. Summary

The consolidated planning process occurs once every five years, so creating a comprehensive Plan is vital for CDBG, HOME, ESG, and HOPWA, and NHTF. Because of the Plan's authority to govern these

programs, research from multiple sources, including other government plans, peer-reviewed journals, news sources, and fact sheets were used; valuable public input was gathered through roundtable meetings, council/workgroup meetings, public hearings, online surveys, and an online forum; and an expansive public input process is scheduled for the draft Plan.

The format of the Plan is mandated by an online form developed by HUD. HUD has provided an online template for grantees, through its planning and reporting system called IDIS. The questions in bold and many of the tables are created automatically by IDIS. After the Plan is received by HUD, the goals in the Plan are reported each year in another document called the Consolidated Annual Performance Evaluation Report ("CAPER"), which is also produced in IDIS.

### **PR-15 Citizen Participation - 91.115, 91.300(c)**

# 1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

Comprehensive outreach was conducted to gather input on the Plan. The public hearing and consultations conducted before the creation of the draft Plan, as well as discussion of the participation of local, regional, and statewide institutions, CoCs, and other organizations affected by the Plan are listed in Process Section 10. The Plan, as adopted, substantial amendments, and the Consolidated Plan Annual Performance and Evaluation Report ("CAPER") will be available to the public online at http://www.tdhca.state.tx.us and will have materials accessible to persons with disabilities, upon request.

#### **Encouragement of Public Participation**

To reach minorities and non-English speaking residents, the draft Plan outreach will follow TDHCA's Language Access Plan. Also, the notices will be printed in Spanish and English, per Texas Government Code §2105. Spanish speaking staff will attend meetings in areas likely to have Spanish speakers, such as San Antonio and the Rio Grande Valley. Translators for other languages will be made available at public meetings, if requested.

The State encourages the involvement of individuals of low incomes and persons with disabilities in the allocation of funds and planning process through regular meetings, including community-based institutions, consumer workgroups, and councils listed in Strategic Plan Section 35. All hearing locations are accessible to all who choose to attend, and public hearings will be held at times for both working and non-working persons. Comments can be submitted either at a public hearing or in writing via mail, fax, or email.

The State notifies residents in areas where CDBG funds are proposed for use by distributing information on public hearings through the CDBG email list from TDA. Information related to the Plan and opportunities for feedback were provided through webinars and web discussions that allow participation by residents of rural areas without requiring travel to a central location. Regional public hearings held as part of the Regional Review Committee process also encourage participation by CDBG stakeholders.

#### **Public hearings**

The Draft Plan was released for a 32-day public comment period from September 12, 2014, to October 13, 2014. TDHCA held at least four hearings across the state. Constituents were encouraged to provide input regarding all programs in writing or at one of the public hearings.

The public hearing schedule WAS published in the Texas Register and on TDHCA's website at http://www.tdhca.state.tx.us, and was advertised during various workgroups and committee meetings. During the public comment period, printed copies of the draft Plan was available from TDHCA, and electronic copies will be available for download from TDHCA's website.

The affect of consultations on goal-setting was discussed in Process Section 10. Public comment received on the draft Plan is included in the Attachment Chapter.

#### Criteria for Amendment to the Consolidated Plan

Substantial amendments will be considered if a new activity is developed for any of the funding sources or there is a change in method of distribution. If a substantial amendment is needed, reasonable notice by publication on TDHCA's website at http://www.tdhca.state.tx.us will be given, and comments will be received for no less than 30 days after notice is given. A public hearing will be optional.

#### Performance Report

The 2016 CAPER will analyze the results of the Plan. Due to the short 90-day turnaround time of the CAPER between the end of HUD's Program Year (1/31) and the due date, the public will be given reasonable notice by publication on TDHCA's website at http://www.tdhca.state.tx.us. Comment will be accepted for a minimum of 15 days. A public hearing will be optional.

## **Citizen Participation Outreach**

Sort	Mode	Target	Summary of	Summary of	Summary of c	URL (If applicable)
Orde	of Out	of Out	response/attendance	comments rece	omments not	
r	reach	reach		ived	accepted	
1	Clast.	6-6-	On January 0, 2014, TRUCA	C	and reasons	
1	Electr	CoCs,	On January 9, 2014, TDHCA	Commenters	On the 2014	
	onic	service	released a survey to receive input	generally	ESG survey,	
	survey	provid	from CoCs and services providers	supported the	commenters	
		ers	in the State of Texas on the	TDHCA method	requested	
			allocation of funding, performance	of allocation	that TDHCA	
			standards, and HMIS policies and	and did not	align its	
			procedures for its 2014 ESG funds.	support the	reporting to	
			Comments were received from	idea of limiting	mirror the	
			fourteen agencies representing six	funding to	HMIS. TDHCA	
			CoCs. The comments received will	applicants that	reporting is	
			be considered in program planning	do not receive	based on	
			for 2014. Such surveys will	direct funding	HUD's	
			continue to be used for future	from HUD.	requirements	
			program planning.	Emergency	for the CAPER.	
				shelter,	As HUD	
				homelessness	moves to	
				prevention, and	revise the	
				rapid re-	CAPER to	
				housing remain	more closely	
				the highest	reflect HMIS,	
				needs among	TDHCA will	
				the	follow.	
				commenters.		
				Commenters		
				generally		
				support the		
				idea of direct		
				ESG funding to		
				the CoCs but		
				clearly require		
				more		
				information.		

Sort Orde r	Mode of Out reach	Target of Out reach	Summary of response/attendance	Summary of comments rece ived	Summary of c omments not accepted and reasons	URL (If applicable)
2	Public	Non-	On July 23, 2014, TDHCA led a	Three speakers	A summary of	
	Hearin	target	public hearing at 2:00pm at the	gave comment	public	
	g	ed/bro	William B. Travis Building, 1701 N.	related only to	comment	
		ad	Congress, Room 1-100, Austin, TX,	the CDBG	received and	
		comm	78701. Twelve people were in	program, two	reasoned	
		unity	attendance and six provided	speakers gave	responses are	
			spoken and/or written comments.	comment	provided in	
				related only to	the	
				the HOME	Attachment	
				program, and	Chapter.	
				one speaker		
				gave comment		
				related to both		
				the CDBG and		
				HOME		
				programs.		
				Additionally, six		
				letters and one		
				email were		
				received as		
				written public		
				comment. All		
				written		
				comments		
				were made on		
				the HOME		
				program. A		
				summary of		
				public		
				comment		
				received is		
				provided in the		
				Attachments		
				Chapter.		

Sort Orde	Mode of Out	Target of Out	Summary of response/attendance	Summary of comments rece	Summary of comments not	URL (If applicable)
r	reach	reach		ived	accepted	
				_	and reasons	
3	Public	Non-	On Tuesday, September 30, 2014,	A summary of	A summary of	http://www.tdhca.
	Hearin	target	TDHCA led a public hearing at	public	public	state.tx.us/events/i
	g	ed/bro	6:00pm at the Omni San Antonio	comment	comment	ndex.jsp
		ad	Hotel, Grand Ballroom C, 9821	received and	received and	
		comm	Colonnade Boulevard, San	reasoned	reasoned	
		unity	Antonio, TX 78230. Eight people	responses are	responses are	
			were in attendance and three	provided in the	provided in	
			provided spoken and/or written	Attachment	the	
			comments.	Chapter.	Attachments	
					Chapter.	
4	Public	Minori	On Thursday, October 2, 2014,	A summary of	A summary of	http://www.tdhca.
	Hearin	ties	TDHCA led a public hearing at	public	public	state.tx.us/events/i
	g		11:00am at the Harlingen Public	comment	comment	ndex.jsp
		Non-	Library, Boggus Conference Room,	received and	received and	
		English	410 76 Drive, Harlingen, TX 78550.	reasoned	reasoned	
		Speaki	No one was in attendance and no	responses are	responses are	
		ng -	spoken and/or written comments	provided in the	provided in	
		Specif	were provided.	Attachment	the	
		у		Chapter.	Attachments	
		other			Chapter.	
		langua				
		ge:				
		Spanis				
		h				
5	Public	Non-	On Monday, October 6, 2014,	A summary of	A summary of	http://www.tdhca.
	Hearin	target	TDHCA led a public hearing at	public	public	state.tx.us/events/i
	g	ed/bro	6:00pm at the Stephen F. Austin	comment	comment	ndex.jsp
		ad	Building, Room 170, 1700 N.	received and	received and	
		comm	Congress Avenue, Austin, TX	reasoned	reasoned	
		unity	78701. Four people were in	responses are	responses are	
			attendance and two provided	provided in the	provided in	
			spoken and/or written comments.	Attachment	the	
				Chapter.	Attachments	
				,	Chapter.	

Sort	Mode	Target	Summary of	Summary of	Summary of c	URL (If applicable)
Orde	of Out	of Out	response/attendance	comments rece	omments not	
r	reach	reach		ived	accepted	
					and reasons	
6	Public	Non-	On Wednesday, October 8, 2014,	A summary of	A summary of	http://www.tdhca.
	Hearin	target	TDHCA led a public hearing at	public	public	state.tx.us/events/i
	g	ed/bro	12:30pm at the Fort Worth Central	comment	comment	ndex.jsp
		ad	Library, Chappell Meeting Room,	received and	received and	
		comm	500 West Third Street, Fort Worth,	reasoned	reasoned	
		unity	TX 76102. Two people were in	responses are	responses are	
			attendance and one provided	provided in the	provided in	
			spoken and/or written comments.	Attachment	the	
				Chapter.	Attachments	
					Chapter.	

Sort	Mode	Target	Summary of	Summary of	Summary of c	URL (If applicable)
Orde r	of Out reach	of Out reach	response/attendance	comments rece ived	omments not accepted	
'	reacii	reacii		Ivea	and reasons	
7	Electr	Non-	TDHCA filed a notice in the Texas	A summary of	A summary of	http://www.sos.sta
	onic	target	Register announcing the Public	public	public	te.tx.us/texreg/arc
	survey	ed/bro	Comment Period and four Public	comment	comment	hive/September19
		ad	Hearings on the Draft 2015-2019	received and	received and	2014/In%20Additio
		comm	State of Texas Consolidated Plan.	reasoned	reasoned	n/In%20Addition.h
		unity	The notice was filed on September	responses are	responses are	tml#189
			8, 2014 and was published in the	provided in the	provided in	
			September 19, 2014 Edition of the	Attachment	the	
			Texas Register. The notice	Chapter.	Attachments	
			announced that the State of Texas	Additionally, a	Chapter.	
			was holding a 32-day public	copy of the		
			comment period from Friday,	Texas Register		
			September 12, 2014 through 6:00	posting is		
			p.m. Central on Monday, October	provided as an		
			13, 2014, to obtain public	attachment to		
			comment on of the Draft 2015-	Section AD-25.		
			2019 State of Texas Consolidated			
			Plan. Comments were encouraged			
			on the Plan in written form or oral			
			testimony at the public hearings.			
			Written comments concerning the			
			Plan could be submitted by mail to			
			the Texas Department of Housing			
			and Community Affairs, Housing			
			Resource Center, P.O. Box 13941,			
			Austin, TX 78711-3941, by email to			
			info@tdhca.state.tx.us, or by fax			
			to (512) 475-0070. The deadline to			
			accept comments was Monday,			
			October 13, 2014, 6:00 p.m.			
			Central Time.			

Sort	Mode	Target	Summary of	Summary of	Summary of c	URL (If applicable)
Orde	of Out	of Out	response/attendance	comments rece	omments not	
r	reach	reach		ived	accepted	
					and reasons	
8	Intern	Non-	To broaden citizen participation,	A summary of	A summary of	http://www.tdhca.
	et	target	TDHCA created a webpage to post	public	public	state.tx.us/housing
	Outre	ed/bro	information on the 2015-2019	comment	comment	-
	ach	ad	State of Texas Consolidated Plan,	received and	received and	center/consolidate
		comm	including the Draft Plan, public	reasoned	reasoned	d-plan-2015-
		unity	hearing information, and	responses are	responses are	2019.htm
			submitting public comment. The	provided in the	provided in	
			unique URL of the webpage was	Attachments	the	
			shared widely by listserv emails	Chapter.	Attachments	
			and through TDHCAâ¿¿s	Additionally,	Chapter.	
			Twitter and Facebook accounts.	screenshots of		
			During the public comment period	the webpage		
			(September 12, 2014 through	and social		
			October 13, 2014). Twenty-eight	media outreach		
			emails were received during the	are provided as		
			public comment period.	an attachment		
				to Section AD-		
				25.		

Table 5 – Citizen Participation Outreach

## SP-10 Geographic Priorities – 91.315(a)(1)

#### **Geographic Area**

**Table 6 - Geographic Priority Areas** 

Area Name:	State of Texas
Area Type:	State Service Area
Other Target Area Description:	State Service Area
HUD Approval Date:	
% of Low/ Mod:	
Revital Type:	
Other Revital Description:	
Identify the neighborhood boundaries for this target	State of Texas.
area.	
Include specific housing and commercial characteristics	Described in the Needs Assessment of
of this target area.	the 2015-2019 State of Texas
	Consolidated Plan.
How did your consultation and citizen participation	Described in the Process Chapter of the
process help you to identify this neighborhood as a	2015-2019 State of Texas Consolidated
target area?	Plan.
Identify the needs in this target area.	Described in the Needs Assessment of
	the 2015-2019 State of Texas
	Consolidated Plan.
What are the opportunities for improvement in this	Described in the Needs Assessment and
target area?	Market Analysis of the 2015-2019 State
	of Texas Consolidated Plan.
Are there barriers to improvement in this target area?	Described in the Needs Assessment and
	Market Analysis of the 2015-2019 State
	of Texas Consolidated Plan.

#### **General Allocation Priorities**

Describe the basis for allocating investments geographically within the jurisdiction (or within the EMSA for HOPWA)

TDHCA and TDA do not provide priorities for allocating investment geographically to areas of minority concentration as described in 24 CFR §91.320(d).

**HOME Program Geographic Priorities** 

Texas Government Code §2306.111 requires that TDHCA use a Regional Allocation Formula ("RAF") to allocate its HOME funding. The RAF uses the data from the Census Bureau to prioritize funding, such as: number of persons who live at or under 200% of the poverty line; number of households with rent or mortgage payment that exceeds 30% of income; number of units with more than one person per room;

and vacant units for rent or for sale. Both homeowner data and renter data are used in the RAF. This formula captures data on all Texas counties and accordingly reflects geographic priorities.

Additionally, Texas Government Code §2306.111 specifies that TDHCA shall expend at least 95% of its HOME funds for the benefit of areas not in Participating Jurisdictions ("PJs"). Therefore, need and availability in the areas that are PJs are not prioritized in the RAF. The RAF distributes all HOME funds from the annual allocation except for federal- and state-mandated activities, such as CHDO Operating Expenses, housing programs for persons with disabilities, and the Contract for Deed Conversion Program. The RAF assessed, revised as appropriate, and published annually, after the public comment process, at https://www.tdhca.state.tx.us/housing-center/pubs-plans.htm.

#### **ESG Geographic Priorities**

Beginning with Federal Fiscal Year 2013, ESG funds have been prioritized for each of the HUD-designated Continuum of Care ("CoC") Regions. This is according to a combination of the CoC region's proportionate share of the total homeless population (based on the Point-in-Time count submitted to HUD by the CoCs) and the proportionate share of people living in poverty (based on the American Community Survey). For the purposes of distributing funds, the percentage of statewide homeless population is weighted at 75% while the percentage of statewide population in poverty is weighted at 25%.

#### **CDBG Geographic Priorities**

Texas CDBG Funds for projects under the Community Development ("CD") Fund are allocated by formula to 24 regions based on the methodology that HUD uses to allocate CDBG funds to the non-entitlement state programs (21.71% of annual allocation), along with a state formula based on poverty and unemployment (40% of annual allocation). In addition, 12.5% of the annual allocation is allocated to projects under the Colonia Fund categories, which must be expended within 150 miles of the Texas-Mexico border. Colonia SHC funds are allocated by statute among five Texas-Mexico border counties, as well as in other border counties that are determined to be economically distressed. Allocations for each SHC correspond to contract activities that are proposed by the SHCs and the Colonia Resident Advisory Committee ("C-RAC").

#### **HOPWA Geographic Priorities**

Texas HOPWA funding allocations are geographically distributed across the state to the 26 HIV-Service Delivery Areas ("HSDA") based on factors such as population with HIV and unmet need. Texas has 254 counties and can carry out activities anywhere in the state. Texas serves all the rural counties and is a wrap-around for the federally-designated six Metropolitan Statistical Areas ("MSAs") that receive direct HOPWA funding from HUD, which means there is some overlap of counties served by both the MSA and the state. The six directly-funded MSAs are Austin, Dallas, Fort Worth, Houston, San Antonio, and El Paso, and counties under each MSA are subject to change. DSHS allocates funding to meet the needs of PLWH in Texas, many of whom reside in areas of minority concentration; most PLWH are racial and ethnic minorities.

#### **NHTF Geographic Priorities**

The Texas NHTF will distribute NHTF funds through a competitive NOFA process. For any year that the NHTF allocation is less than \$10 million, the funds will initially be available geographically, based on the proportion of Extremely Low Income Renter households to the total population of Renter Households in each of thirteen State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by thirteen, and available competitively within each region prior to collapse into a statewide competition. If the allocation received by the State exceeds \$10 million, the Regional Allocation Formula used for the State's allocation of HOME funds will be used to distribute NHTF funds, although statutory requirements regarding benefit of areas not in Participating Jurisdictions or any HOME-specific setasides will not apply. If the State implements a homeownership program component using NHTF, the homeownership program only may use a different allocation method, based on proportionate need.

## **SP-25 Priority Needs – 91.315(a)(2)**

## **Priority Needs**

Table 7 – Priority Needs Summary

1	Priority Need	Rental Assistance
	Name	
	Priority Level	High
	Population	Extremely Low
	•	Low
		Moderate
		Large Families
		Families with Children
		Elderly
		Public Housing Residents
		Rural
		Chronic Homelessness
		Individuals
		Families with Children
		Mentally III
		Chronic Substance Abuse
		veterans
		Persons with HIV/AIDS
		Victims of Domestic Violence
		Unaccompanied Youth
		Elderly
		Frail Elderly
		Persons with Mental Disabilities
		Persons with Physical Disabilities
		Persons with Developmental Disabilities
		Persons with Alcohol or Other Addictions
		Persons with HIV/AIDS and their Families
		Victims of Domestic Violence
	Geographic	State Service Area
	Areas	
	Affected	Target Based Bartal Assistance with HONAS for direct
	Associated Goals	Tenant-Based Rental Assistance with HOME funding HOPWA Tenant-Based Rental Assistance
	Goals	
		HOPWA Permanent Housing Placement Assistance CDBG Colonia Self-Help Centers
		HOME Administration
	Description	Rental Assistance includes security and utility deposits, and rental subsidies, usually while the
	Description	household engages in a self-sufficiency program.
		nousenota engages in a sen samelency program.

### Basis for The Needs Assessment in Section 10 and Section 30 established that cost burden was a housing Relative problem that by far affected the most households with housing problems and were within 0-100% Area Median Income ("AMI"). Needs Assessment Section 10, Table 3, "Housing Problems", **Priority** shows that 83% of renters with housing problems and income between 0-100% AMI had cost burden (i.e., spending more than 30% of income on rent) or severe cost burden (i.e., spending 50% or more of income on rent). In the answer to the question in that section "What are the most common housing problems", it was found that renters with housing problems in the 0-30% AMI category experienced a severe cost burden 5% higher than homeowners with housing problems, and renters with housing problems in the >30-50% and >50-80% AMI categories experienced non-severe cost burden 9-17% higher than homeowners with housing problems. The Market Analysis Section 15 shows that renters do not have access to enough affordable rental units. First, in the answer to the question in that section "Is there sufficient housing for households at all income levels?", there is a discussion of housing mismatch which demonstrates that higher income households often reside in market-rate units that could be affordable to the lowest-income households. Low-income households (e.g., 0-80% AMI) make up only 56% of all households occupying housing affordable to them. Even though there appears to be a large number of affordable units, this mismatch is one issue that creates cost burden. Also, in the answer to the question in that section "How is affordability of housing likely to change considering changes to home values and/or rents?", even with the increase in median incomes, the rates of cost burden for all renters remained steady over 5 years at 44%. Rental assistance would help to lower this rate of cost burden. 2 **Priority Need** Production of new units Name **Priority Level** High

F	Population	Extremely Low
		Low
		Moderate
		Large Families
		Families with Children
		Elderly
		Public Housing Residents
		Rural
		Chronic Homelessness
		Individuals
		Families with Children
		Mentally III
		Chronic Substance Abuse
		veterans
		Persons with HIV/AIDS
		Victims of Domestic Violence
		Unaccompanied Youth
		Elderly
		Frail Elderly
		Persons with Mental Disabilities
		Persons with Physical Disabilities
		Persons with Developmental Disabilities
		Persons with Alcohol or Other Addictions
		Persons with HIV/AIDS and their Families
		Victims of Domestic Violence
		Other
(	Geographic	State Service Area
1	Areas	
1	Affected	
1	Associated	Construction of single family housing
C	Goals	Households in new/rehabilitated multifamily units
	1	CDBG Colonia Set-Aside
		HOME Administration
		NHTF Adminsitration

#### Description

Multifamily development of new units for the construction of a rental development, which will have units to be offered at below-market-rate rents.

CHDOs could be eligible to receive funding for the new construction of affordable single-family

homes. New single-family homes must follow certain design and quality requirements and must be sold to low-income homebuyers after completion of construction. The production of new units may be paired with permanent financing to qualified households if needed. Production also includes Self-Help Housing. The Bootstrap Loan Program ("Bootstrap") allows for self-help housing construction to provide very low-income families—including persons with special needs, such as colonia residents—an opportunity to purchase or refinance real property on which to build new housing or repair their existing homes through "sweat equity." Household income may not exceed 60% of AMI. All Bootstrap households provide at least 65% of the labor necessary to build or rehabilitate their housing under the supervision and guidance of a state-

certified administrator or Colonia Self-Help Center. The maximum Bootstrap loan may not

exceed \$45,000 per household.

The Colonia SHCs provides targeted colonias in border counties with opportunities to improve housing and increase personal capacity for homeownership. The SHCs provide housing services in the form of new construction, reconstruction, rehabilitation, small repairs, tool lending, construction skills training, and utility connections. Colonia residents are able to repair and construct their own and others' housing under the guidance of qualified nonprofit housing developers who provide training in construction methods and homeownership. SHC community development activities include homeownership education, access to and training in computers/technology, consumer rights education, financial literacy, and solid waste disposal assistance.

	Basis for	As previously established in the "Basis for Relative Priority" for the Rental Assistance Priority
	Relative	Need, the most common housing problem for renters is distinctly cost burden. Creation of new
	Priority	multifamily units that offer reduced rents works hand-in-hand with rental assistance, since both
		types of assistance alleviate cost burden.
		Regarding the need for more affordable single-family units, the Needs Assessment Section 10
		established that cost burden was a housing problem that by far affected the most homeowners
		that had housing problems and were within 0-100% AMI. Needs Assessment Section 10, Table 3,
		"Housing Problems", shows that 87% of homeowners with housing problems and incomes
		between 0-100% AMI had cost burden (i.e., spending more than 30% of income on mortgage) or
		severe cost burden (i.e., spending 50% or more of income on mortgage). In the answer to the
		question in that section "What are the most common housing problems", it was found that
		homeowners with housing problems in the 0-30% and >80-100% AMI categories experienced a
		cost burden 7-10% higher than renters with housing problems.
		Also, Needs Assessment Section 30 discussed the needs of colonia residents, who live in colonias
		with reduced infrastructure and poor housing. New affordable units would provide options for
		persons who live in substandard housing.
		Finally, the Market Analysis Section 15 showed how the affordability of homes for households
		with median family income compared to the income required to qualify for an 80%, fixed-rate
		mortgage to purchase a median priced home in most Multiple Listing Services ("MLS") has gone
		down from 2011 to 2013. When affordability is going down, the need for affordable units
		increases.
		Because of these factors, TDHCA will continue to evaluate annually whether a portion of NHTF
		should be directed to ownership activities to address housing problems within the context of
		availability of other fund sources.
3	<b>Priority Need</b>	Acquisition of existing units
	Name	
	<b>Priority Level</b>	High

Population	Extremely Low
	Low
	Moderate
	Large Families
	Families with Children
	Elderly
	Public Housing Residents
	Elderly
	Frail Elderly
	Persons with Mental Disabilities
	Persons with Physical Disabilities
	Persons with Developmental Disabilities
	Persons with HIV/AIDS and their Families
	Victims of Domestic Violence
	Other
Geographic	State Service Area
Areas	
Affected	
Associated	Homebuyer assistance with possible rehabilitation
Goals	CDBG Colonia Set-Aside
	HOME Administration
Description	Acquisition of existing units would provide funds for downpayment and closing costs.  Homebuyer assistance could be paired with rehabilitation, if the home has architectural barriers for persons with disabilities. Homebuyer assistance can also include contract for deed
	conversions.
	Finally, TDHCA's Colonia SHCs provides targeted colonias in border counties with opportunities to improve housing and increase personal capacity for homeownership and employment. The
	SHCs provide housing services in the form of new construction, reconstruction, rehabilitation, small repairs, contract for deed conversions, tool lending, construction skills training, and utility
	connections. Colonia residents are able to repair and construct their own and others' housing
	under the guidance of qualified nonprofit housing developers who provide training in
	construction methods and homeownership. SHC community development activities include
	homeownership education, access to and training in computers/technology, consumer rights
	education, financial literacy, and solid waste disposal assistance.
	education, inialicial literacy, and solid waste disposal assistance.

	Basis for	As was already established in the "Basis for Relative Priority" for the Production of new units,
	Relative	the most common housing problem for owners is cost burden. Assisting homebuyers with the
	Priority	affordable acquisition of units will help address cost burden for potential homebuyers.
	,	As established by Needs Assessment Section 30, unscrupulous practices regarding the use of
		contracts for deed are often detrimental to the buyers of properties. By converting those
		contracts for deed to traditional mortgages, the units that were unaffordable through the high
		interest rates in the contracts for deed become affordable through mortgages, while also
		providing the homeowner with the full rights of homeownership.
		Also, as established by Needs Assessments Section 45, persons with disabilities may need
		assistance with barrier removal. The pairing of homebuyer assistance, which helps make the
		home affordable, and barrier removal, which allows the person with a disability to function in
		the home, addresses a housing and special need.
4	Priority Need	Rehabilitation of housing
	Name	
	Priority Level	High
	Population	Extremely Low
		Low
		Moderate
		Large Families
		Families with Children
		Elderly
		Public Housing Residents
		Rural
		Chronic Homelessness
		Individuals
		Families with Children
		Mentally III
		Chronic Substance Abuse
		veterans
		Persons with HIV/AIDS
		Victims of Domestic Violence
		Unaccompanied Youth
		Elderly
		Frail Elderly
		Persons with Mental Disabilities
		Persons with Physical Disabilities
		Persons with Developmental Disabilities
		Persons with Alcohol or Other Addictions
		Persons with HIV/AIDS and their Families
		Victims of Domestic Violence
		Other

Geographic	State Service Area
Areas	
Affected	
Associated	Homeless Goals
Goals	Rehabilitation of single family housing
	Households in new/rehabilitated multifamily units
	CDBG Colonia Set-Aside
	CDBG Colonia Self-Help Centers
	CDBG Administration
	HOME Administration
	NHTF Administration
Description	Rehabilitation is the act of making repairs designed to address health and safety concerns, as
	well as local code requirements, and reconstruction is rebuilding either because it is not cost
	feasible to repair the home because of the extent of needed repairs, or because a home has
	been damaged or destroyed beyond repair.
	Rehabilitation or reconstruction of single-family units involves construction activities on owner-
	occupied housing on the same site. Activities intended to address rehabilitation needs can also
	result in new construction of housing units when they replace a previous, existing housing unit.
	Also permitted are (1) instances where an existing owner-occupied manufactured housing unit is
	replaced with a site-built house or another manufactured housing unit on the same site; (2) an
	existing housing unit is demolished and rebuilt on a lot located outside a floodplain or away
	from other environmental hazards; or (3) when a housing unit is replaced because it has become
	uninhabitable as a result of disaster or condemnation by local government.
	Rehabilitation of multifamily units varies from property to property depending on specific needs,
	and could include exterior and/or interior work. A definition of rehabilitation can be found in the
	Uniform Multifamily Rules 10 Texas Administrative Code, §10.3.
	Rehabilitation and reconstruction includes self-help housing, which involves on-site technical
	assistance to low- and very low-income individuals for outreach and education; housing
	rehabilitation; construction skills training; tool library access for self-help construction; housing
	finance; credit and debt counseling; grant writing; contract-for-deed conversions; and capital
	access for mortgages.
	Finally, rehabilitation may include renovation or major rehabilitation of an emergency shelter or
	conversion of a building into an emergency shelter.

## Basis for Relative Priority

As was already established in the "Basis for Relative Priority" for the Production of new units, the most common housing problem for renters and owners is cost burden. The Needs Assessment Section 10 shows that substandard housing is the least commonly identified housing problem, experienced by only 2% of the population under 100% AMI. However, the Market Assessment Section 15 notes the importance of local economies on the housing markets. While substandard housing is not as common of a problem for Texas as a whole compared to other housing problems, in some communities substandard housing may be a substantial problem. This is true in rural areas and especially true in colonias, as noted in Needs Assessment Section 30. Colonias are unique in that they have large amounts of substandard housing but, unlike much of the rest of Texas, have more affordable housing, as described in Market Analysis Section 50.

Rehabilitation of multifamily units will help ensure affordability for renters and, as new units are added to the State's affordable housing stock, provide more affordable rental choices. Rehabilitation for single-family housing in colonias is strongly supported by the Needs Assessment and Market Analysis. Rehabilitation outside the colonias may be supported by local markets, as illustrated by comments during the consultation of the 2015-2019 State of Texas Consolidated Plan from TICH and TDCJ (Market Analysis Section 20).

Although homeowner cost burden is measured in the Needs Assessment Chapter by comparing the mortgage and utility payments to the income of the homeowner, an analysis of home rehabilitation or reconstruction compared to income of the homeowner may show a substantial hardship for homeowners. Assistance of up to \$85,000, which is the highest amount allowable in the HOME Single Family rehabilitation/reconstruction activity in 2014, would result in a loan of similar size as some mortgages as generated through a private financial institution. If the homeowner already has a mortgage or has income between 0-80% AMI, this large loan payment could create a burden. In this way, rehabilitation could affect affordability for the homeowner. HOME's Single-Family rehabilitation/reconstruction program helps sustain affordability, because it repairs or replaces older housing stock through deferred, forgivable loans or grants with new, more energy-efficient housing stock, thus reducing potential cost burden. Though the focus in the Needs Assessment and Market Analysis is on affordability and availability, it should be noted that rehabilitation would also improve the safety of the homeowner.

Because of these factors and particularly the needs inside colonias, HOME funds are made available annually for single family rehabilitation activities. TDHCA will continue to evaluate annually whether HOME funds should be directed to other activities that could more directly address common housing problems, such as cost burden, while ensuring that the rural parts of the state have access address the most common housing problems they may be experiencing based on geography or population.

Regarding the rehabilitation of emergency shelters, Needs Assessment 40 shows that there are 16,336 unsheltered homeless on a given night. Maintaining the safety and quality of shelters will continue to warrant the rehabilitation of emergency shelters when possible.

# 5 Priority Need Name

Supportive Services for Persons with HIV/AIDS

Priority Level	High
Population	Extremely Low
	Low
	Moderate
	Large Families
	Families with Children
	Elderly
	Public Housing Residents
	Persons with HIV/AIDS
	Persons with HIV/AIDS and their Families
Geographic	State Service Area
Areas	
Affected	
Associated	HOPWA-Funded Supportive Services
Goals	
Description	The Supportive Services program provides case management, basic telephone service, and
	assistance to purchase smoke detectors to eligible individuals living with HIV and their
	families. Case managers also assist HOPWA clients with comprehensive housing plans and make
	referrals such as medical care, mental health and/or substance abuse treatment, and other
	services based on the client's individual needs.
Basis for	The Market Analysis states that the State HOPWA program provides tenant-based rental
Relative	assistance; short-term rent, mortgage, and utilities assistance, and some project sponsors
Priority	provide financial assistance with security deposits and credit checks. HOPWA-eligible individuals
	who have exited from an institution into the State's HOPWA program receive supportive
	services from a case manager which include a comprehensive housing plan and linkage and
	referrals to health professionals as needed to assist in keeping the client stable and housed.
	HOPWA eligibility requires an HIV diagnosis and income at 80% or below AMI. HIV
	disproportionally affects racial/ethnic minorities and males. At the end of 2012, 72,932 persons
	were living with HIV in Texas, many at incomes below the poverty level, and the number
	continues to rise every year. According to the DSHS 2012 Texas STD and HIV Integrated
	Epidemiologic Profile, Texas had the 8th highest rate (19.7/100,000 population) of new HIV
	diagnoses in the nation in 2011. Housing is a critical need for PLHW and their families.
<b>Priority Need</b>	Homeless Outreach
Name	
<b>Priority Level</b>	High

Population	Extremely Low
	Low
	Moderate
	Large Families
	Families with Children
	Elderly
	Rural
	Chronic Homelessness
	Individuals
	Families with Children
	Mentally III
	Chronic Substance Abuse
	veterans
	Persons with HIV/AIDS
	Victims of Domestic Violence
	Unaccompanied Youth
	Other
Geographic	State Service Area
Areas	
Affected	
Associated	Homeless Goals
Goals	
Description	Offering essential services helps unsheltered homeless persons connect with emergency shelter,
	housing, or critical services, and provides urgent, non-facility-based care to those who are
	unwilling or unable to access emergency shelter, housing, or an appropriate health facility.
	Outreach includes engagement, case management, emergency health and mental health
	services, transportation, and services for special needs populations.
	Case Management includes using a centralized assessment system, conducting evaluations,
	counseling, coordinating services, obtaining local benefits, monitoring program participant
	progress, providing information and referrals, and developing an individualized housing.
	Emergency health services include assessing a program participant's health problems and
	developing a treatment plan while helping to understand their health needs. Mental health
	services are also provided.
	Transportation assistance is allowed for the homeless population and outreach providers.
	Outroach to special people population will you based on the special people and will be specified in
	Outreach to special needs population will vary based on the special need and will be specified in

	Basis for	Needs of individuals and families at risk of homelessness are established in Needs Assessment
	Relative	Section 10. Along with having low-incomes, many individuals and families at risk of
	Priority	homelessness have co-occurring issues, such as needs for essential services like child care or
		education. Because of these co-occurring issues, outreach to prevent homelessness for these
		populations is essential.
		Special needs populations described in Needs Assessment Section 45 have difficulty retaining
		housing in unique ways and are often vulnerable to homelessness. These populations need
		outreach tailored to them.
7	Priority Need	Emergency shelter and transitional housing
•	Name	Emergency shereer and cransitional mousing
	Priority Level	High
	Population	Extremely Low
		Low
		Moderate
		Large Families
		Families with Children
		Elderly
		Rural
		Chronic Homelessness
		Individuals
		Families with Children
		Mentally III
		Chronic Substance Abuse
		veterans
		Persons with HIV/AIDS
		Victims of Domestic Violence
		Unaccompanied Youth
		Other
	Geographic	State Service Area
	Areas	
	Affected	
	Associated	Homeless Goals
	Goals	
	Description	Emergency shelter means the provision of a temporary shelter for homeless persons which does
		not require occupants to sign leases or occupancy agreements. Emergency shelters include
		shelters that provide overnight accommodation services as well as shelters that provide a space
		to stay during day time hours. Emergency shelters can offer essential services, such as case
		management, child care, education services, employment assistance, job training, outpatient
		health services, legal services, life training skills, mental health services, substance abuse
		treatment services, transportation, and services for special populations.

	Basis for	As was already established in the "Basis for Relative Priority" for Rental Assistance, the most
	Relative	common housing problem is cost burden. As discussed in Needs Assessment Section 10, certain
	Priority	characteristics, such as cost burden, can lead to instability of housing and risk of homelessness.
		With the 16,336 estimated number of homeless persons unsheltered on a given night listed in
		the Needs Assessment Section 40, the need for emergency shelter becomes apparent.
8	Priority Need	Rapid Re-housing
	Name	
	Priority Level	High
	Population	Extremely Low
		Low
		Large Families
		Families with Children
		Elderly
		Public Housing Residents
		Elderly
		Frail Elderly
		Persons with Mental Disabilities
		Persons with Physical Disabilities
		Persons with Developmental Disabilities
		Persons with Alcohol or Other Addictions
		Persons with HIV/AIDS and their Families
		Victims of Domestic Violence
		Other
	Geographic	State Service Area
	Areas	
	Affected	
	Associated	Homeless Goals
	Goals	
	Description	Rapid re-housing includes housing relocation, stabilization services, and short- and/or medium-
		term rental assistance as necessary to help a homeless individual or family move as quickly as
		possible into permanent housing and achieve stability in that housing. Rapid re-housing may
		involve providing last month's rent, rental application fees, security deposits, utility deposits,
		utility payments, and moving costs. Services provided for homelessness prevention may involve
		housing search and placement, housing stability case management, mediation, legal services for
		subject matters such as landlord/tenant disputes, and credit repair.
	Basis for	As established in Needs Assessment Section 40, a continuum of care approach for homeless
	Relative	populations necessitates more options than only providing emergency shelter. In addition,
	Priority	Market Analysis Section 30 discusses the cost savings of rapid re-housing.
9	Priority Need	Homelessness Prevention
	Name	
	Priority Level	High
	· · · · · · · · · · · · · · · · · · ·	-

Population	Extremely Low
	Low
	Large Families
	Families with Children
	Elderly
	Public Housing Residents
	Persons with HIV/AIDS and their Families
	Other
Geographic	State Service Area
Areas	
Affected	
Associated	Homeless Goals
Goals	HOPWA Tenant-Based Rental Assistance
	HOPWA Short-Term Rent, Mortgage, & Utilities Asst
	HOPWA Permanent Housing Placement Assistance
Description	Homelessness prevention includes using relocation and stabilization services and short- and/or
	medium-term rental assistance to prevent an individual or family from moving into an
	emergency shelter or another place. Homelessness prevention may involve providing last
	month's rent, rental application fees, security deposits, utility deposits, utility payments, and
	moving costs. Services provided for homelessness prevention may involve housing search and
	placement, housing stability case management, mediation, legal services for subject matters
	such as landlord/tenant disputes, and credit repair.
	The Texas HOPWA program prevents homelessness and stabilizes housing for PLWH in Texas
	with housing subsidy assistance activities and supportive services. TBRA provides tenant-based
	rental assistance to eligible individuals until they are able to secure other affordable and stable
	housing. STRMU provides emergency short-term rent, mortgage, and utility payments to eligible
	individuals for a maximum of 21 weeks of assistance in a 52-week period. PHP provides
	assistance for housing placement costs which may include application fees, related credit
	checks, and reasonable security deposits necessary to move persons into permanent housing.
	All of these activities, along with supportive services, helps clients maintain affordable and
	stable housing, reduces risk of homelessness, and improves access to health care and supportive
	services.

	Basis for	As established in Needs Assessment Section 40, a continuum of care approach for homeless
	Relative	populations necessitates more options than providing emergency shelter. Market Analysis
	Priority	Section 30 discusses the cost savings of homelessness prevention.
	Filolity	PLWH and their families have a critical need for housing in Texas. Stable housing significantly
		increases rates of improved health outcomes for this population. HOPWA eligibility requires an
		HIV diagnosis and income at 80% or below AMI. HIV disproportionally affects racial/ethnic
		minorities and males. At the end of 2012, 72,932 persons were living with HIV in Texas, many at
		incomes below the poverty level, and the number continues to rise every year. "In 2011Texas
		had the 8th highest rate (19.7/100,000 population) of new HIV diagnoses in the nation" (Texas
		Department of State Health Services, 2014).
10	Priority Need	Public Improvements and Infrastructure
	Name	abile improvements and impast detaile
	Priority Level	High
	Population	Extremely Low
		Low
		Moderate
		Non-housing Community Development
		Other
	Geographic	State Service Area
	Areas	
	Affected	
	Associated	CDBG Other Construction
	Goals	CDBG Economic Development
		CDBG Planning / Capacity Building
		CDBG Disaster Relief / Urgent Need
		CDBG Colonia Set-Aside
		CDBG Administration
	Description	Public improvements and infrastructure include water and wastewater systems, roads/streets,
		and other utilities.
		SHCs in colonias include on-site technical assistance to low- and very low-income individuals and
		families for community development activities; infrastructure improvements; outreach and
		education; construction skills training; and infrastructure construction and access.
	Basis for	Although the Non-Homeless Special Need category "other" does not indicate which "other" is
	Relative	specified in the printed version of this document, "other" in this context means colonia
	Priority	residents.
		The Needs Assessment shows the need for public improvements and infrastructure as a majority
		of the applications received for CDBG funds include improvements and/or installation of public
		infrastructure. This predominance demonstrates a priority need for these types of projects.
11	Priority Need	Economic development
	Name	
	Priority Level	High

	Population	Extremely Low
	· opulation	Low
		Moderate
		Non-housing Community Development
		Other
	Geographic	State Service Area
	Areas	State Service Area
	Affected	
	Associated	CDBG Other Construction
	Goals	
	Goals	CDBG Economic Development CDBG Administration
	Description	
	Description	Economic development includes projects in support of job creation activity primarily benefiting
		individuals of low-to-moderate income and downtown revitalization activities to
		eliminate/prevent slum and blight conditions.
	Basis for	Although the Non-Homeless Special Need category "other" does not indicate which "other" is
	Relative	specified in the printed version of this document, "other" in this context means colonia
	Priority	residents.
		The Market Analysis shows that economic development is needed as growing urbanization and
		an increasingly competitive global environment present challenges for the economic conditions
		of rural, non-entitlement communities.
12	Priority Need	Public facilities
	Name	
	Priority Level	High
	Population	Extremely Low
		Low
		Moderate
		Non-housing Community Development
		Other
	Geographic	State Service Area
	Areas	
	Affected	
	Associated	CDBG Other Construction
	Goals	CDBG Economic Development
		CDBG Planning / Capacity Building
		CDBG Disaster Relief / Urgent Need
		CDBG Colonia Set-Aside
		CDBG Administration
	Description	Public facilities include, but are not limited to neighborhood facilities such as libraries, public
		schools or community centers, and facilities for persons with special needs such as the homeless
		and senior citizens.

	Basis for	The Needs Assessment explains how rural, non-entitlement communities frequently face
	Relative	choosing to utilize CDBG funds for public facilities over their public infrastructure needs. Given
	Priority	the importance of public facilities, CDBG is developing the Community Enhancement fund to use
		deobligated funds to support public facility projects in rural communities.
13	<b>Priority Need</b>	Public services
	Name	
	<b>Priority Level</b>	High
	Population	Extremely Low
		Low
		Moderate
		Non-housing Community Development
		Other
	Geographic	State Service Area
	Areas	
	Affected	
	Associated	CDBG Other Construction
	Goals	CDBG Economic Development
		CDBG Planning / Capacity Building
		CDBG Disaster Relief / Urgent Need
		CDBG Colonia Self-Help Centers
		CDBG Administration
	Description	Public service activities include, but are not limited to, employment services, health services,
		and services for senior citizens.
	Basis for	The Needs Assessment shows the need for public services in rural communities is frequently
	Relative	foregone in order to employ CDBG for fundamental public infrastructure improvements.
	Priority	Additionally, many rural communities lack the service providers needed to deliver such services
		in their communities.

#### Narrative (Optional)

Low-income persons with special needs include colonia residents; elderly and frail elderly populations; homeless populations and persons at risk of homelessness; persons with alcohol and substance use disorders; persons with mental, physical, intellectual, or developmental disabilities; persons with HIV/AIDS and their families; public housing residents and persons on wait lists for public housing; veterans and wounded warriors; victims of domestic violence, including persons with protections under the Violence Against Woman Act ("VAWA") (domestic violence, dating violence, sexual assault, or stalking); youth aging out of foster care; and farmworkers are considered special needs groups for housing-related priority goals. Please refer to the Needs Assessment Chapter of this document for more detailed descriptions of the need associated with special needs groups. Note that when the population is listed as "other," this could be one of three populations: colonia residents, youth aging out of foster care, and farmworkers.

## SP-30 Influence of Market Conditions – 91.315(b)

## **Influence of Market Conditions**

Market Characteristics that will influence
the use of funds available for housing type
Market Analysis Section 15 shows a possible housing mismatch in which lower-income Texans
frequently are only able to access higher income units. In this case, TBRA can assist with that
problem. TBRA allows eligible households the choice of rental units.
HOME Use of TBRA
The HOME Program takes into account the needs of households that have a cost burden as
market conditions lead to the need for TBRA. Rental subsidy and security and utility deposit
assistance is provided to tenants, in accordance with written tenant selection policies, for an
initial period not to exceed 24 months. If available, additional funds may be set-aside to provide
assistance beyond 24 months.

Affordable	Market Characteristics that will influence
Housing Type	the use of funds available for housing type
TBRA for Non-	Established in the Market Analysis Section 10, some special needs populations receive priority in
Homeless Special	many programs.
Needs	HOME Use of TBRA for People with Special Needs
	The HOME Program considers income, availability of housing, and condition of housing for
	persons with special needs as market conditions that lead to the need for TBRA for this
	population. The Needs Assessment chapter also highlights the need in Texas for special needs
	populations to have access to rental housing. For example, the numbers of persons with
	disabilities transitioning from institutional living into community-based living is increasing,
	creating a priority for the State of Texas. TDHCA's TBRA is critical in helping households
	transition back into the community. In addition, of the HOME funding that TDHCA specifically
	sets aside for persons with disabilities, approximately 80% of the assisted households requested
	TBRA in 2014; the remainder of the requests were for home repair or to purchase homes.
	HOPWA use of TBRA for People with Special Needs
	For low-income PLWH, a lack of affordable housing is an ongoing issue. Housing placement
	requires two and one half times the rent in income, but the cost of living is rising (i.e. increases
	in rent, utilities, application fees, and security deposits) while incomes remain the same or
	decrease.
	Housing options are further decreased by a shortage of available assistance. The Housing Choice
	Voucher ("HCV") program is not offered in some cities or counties with small populations; has
	long or closed wait lists for potential applicants; or will not qualify clients based on
	undocumented immigrant status, which results in cost-shifting to the HOPWA program.
	A common issue is housing that does not meet Housing Quality Standards ("HQS") and lack of
	landlords' willingness to improve these properties. Case managers try to place clients in housing
	that meets HQS, but those units are not always available or affordable.
	Also, clients are unable to afford utilities when utility rates in rural areas not established at
	reasonable levels, making it difficult to calculate appropriate allowances, and/or high utility
	costs are paid separately from the rent. TBRA has not historically paid for utilities separately
	from rental payments, but has the ability to do so.
	With the lack of subsidized housing, clients often stay on the city/local housing authority wait
	lists pending availability. Often local rents are much higher than the Fair Market Rent ("FMR"),
	which eliminates those geographical locations as options for affordable housing. A shortage of
	housing has landlords increasing prices to what the market will bear, which invariably are much
	higher than FMR.
	As a result, the Texas HOPWA Program offers TBRA, which provides tenant-based rental
	assistance to eligible individuals until they are able to secure other affordable and stable
	housing.

Affordable	Market Characteristics that will influence
Housing Type	the use of funds available for housing type
New Unit	Market Analysis Section 15 reflects that there are not enough affordable housing units available
Production	for renters. Market Analysis Section 15 also shows that there is a lack of supply of housing, at
	only 3.3 month supply of inventory for sale.
	HOME use of New Unit Production
	Because HOME Multifamily funds used for the production of multifamily housing are typically
	paired with other resources such as housing tax credits and/or conventional financing, the
	availability of those other resources influences the use of funds for new construction. As with
	any development, the cost of land, materials, and labor are also factors. Finally, the demand for
	the housing from not only income-eligible tenants but those who exhibit an ability to pay rent is
	a primary market characteristic.
	For single-family HOME funds for new unit production, the CHDOs identify the needs for new
	housing in their communities before they apply.
	CDBG Program use of New Unit Production
	Office of Colonia Initiatives ("OCI") anticipates that the rise of overall construction costs stems
	from the increase in prices for materials, labor, and land which may cause TDHCA to increase
	the average amount of assistance per household. With the increased assistance per household
	and lower amounts of funding per household, TDHCA may decrease the number of single family
	households serves with new construction.
	NHTF Program use of New Unit Production
	The Texas NHTF will provide funding for new construction of multifamily developments that
	meet TDHCA underwriting requirements. NHTF funds will be used for the production of
	multifamily rental housing for extremely low income households, which units will generally not
	generate sufficient income to pay operating costs, therefore NHTF will typically be leveraged by
	other resources such as HOME funds, housing tax credits and/or conventional financing, the
	availability of those other resources will impact the use of NHTF for new construction. As with
	any development, the cost of land, materials, and labor are also factors. Finally, the demand for
	the housing from not only income-eligible tenants but those who exhibit an ability to pay rent is
	a primary market characteristic.
	If NHTF is used for production of units for ownership, increasing costs for material, labor and land
	will factor into the assistance available for each unit, as will the availability of other fund sources
	to leverage NHTF. Because NHTF is required to serve extremely low income households, the
	availability of mortgage financing with an affordable payment will impact the amount of
	assistance required by households to reach sustainable ownership. Because of these factors,
	NHTF funds used for ownership may result on fewer households served than typical for other
	<u>fund sources.</u>

A <b>f</b> found of the	Mouleat Characteristics that will influence						
Affordable	Market Characteristics that will influence the use of funds available for housing type						
Housing Type Rehabilitation	While only approximately 2% of the Texas housing stock is considered substandard per Needs						
Renabilitation	Assessment Section 10, almost half of the housing stock is over 30 years old per Market Analysis						
	Section 20. Older housing stock can be associated with necessary housing repairs. In addition,						
	Market Analysis Section 10 discusses the need for barrier removal for persons with disabilities.						
	Finally, Needs Assessment Section 30 establishes the need for rehabilitation in colonias.						
	HOME use of Rehabilitation						
	When a single-family housing unit or multifamily unit is determined to be in disrepair, the unit's						
	suitability for rehabilitation varies by program. HOME takes each housing unit on a case-by-case						
	basis, accounting for factors such as property value, construction costs, and type of						
	rehabilitation to determine if the unit is suitable for rehabilitation or whether the household						
	should be offered the option to rebuild.						
	ESG use of Rehabilitation						
	ESG has three eligible types of rehabilitation with subtly different definitions of what is						
	considered a suitable property. ESG considers a shelter suitable for conversion rehabilitation						
	where the cost of rehabilitation would exceed 75% of the value of the building after conversion.						
	A unit is suitable for major rehabilitation if the costs of rehabilitation exceed 75% of the value of						
	the building prior to rehabilitation or conversion. Finally, ESG considers a housing unit suitable						
	for renovation rehabilitation where the costs of rehabilitation are 75% or less of the value of the						
	building.						
	CDBG use of Rehabilitation						
	To address the condition of the housing stock, the CDBG Program has established a limit of						
	\$25,000 dollars per home and a process to select homes for rehabilitation. The CDBG Program						
	will consider adjustments based on a specific request from the subrecipient and that						
	household's circumstances. Vacant and abandoned housing units are not precluded from						
	consideration. The grant recipient is responsible for establishing priority based on local housing						
	needs.						
	For the OCI, the assistance limit is \$50,000 per household for reconstruction and new						
	construction and \$40,000 per household for rehabilitation. The OCI encourages rehabilitation						
	assistance if the activity requires less than \$40,000 to be brought up to minimum construction						
	standards so that the maximum number of households may be served.						
	NHTF use of Rehabilitation						
	The Texas NHTF will provide funding for acquisition and rehabilitation of multifamily						
	developments that meet TDHCA underwriting requirements. NHTF funds will be used for the						
	production of multifamily rental housing for extremely low income households, which units will						
	generally not generate sufficient income to pay operating costs, therefore NHTF will typically be						
	leveraged by other resources such as HOME funds, housing tax credits and/or conventional						
	financing, the availability of those other resources will impact the use of NHTF for acquisition						
	and rehabilitation. As with any development, the cost of land, materials, and labor are also						
	factors. Finally, the demand for the housing from not only income-eligible tenants but those who						
	exhibit an ability to pay rent is a primary market characteristic.						
Consolidated	Plan TEXAS 39						

Affordable	Market Characteristics that will influence
<b>Housing Type</b>	the use of funds available for housing type
Acquisition,	Market Analysis Section 15 establishes that there are not enough affordable housing units
including	available for owners. Homebuyer assistance helps ensure that homeowners purchase units that
preservation	are within their means and help to make the units more affordable. In addition, Needs
	Assessment Section 30 discusses the abuses of contracts for deed, which may be improved by
	converting the contracts to traditional mortgages, resulting in acquisition of the unit.
	HOME use of Acquisition
	HOME offers homebuyer assistance and homebuyer assistance with rehabilitation for barrier
	removal and to bring units up to livability standards.
	CDBG use of Acquisition, Including Preservation
	OCI program assistance for acquisition comes as either a grant or a low- or 0%-interest
	forgivable loan. The OCI assists a market that is less likely to qualify for mortgage products at
	market interest rates and that use traditional underwriting criteria. This will maintain a high
	level of demand for affordable acquisition assistance from TDHCA.

Table 8 – Influence of Market Conditions

### SP-35 Anticipated Resources - 91.315(a)(4), 91.320(c)(1,2)

#### Introduction

CPD funding is governed by this Consolidated Plan, but the State also works to collaborate, coordinate, and layer non-CPD funding sources in order to reach more Texans and more efficiently use available funds. Programs listed in the anticipated resources narrative sections below could be used to leverage CPD funds. These include:

- 4% HTC Program;
- 9% HTC Program;
- Homeless and Housing Services Program ("HHSP");
- Housing Trust Fund Program;
- Mortgage Credit Certificate ("MCC") Program;
- First time homebuyer loan programs, including the My First Texas Home Program;
- Neighborhood Stabilization Program Program Income ("NSP PI");
- Section 8 Housing Choice Voucher ("HCV") Program;
- Section 811 Project Rental Assistance ("PRA") Program; and
- Tax Credit Assistance Program ("TCAP") Loan Repayments.

For the programs above, the expected future funding amounts, to the extent known, are in the planning documents governing those programs. These documents can be found online at http://www.tdhca.state.tx.us/. The anticipated resources below are focused on CPD Programs. TDHCA participates in numerous committees, workgroups, and councils which help TDHCA stay apprised of other potential resources to address affordable housing needs. Relationships with other federal and state agencies and local governments are extremely valuable, helping Texas agencies to coordinate housing and services and serve all Texans efficiently and effectively. TDHCA's involvement in these committees promotes identifying opportunities to proactively pursue federal funding opportunities. TDHCA actively seeks engagement and input from community advocates, funding recipients, potential applicants for funding, and others to obtain input regarding the development of effective policies, programs and rules. Changes to funding plans are made periodically based on feedback received through these avenues.

#### TDHCA is the lead agency for the following workgroups:

gaining insight on issues impacting persons with disabilities.

C-RAC: C-RAC is a committee of colonia residents appointed by the TDHCA Governing Board. It advises TDHCA regarding the needs of colonia residents and the types of programs and activities which should be undertaken by the Colonia SHCs. The Colonia SHCs funds are provided to seven specific predetermined counties which, in turn, procure organizations to operate their SHCs. Disability Advisory Workgroup ("DAW"): The DAW augments TDHCA's formal public comment process, affording staff the opportunity to interact more informally and in greater detail with various stakeholders and to get feedback on designing more successful programs, with a specific focus on

Housing and Health Services Coordination Council ("HHSCC"): HHSCC is established by Texas Government Code §2306.1091. Its duties include promoting coordination of efforts to offer Service-Enriched Housing and focusing on other cross-agency efforts.

Texas Interagency Council for the Homeless ("TICH"): The TICH was statutorily created in 1989 to coordinate the State's homeless resources and services. The TICH consists of representatives from eleven state agencies. TDHCA, as the primary source for state homelessness funding, provides administrative and planning support to the TICH.

Weatherization Assistance Program Planning Advisory Committee ("WAP PAC"): The WAP PAC is comprised of a broad representation of organizations and agencies and provides balance and background related to the weatherization and energy conservation programs at TDHCA. The descriptions of the collaborations for DSHS and TDA are in the Discussion question of this section below.

### **Anticipated Resources**

Program	Source	Uses of Funds	Exp	ected Amour	nt Available Yea	ar 1	Expected	Narrative Description
	of		Annual	Program	Prior Year	Total:	Amount	
	Funds		Allocation:	Income: \$	Resources:	\$	Available	
			\$		\$		Reminder of	
							ConPlan	
							\$	
CDBG	public -	Acquisition						TDA's CDBG Program funds community and
	federal	Admin and						economic development, excluding the colonia set-
		Planning						aside. Communities may also coordinate CDBG
		Economic						funding with U.S. Department of Agriculture's
		Development						("USDA") Rural Development funds or Texas Water
		Housing						Development Board's ("TWDB") State Revolving
		Public						Fund.
		Improvements						
		Public Services	53,849,803	2,500,000	13,000,000	69,349,803	269,249,015	

Program	Source	Uses of Funds	Exp	ected Amoun	t Available Yea	ar 1	Expected	Narrative Description
	of		Annual	Program	Prior Year	Total:	Amount	
	Funds		Allocation:	Income: \$	Resources:	\$	Available	
			\$		\$		Reminder of ConPlan	
							\$	
CDBG	public -							The Colonia Set-Aside is used both by TDA and
Colonias	federal							TDHCA for goals described in the Strategic Plan
Set-aside								Section 45. The Colonia Economically Distressed
								Areas Program ("CEDAP") Legislative Set - Aside
								leverages funding from the TWDB's Economically
								Distressed Areas Program. TDHCA's Office of Colonia
								Initiatives ("OCI") administers a portion of the CDBG
								Colonia Set-Aside through its Colonia SHCs. Also, the
		Acquisition						Housing Trust Fund, which is funded through Texas
		Admin and						General Revenue, administers the Texas Bootstrap
		Planning						Loan Program, which is also available to SHCs.
		Homebuyer						Finally, the Housing Trust Fund also provides the
		assistance						Contract for Deed Conversion Program Assistance
		Homeowner						Grants are two types of grants that support eligible
		rehab						nonprofits and units of local government in assisting
		Public						eligible colonia households with incomes 60% or
		Improvements						less of the AMI to convert their contracts for deeds
		Public Services	5,983,312	0	0	5,983,312	29,916,560	to warranty deeds.

Program	Source	Uses of Funds	Ехр	ected Amoun	t Available Yea	ar 1	Expected	Narrative Description
	of		Annual	Program	Prior Year	Total:	Amount	
	Funds		Allocation:	Income: \$	Resources:	\$	Available Reminder of	
			\$		\$		ConPlan	
							\$	
HOME	public -						•	TDHCA's HOME Program goals are described in the
	federal							Strategic Plan Section 45 for multifamily and single
								family activities. Single family HOME homebuyer
								activity may be coordinated with TDHCA's My First
								Texas Home Program, which can supplement down
								payment assistance, and the MCC Program, which
								provides a yearly tax credit of up to \$2,000 annually
		Acquisition						that reduced the homebuyers' federal income tax
		Homebuyer						liability. HOME Multifamily Development Funds can
		assistance						be layered with 4% HTCs and 9% HTCs. In addition,
		Homeowner						TDHCA's Section 811 PRA, a project-based
		rehab						supportive housing program for persons with
		Multifamily						disabilities, and TDHCA's Section 8 HCV may be used
		rental new						within HOME developments. Starting in 2015,
		construction						TDHCA's TCAP loan repayments and NSP PI may be
		Multifamily						used to supplement or support multifamily and
		rental rehab						single-family HOME activities starting in 2015. In
		New						addition, TDHCA also develops rules that govern all
		construction for						multifamily programs, including the HOME
		ownership						Multifamily Development Program, known as the
		TBRA	21,575,627	3,000,000	0	24,575,627	109,200,000	Uniform Multifamily Rules.

Program	Source	Uses of Funds	Exp	ected Amoun	t Available Yea	ar 1	Expected	Narrative Description
	of		Annual	Program	Prior Year	Total:	Amount	
	Funds		Allocation:	Income: \$	Resources:	\$	Available	
			\$		\$		Reminder of ConPlan	
							\$	
HOPWA	public -	Permanent						DSHS' HOPWA state formula funds the following
	federal	housing in						activities: TBRA; STRMU; PHP; and Supportive
		facilities						Services. Project Sponsors leverage available funds
		Permanent						from Ryan White and State Services grants to assist
		housing						clients with housing needs, medical and non-
		placement						medical case management, emergency utility
		Short term or						assistance, mental health, transportation, and
		transitional						nutritional services to address the needs of eligible
		housing						clients.
		facilities						
		STRMU						
		Supportive						
		services						
		TBRA	2,947,262	0	0	2,947,262	11,789,048	

Program	Source	Uses of Funds	Ехр	ected Amoun	t Available Yea	ar 1	Expected	Narrative Description
	of		Annual	Program	Prior Year	Total:	Amount	
	Funds		Allocation:	Income: \$	Resources:	\$	Available Reminder of	
			\$		\$		ConPlan	
							\$	
NHTF	<u>public-</u>							TDHCA's NHTF Program goals are described in the
	<u>federal</u>							Strategic Plan Section 45 for multifamily and single
								family activities. NHTF Multifamily Development
								Funds can be layered with 4% HTCs and 9% HTCs,
								and TDHCA Multifamily Direct Loan funds, including
								HOME, HOME-CHDO, and TCAP Loan Repayment. In
								addition, TDHCA's Section 811 PRA, a project-based
								supportive housing program for persons with
								disabilities, and TDHCA's Section 8 HCV may be used
								within NHTF developments. In addition, TDHCA also
								develops rules that govern all multifamily programs,
								including the HOME Multifamily Development
								Program, known as the Uniform Multifamily Rules. If
								implemented, Single family NHTF homebuyer
		Acquisition,						activity may be coordinated with TDHCA's My First
		<u>rehabilitation</u>						<u>Texas Home Program, which can supplement down</u>
		and new						payment assistance, and the MCC Program, which
		construction of						provides a yearly tax credit of up to \$2,000 annually
		housing for						that reduced the homebuyers' federal income tax
		extremely low-						liability. NHTF Single family development would be
		<u>income</u>						governed by requirements in TDHCAs Single Family
		<u>households</u>	<u>4,778,364</u>			<u>4,778,364</u>	<u>19,113,456</u>	<u>Umbrella Rule.</u>

Program So	ource	Uses of Funds	Exp	ected Amoun	t Available Yea	nr 1	Expected	Narrative Description
	of unds		Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$	Amount Available Reminder of ConPlan \$	
·	ublic - deral	Conversion and rehab for transitional housing Financial Assistance Overnight shelter Rapid rehousing (rental assistance) Rental Assistance Services Transitional housing	8,891,395	0	0	8,891,395	•	TDHCA's ESG funds are awarded via contract to Subrecipient agencies that provide emergency shelter, homelessness prevention, rapid rehousing, and Homeless Management Information Systems ("HMIS") activities. HHSP is Texas state general revenue funding for the eight largest cities to provide flexibility to undertake activities that complement ESG activities. Note that not all ESG direct recipients in Texas are HHSP grantees.

**Table 9 - Anticipated Resources** 

# Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

#### **HOME Program Leverages and Provides Match**

HOME multifamily development is most often used to leverage with the HTC Program, which was created by the Tax Reform Act of 1986 and authorizes 9% low-income housing tax credits in the amount of \$2.30 per capita for each state, and 4% low-income housing tax credits in amounts linked to the usage of the state's cap for issuance of tax exempt bond to finance affordable housing development. In Texas, this equates to approximately \$61,400,000 in 9% tax credits available to be awarded by TDHCA annually. These credits may be claimed each year for ten years and this represents potential tax credit value on the magnitude of \$610,000,000. The tax credits are syndicated to limited partner investors to yield cash for use in eligible development activities. Currently typical syndication rates range between 92% and 95%. TDHCA must develop a Qualified Allocation Plan ("QAP") for the selection of eligible developments to provide housing for the low-income tenants. HOME provides increased leverage, allowing the property owners to utilize fewer tax credits and less private debt and local funding, therefore providing more efficient use of resources.

Matching requirements for the HOME Multifamily Development Program will be met through the Rules that establish the awardee's minimum amount of match as 5% of the award amount. Match comes in the form of donated labor and materials, donated professional services from an architect or engineer, grants from cities or nonprofits, and waived fees by municipalities. Also, TDHCA is planning to increase match requirements for single family activities to more effectively use limited funding.

#### ESG Program Leverages and Provides Match

In 2011, the Texas Legislature statutorily created the HHSP statute and funded it with General Revenue. Through HHSP, the State allocates funds into the eight largest cities in Texas to support services to homeless individuals and families. These funds are sometimes used as match for either State or local ESG funding.

To meet the ESG match requirement, TDHCA includes match as part of the application process used with its Subrecipients. Subrecipient agencies are required to match 100% of their ESG award. A Subrecipient that is unable to match the award is eligible to apply to TDHCA for a match waiver of up to \$100,000. However, these requests have been quite rare. In coming ESG program years, TDHCA will actively determine which organization(s) will benefit from the match waiver.

#### **HOPWA Leverages and Provides Match**

Texas HOPWA does not have program income but leverages funds whenever possible. Project Sponsors leverage available funds from Ryan White and State Services grants, private funding sources, foundations, and local assistance to help clients. AAs do not receive administrative funds from DSHS, so those costs are leveraged from other funding sources.

#### CDBG Leverages and Provides Match

Nearly 80% of Texas CDBG grants include local matching fund commitments. Matching funds are required for certain grants, while other grants award points to encourage local match; a sliding scale allows smaller communities to contribute less match funding than larger communities. Match funds may be provided by the applicant, or by a water or sewer utility benefiting from the project. Economic development projects benefiting private business require 1-for-1 match commitment, with the business most often providing this substantial match.

Recent updates to the Colonia SHC Program rules have capped program assistance at \$50,000 per household for reconstruction and new construction, and \$40,000 per household for rehabilitation. These limits encourage administrators to leverage their funds with other resources as well as assist more households than in prior years.

#### **NHTF Program Leverages**

NHTF multifamily development may be used to leverage with the HTC Program, which was created by the Tax Reform Act of 1986 and authorizes 9% low-income housing tax credits in the amount of \$2.30 per capita for each state, and 4% low-income housing tax credits in amounts linked to the usage of the state's cap for issuance of tax exempt bond to finance affordable housing development. In Texas, this equates to approximately \$61,400,000 in 9% tax credits available to be awarded by TDHCA annually. These credits may be claimed each year for ten years and this represents potential tax credit value on the magnitude of \$610,000,000. The tax credits are syndicated to limited partner investors to yield cash for use in eligible development activities. Currently typical syndication rates range between 92% and 95%. TDHCA must develop a Qualified Allocation Plan ("QAP") for the selection of eligible developments to provide housing for the low-income tenants. NHTF provides increased leverage, allowing the property owners to utilize fewer tax credits and less private debt and local funding, therefore providing more efficient use of resources.

# If appropriate, describe publically owned land or property located within the state that may be used to address the needs identified in the plan

The Texas General Land Office manages state owned lands and mineral rights totaling approximately 13 million acres. Much of this is leased for the benefit of the Permanent School Fund, an endowment fund established in 1876 for the benefit of Texas public school education. There is currently no plan to use state owned land for affordable housing or community development goals; however, local jurisdictions occasionally donate land or property in support of activities designed to address the needs identified in the plan as part of their contribution to locally administered programs.

#### Discussion

Continuing with the discussion of collaboration begun in the Introduction of this section, DSHS is the lead for several HIV-related councils and workgroups which provide opportunities for collaboration and resource sharing across agencies, providers, and other pertinent stakeholders to assist PLWH in Texas. Some of the initiatives are Inter-Agency Council on HIV & Hepatitis, the Texas Black Women's Initiative,

the Test Texas Coalition, and the Texas HIV Syndicate. The Texas HIV Syndicate is an integrated HIV prevention and care planning body made up of roughly 100 organizational leaders representing the full continuum of HIV engagement. The Texas HIV Syndicate uses the Texas HIV Plan as a framework to develop strategies that enhance and expand on prevention and care activities across the State. Texas HIV Syndicate members develop policy recommendations, best practice models, coordination strategies, and promote innovation in HIV prevention and treatment. DSHS also holds a biennial HIV/Sexually Transmitted Disease ("STD") conference, attended by all DSHS contractors and subrecipients in addition to community leaders, health and HIV professionals, and many other essential stakeholders. Many of the DSHS contractors are also HOPWA providers. This year, the conference is August 19-21, 2014 in Austin, and invitations for two waived registrations have been extended to HUD. The goal of the Texas HIV/STD Conference is to enhance the responsiveness of people and systems supporting the spectrum of HIV/STD prevention and treatment services in Texas, including: Awareness; Targeted Prevention; Diagnosis; Linkage to Care; Maintenance in Care; and Suppression of Disease.

DSHS' Epidemiology and Surveillance Branch is responsible for reporting HIV/AIDS, STD, and tuberculosis ("TB") surveillance and epidemiologic data for the State of Texas, which includes data submission to the Centers for Disease Control and Prevention ("CDC"). This data is subsequently used by HUD to determine HOPWA formula allocations. This data is also leveraged to provide support to planning, development, implementation, and evaluation of HIV/AIDS, STD, and TB prevention and services programs, including HOPWA.

Finally, TDA participates in the following workgroups:

Texas Water Infrastructure Coordination Committee ("TWICC"): TWICC is a voluntary organization of federal and state funding agencies and technical assistance providers that address water and wastewater needs throughout the State. TDA participates in TWICC to coordinate efforts to leverage funds.

Secretary of State's Colonia Workgroup: The Colonia Workgroup consists of federal and state funding agencies and the Texas Secretary of State's colonia ombudsmen. The group addresses current and future infrastructure improvements in colonias, focusing on coordination of resources and information. TDHCA is also a member of this workgroup.

Drought Preparedness Council: The Council was authorized and established by the 76th Texas Legislature in 1999, and is responsible for assessment and public reporting of drought monitoring and water supply conditions, along with other duties.

These workgroups, committees, and councils help to strengthen communication between state agencies as well as provide opportunities to layer or combine funding sources.

With the block grants and the layering resources listed above, there are also CDBG Disaster Recovery ("DR") funds for Hurricanes Rita, Dolly, and Ike, and Wildfires. Hurricane Rita Disaster Recovery for housing and non-housing recovery is in 29 counties. Ike Disaster Recovery for housing and non-housing

recovery is in 62 counties. Wildfire Recovery non-housing recovery is in 65 counties. More details can be found at http://www.glo.texas.gov/GLO/disaster-recovery/actionplans

# **SP-45 Goals Summary – 91.315(a)(4)**

### **Goals Summary Information**

Sort	Goal Name	Start	End	Category	Geographic	Needs Addressed	Funding	Goal Outcome Indicator
Order		Year	Year		Area	- 1 1 1111 11		
1	Homeless Goals	2015	2019	Homeless	State of	Rehabilitation of	ESG:	Tenant-based rental
					Texas	housing	\$41,195,380	assistance / Rapid
						Homeless		Rehousing:
						Outreach		22850 Households
						Emergency		Assisted
						shelter and		
						transitional		Homeless Person
						housing		Overnight Shelter:
						Rapid Re-housing		53555 Persons Assisted
						Homelessness		
						Prevention		Homelessness
								Prevention:
								31240 Persons Assisted
2	Construction of	2015	2019	Affordable Housing	State of	Production of	HOME:	Homeowner Housing
	single family housing			Non-Homeless Special	Texas	new units	\$3,362,570	Added:
				Needs				35 Household Housing
								Unit
3	Rehabilitation of	2015	2019	Affordable Housing	State of	Rehabilitation of	HOME:	Homeowner Housing
	single family housing			Non-Homeless Special	Texas	housing	\$5,611,175	Rehabilitated:
				Needs				330 Household Housing
								Unit
4	Homebuyer	2015	2019	Affordable Housing	State of	Acquisition of	HOME:	Direct Financial
	assistance with			Non-Homeless Special	Texas	existing units	\$2,408,057	Assistance to
	possible			Needs				Homebuyers:
	rehabilitation							200 Households Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
5	Tenant-Based Rental	2015	2019	Affordable Housing	State of	Rental Assistance	HOME:	Tenant-based rental
	Assistance with			Non-Homeless Special	Texas		\$28,055,875	assistance / Rapid
	HOME funding			Needs				Rehousing:
								2550 Households
								Assisted
6	Households in	2015	2019	Affordable Housing	State of	Production of	HOME:	Rental units constructed:
	new/rehabilitated			Non-Homeless Special	Texas	new units	\$37,742,675	300 Household Housing
	multifamily units			Needs		Rehabilitation of		Unit
						housing		
								Rental units
								rehabilitated:
								75 Household Housing
								Unit
<u>7</u>	Households in	<u>2016</u>	<u>2019</u>	Affordable Housing	State of	<u>Production of</u>	NHTF:	Rental units constructed:
	new/rehabilitated			Non-Homeless Special	<u>Texas</u>	new units	<u>\$4,300,528</u>	50 Household Housing
	multifamily units			<u>Needs</u>		Rehabilitation of		<u>Unit</u>
						housing		
								Rental units
								rehabilitated:
								25 Household Housing
								<u>Unit</u>
<u>8</u> 7	HOPWA Tenant-	2015	2019	Affordable Housing	State of	Rental Assistance	HOPWA:	Tenant-based rental
	Based Rental			Non-Homeless Special	Texas	Homelessness	\$8,646,610	assistance / Rapid
	Assistance			Needs		Prevention		Rehousing:
								2200 Households
								Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
<u>9</u> 8	HOPWA Short-Term	2015	2019	Affordable Housing	State of	Homelessness	HOPWA:	Homelessness
	Rent, Mortgage, &			Non-Homeless Special	Texas	Prevention	\$2,267,963	Prevention:
	Utilities Asst			Needs				2350 Persons Assisted
<u>10</u> 9	HOPWA Permanent	2015	2019	Affordable Housing	State of	Rental Assistance	HOPWA:	Public service activities
	Housing Placement			Non-Homeless Special	Texas	Homelessness	\$42,524	other than
	Assistance			Needs		Prevention		Low/Moderate Income
								Housing Benefit:
								65 Persons Assisted
<u>11</u> 10	HOPWA-Funded	2015	2019	Affordable Housing	State of	Supportive	HOPWA:	Public Facility or
	Supportive Services			Non-Homeless Special	Texas	Services for	\$2,267,963	Infrastructure Activities
				Needs		Persons with		other than
						HIV/AIDS		Low/Moderate Income
								Housing Benefit:
								4450 Persons Assisted
11	CDBG Other	2015	2019	Non-Housing Community	State of	Public facilities	CDBG:	Public Facility or
	Construction			Development	Texas	Public	\$224,430,740	Infrastructure Activities
						Improvements		other than
						and		Low/Moderate Income
						Infrastructure		Housing Benefit:
						Public services		1139215 Persons
						Economic		Assisted
						development		

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
	CDBG Economic	2015	2019	Non-Housing Community	State of	Public facilities	CDBG:	Public Facility or
1 <u>3</u> 2		2013	2019					Infrastructure Activities
	Development			Development	Texas	Public	\$74,368,045	
				Economic Development		Improvements		other than
						and		Low/Moderate Income
						Infrastructure		Housing Benefit:
						Public services		66610 Persons Assisted
						Economic		
						development		Jobs created/retained:
								4000 Jobs
1 <u>4</u> 3	CDBG Planning /	2015	2019	Non-Housing Community	State of	Public facilities	CDBG:	Public Facility or
	Capacity Building			Development	Texas	Public	\$2,802,475	Infrastructure Activities
						Improvements	CDBG Colonias	other than
						and	Set-aside:	Low/Moderate Income
						Infrastructure	\$121,250	Housing Benefit:
						Public services		187695 Persons Assisted
1 <u>5</u> 4	CDBG Disaster Relief	2015	2019	Non-Housing Community	State of	Public facilities	CDBG:	Public Facility or
	/ Urgent Need			Development	Texas	Public	\$47,036,165	Infrastructure Activities
						Improvements		other than
						and		Low/Moderate Income
						Infrastructure		Housing Benefit:
						Public services		661240 Persons Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1 <u>6</u> 5	CDBG Colonia Set-	2015	2019	Affordable Housing	State of	Production of	CDBG Colonias	Public Facility or
	Aside			Non-Housing Community	Texas	new units	Set-aside:	Infrastructure Activities
				Development		Rehabilitation of	\$29,916,560	other than
				'		housing	. , ,	Low/Moderate Income
						Acquisition of		Housing Benefit:
						existing units		16740 Persons Assisted
						Public facilities		
						Public		
						Improvements		
						and		
						Infrastructure		
1 <u>7</u> 6	CDBG Colonia Self-	2015	2019	Self-Help Centers	State of	Rental Assistance	CDBG:	Other:
	Help Centers				Texas	Rehabilitation of	\$7,479,140	72455 Other
						housing		
						Public services		
1 <u>8</u> 7	CDBG Administration	2015	2015	Administration/Technical		Rehabilitation of	CDBG:	
				Assistance		housing	\$9,474,965	
						Public facilities		
						Public		
						Improvements		
						and		
						Infrastructure		
						Public services		
						Economic		
						development		

Sort	Goal Name	Start	End	Category	Geographic	Needs Addressed	Funding	<b>Goal Outcome Indicator</b>
Order		Year	Year		Area			
1 <u>9</u> 8	HOME	2015	2019	HOME Administration	State of	Rental Assistance	HOME:	
	Administration				Texas	Production of	\$12,287,815	
						new units		
						Rehabilitation of		
						housing		
						Acquisition of		
						existing units		
<u>20</u>	NHTF Adminsitration	<u>2016</u>	<u>2019</u>	NHTF Adminsitration	State of	Production of	NHTF:	
					<u>Texas</u>	new units	<u>\$477,836</u>	
						Rehabilitation of		
						housing		
						Acquisition of		
						existing units		

Table 10 – Goals Summary

## **Goal Descriptions**

1	<b>Goal Name</b>	Homeless Goals					
	Goal	Goals for 5-year period based on Program Year ("PY") 2012 performance.					
	Description						
2	<b>Goal Name</b>	Construction of single family housing					
	Goal	The number will be an estimation of households to be assisted through Single-Family HOME funds for new construction based on PY					
	Description	2014 allocation and a planned shift in resources from multifamily to single-family activities.					
3	<b>Goal Name</b>	Rehabilitation of single family housing					
	Goal	The number will be an estimation of households to be assisted through Single-Family HOME funds for rehabilitation and new					
	Description	construction based on the PY 2014 allocation for general single family and persons with disabilities set-asides, and a planned shift in					
		resources from multifamily to single-family activities.					

4	<b>Goal Name</b>	Homebuyer assistance with possible rehabilitation
	Goal	The number will be an estimation of households to be assisted through Single-Family HOME funds for homebuyer assistance and
	Description	homebuyer assistance with rehabilitation or modification based on the PY 2014 allocation for contract-for-deed conversion and
		persons with disabilities set-asides, and a shift in resources from multifamily to single-family activities.
5	Goal Name	Tenant-Based Rental Assistance with HOME funding
	Goal	The number will be an estimation of households to be assisted through Single-Family HOME funds for TBRA based on the PY 2014
	Description	allocation for general single family and persons with disabilities set-asides, and a planned shift in resources from multifamily to single
		family activities.
6	<b>Goal Name</b>	Households in new/rehabilitated multifamily units
	Goal	The number will be an estimation of units rehabilitated or newly constructed based on the PY 2014 allocation and a planned shift in
	Description	resources from multifamily to single-family activities. Multifamily Development Funds are available in the form of low interest rate
		repayable loans to for-profit and nonprofit developers to construct and/or rehabilitate affordable multifamily rental housing. HOME
		Multifamily Development Funds typically represent 5% to 20% of the total development costs on projects that are layered with 9%
		HTCs. For non-layered projects, HOME Multifamily Development Funds can represent over 50% of a project's total development
		cost. If the construction is paired with other sources of TDHCA funding, performance is measured at the time that cost certification is
		measured. If construction is only HOME funding, then performance is measured at the time of final draw.
<u>7</u>	Goal Name	Households in new/rehabilitated multifamily units
	Goal	The number will be an estimation of units rehabilitated or newly constructed based on average per unit maximum investment
	<b>Description</b>	Multifamily Development Funds are available in the form of low interest rate repayable loans to for-profit and nonprofit developers
		to construct and/or rehabilitate affordable multifamily rental housing. If the construction is paired Tax Credit financing, performance
		is measured at the time that cost certification is measured. If construction is only Multifamily Direct Loan funds, then performance is
		measured at the time of final draw.
<del>7</del> 8	Goal Name	HOPWA Tenant-Based Rental Assistance
	Goal	The TBRA program provides tenant-based rental assistance to eligible individuals until they are able to secure other affordable and
	Description	stable housing. TBRA helps clients maintain affordable and stable housing, reduces risk of homelessness, and improves access to
		health care and supportive services.

<u>9</u> 8	Goal Name	HOPWA Short-Term Rent, Mortgage, & Utilities Asst						
,	Goal	STRMU assistance program: The STRMU program provides emergency short-term rent, mortgage, and utility payments to eligible						
	Description	individuals for a maximum of 21 weeks of assistance in a 52-week period. STRMU helps low-income HIV-positive clients maintain						
		affordable housing, reduce risk of homelessness, and improve access to health care and supportive services.						
<u>10</u> 9	Goal Name	HOPWA Permanent Housing Placement Assistance						
,	Goal	The PHP program provides assistance for housing placement costs which may include application fees, related credit checks, and						
	Description	reasonable security deposits necessary to move persons into permanent housing. PHP helps low-income HIV-positive clients						
		establish affordable and stable housing, reduce risk of homelessness, and improve access to health care and supportive services.						
1 <u>1</u> 0	Goal Name	HOPWA-Funded Supportive Services						
,	Goal	HOPWA Supportive Services provides financial assistance for HOPWA case management, basic telephone service, and provision of						
	Description	smoke detectors. Supportive Services may be provided in conjunction with HOPWA housing assistance or as a stand-alone						
		service. HOPWA housing assistance and Supportive Services are integrated with the larger Ryan White Program both in						
		administration and service delivery, which in turn is integrated into the larger, multi-sectoral system for delivering treatment and						
		care to these clients. The goals of the HOPWA program are to help low-income HIV-positive clients establish or maintain affordable						
		and stable housing; to reduce the risk of homelessness; and to improve access to health care and supportive services.						
<u> 1112</u>	Goal Name	CDBG Other Construction						
	Goal	Total number of beneficiaries for CDBG other construction grants, including basic infrastructure. Funding allocated includes annual						
	Description	allocation in addition to previously deobligated funds.						
1 <u>3</u> 2	Goal Name	CDBG Economic Development						
	Goal	Number of jobs created/retained and beneficiaries served by the Texas Capital Fund programs. Funding allocated includes annual						
	Description	allocation in addition to previously deobligated funds.						
1 <u>4</u> 3	Goal Name	CDBG Planning / Capacity Building						
,	Goal	Total number of beneficiaries served by the CDBG Planning/Capacity Building programs (may include public services). Funding						
	Description	allocated includes annual allocation in addition to previously deobligated funds.						
1 <u>5</u> 4	Goal Name	CDBG Disaster Relief / Urgent Need						
,	Goal	Total number of beneficiaries served by the CDBG Disaster Relief / Urgent Need programs. Funding allocated includes annual						
	Description	allocation in addition to previously deobligated funds.						

1 <u>6</u> 5	<b>Goal Name</b>	CDBG Colonia Set-Aside					
	Goal	Total number of beneficiaries served by the CDBG colonia programs. Funding allocated includes annual allocation in addition to					
	Description	previously deobligated funds.					
1 <u>7</u> 6	<b>Goal Name</b>	CDBG Colonia Self-Help Centers					
	Goal	Colonia residents receiving direct assistance through Self-Help Centers					
	Description						
1 <u>8</u> 7	Goal Name	CDBG Administration					
	Goal	CDBG Administrative costs including Technical Assistance.					
	Description						
1 <u>9</u> 8	<b>Goal Name</b>	HOME Administration					
	Goal	HOME Administrative funds from PY 2015 HOME allocation and projected PI.					
	Description						

# Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.315(b)(2)

Based on anticipated program activities, TDHCA estimates that the number of PY 2015 beneficiaries for HOME Single Family assisted will be approximately 625 low-, very low-, or extremely low-income households. On the basis of historical performance, TDHCA estimates that approximately 50 percent of those households will be minority households. The HOME Multifamily Program estimates that approximately 30 households with income in the 0-50% AMI category, 30 households in the <80% AMI category, and 15 households with moderate income will be served per year from 2015 to 2019.

The ESG Program estimates that 39,000 households will be assisted through homelessness prevention and rapid re-housing activities per year. The goals of the HOPWA Program are to help low-income HIV-positive clients establish or maintain affordable and stable housing; to reduce the risk of homelessness; and to improve access to health care and supportive services. DSHS estimates that the Texas HOPWA program will assist 923 unduplicated, income-eligible clients each year with housing subsidy assistance.

The CDBG Program encourages regional priority set-asides for housing projects such as housing rehabilitation, and housing rehabilitation in colonia areas. Based on prior application, the TDA estimates rehabilitating homes for 20 families per year and providing utility connections and similar housing assistance for an additional 250 families per year.

OCI, funded with a set-aside of CDBG funds, estimates that 4,200 persons living in colonias will be assisted by the Colonia SHCs' affordable housing activities yearly.

The Texas NHTF is anticipated to serve 75 extremely low income renter households, if the allocation amount remains relatively constant. TDHCA estimates that similar to the HOME program, approximately 50 percent of those households will be minority households.

Disaster Recovery: As outlined in great detail in each of the Action Plans for the supplemental disaster assistance, the State of Texas had huge recovery efforts from each of the events it received funding for. While all of the programs are well under way, there remains unmet need that will still exceed the funds available to the State. This can be evidenced by the over subscription of most of the programs. Please refer to each program's Action Plan or the disaster recovery divisions most current Quarterly Progress Report for specific details: http://www.glo.texas.gov/GLO/disaster-recovery/actionplans/index.html and http://www.glo.texas.gov/GLO/disaster-recovery/reports/index.html.